

Animal sacrifice and the law in Tamil Nadu, South India

Anthony Good
University of Edinburgh

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The sacrifice of animals – most commonly goats and chickens but occasionally, even nowadays, buffaloes – forms the climax of many Tamil festivals, especially in rural areas. As even the summary account below illustrates, such sacrifices are acts of huge cosmological and sociological significance, whose roots lie at the heart of Sanskrit mythology. Their proper performance is intimately linked to village social order and prosperity. Both of these are pre-requisites if festivals are to be performed on the scale needed to satisfy the notoriously demanding village goddesses, whose satisfaction is in turn a precondition for the continuation of order and prosperity in the year ahead. What is more, such goddesses also bestow (or withhold) human health, fertility and the well-being of all local households and inhabitants. In other words, the stakes at such festivals are 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 carried to completion.

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. In 2003 however, the Chief Minister of Tamil Nadu state, Jayalalitha, suddenly ordered officials to enforce this ban, only to reverse the policy a few months later to the extent even of repealing the Act in question.

This chapter begins by analysing the part played by animal sacrifice in a typical village goddess festival. It then considers the debates surrounding the passing of the *Madras Animals and Birds Sacrifices Prevention Act 1950*, and addresses the puzzling issue of its non-enforcement. It asks why Jayalalitha suddenly insisted upon enforcing the Act more than 50 years later, and why she so quickly changed her mind. These policy reversals are set against the background of the 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 often take on political and legal dimensions too. When dealing with such issues, the higher Indian courts display 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.

Village goddess festivals in southern Tamil Nadu

Almost every village in Tamil Nadu contains a temple to the ‘village goddess’.¹ Although every goddess has her own identity and name, incorporating that of the village over which she presides, she is, as Dumont noted ‘*toujours au fond, avec le même mythe, la même fonction, la même déesse, la déesse universelle du village*’ (1957:389). One can indeed go even further, for goddesses appear in several other guises, too. Above all, there is Mahadevi, the Great Goddess as described in the *Devī-mahatmya* of the *Markandeya purana*. She condenses within herself the attributes of all the gods, who created her to defend the ordered cosmos against Mahisasuran, the buffalo-demon (*Mark. Pur.* 83.39; cf. also O’Flaherty 1975:248-9). As Durga, this goddess played a crucial role in safeguarding order and prosperity in medieval South Indian kingdoms. The regional goddesses of the great, Brahmanic temples of South India – such as Minaksi at Madurai – are aspects of this great goddess, but with more individualised histories and more refined attributes (cf. Biardeau 1972:182-4; Shulman 1980), whereas village goddesses differ from Durga more in degree than in kind: their roles are similar but their hegemonies are spatially more restricted.

In Terku Vandanam (‘TV’), a village in the Kovilpatti Taluk of Tuticorin District, the goddess is named *Terku Vandānam vadakku-vācal Celviyamman* (‘TV north-gate lady-goddess’). Her north-facing temple (*kōvil*) lies outside the ritual boundary of the main settlement, about halfway between it and the cremation ground. Celvi is shown as a four armed, trident wielding female figure, facing north out of the inner shrine. Its entrance is guarded by two *vīran* (‘heroes’), represented by truncated square pyramids called *pūdam* (Skt. *pitha*, ‘stool, seat, throne’; *Tamil Lexicon* 5:2830; Stutley 1977:226).² There is a small Pillaiyar (Ganesh) statue inside the temple too.

Immediately outside the temple door stands a flat topped stone about a metre high, called the *vettukal* (‘cutting stone’) or *palipidam* (Skt. *balipitha*, ‘sacrifice table, altar’).³ Another pyramid stands close to this altar, facing south into the shrine. This third guardian is *Kattavarayan*, the foster-son of Kali (Fabricius 1972:228).⁴ In front of the temple building is a pillared pavilion (*mandapam*) with a corrugated iron roof.

Celvi’s priest (*pucāri*) is Arumukam Oduvar, whose hereditary office carries with it usufructory rights over a tract of land.⁵ He performs perfunctory worship every day at dawn and sunset, but it is really only at festival time that the temple attracts

¹ For a more complete description and analysis of this 1977 festival, see Good (1985).

² Such ‘heroes’ are manifestations of aspects of particular deities, in this case Siva. The guardians *Vīrapattiran* (Skt. *Virabhadra*) and *Vairavan* (Skt. *Bhairava*) are among his ‘terrible’ forms.

³ In TV the *palipidam* is not used as an altar in the sense of having offerings placed directly upon it, though I have seen this done elsewhere. But in any case it is a representation of the *axis mundi* (Shulman 1980:42), a place where communication between the worlds of men and gods is possible.

⁴ His name derives from *ka*, ‘to guard’, and *irāyan*, ‘king’.

⁵ Oduvar form a non-endogamous section of the Saiva Vellalar or Pillaimar, a block of high ranking sub-castes numerous throughout Tamil Nadu. They specialise as chanters in Brahmanic temples and priests in non-Brahman shrines.

much attention from others. Celvi's hereditary medium⁶ is Teyva Pillai from Manditoppu village, whose family once lived in TV. Throughout the festival period he lives inside the temple, has his head shaved, and observes a regime of austerity.⁷ The 'congregation' at festival time – and notionally throughout the year – comprises the entire non-Harijan population of TV as well as emigrants wishing to maintain links with their ancestral native place. Participation in the annual goddess festival is in fact a clear index of community affiliation.

The generic name for village goddess temple festivals is *ponkal* ('boiling', especially the boiling of rice), and the ritualised cooking of rice is a key part of such festivals (see below). The entire festival runs from the second to the fourth Tuesday in the month of Pankuni (March-April), but the night of the third Tuesday is its centrepiece. Throughout that night numerous preparatory or ancillary activities and large numbers of individual offerings – mostly related to disease or infertility – are undertaken, but we focus here on activities related to sacrifice in one form or another.

No festival can take place without Cakkiliyar (Harijan) musicians, playing in a highly rhythmic style (*kottu*, 'drum beating').⁸ Such music is essential for divine possession to occur; it ushers in and accompanies a period in which mundane time is replaced by the cosmic 'time' set up by the complex, repetitive rhythm of the drums.

When, as is usually the case, the goddess has a male medium, SHE wears a tucked-up *vesti*, yellow rather than the white usually worn by men, 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 possible after possession begins, and remain in place until SHE finally departs. SHE carries in her right hand a round clay pot containing burning embers, which is called *akkiniccatti* ('fire-pot') or *akkinicatti* (Skt. *agni-sakti*, 'fire-energy'), a typical play on words. *Sakti* is of course divine, creative energy as personified by the goddess herself. Pots are used in many rituals to symbolise, contain, or embody divinities (Hanchett 1978:47-8; Babb 1975:42). This is a common motif in mythology too: the pot contains Siva's semen, represented by fire (O'Flaherty 1975:164-8) or Ganges water (Shulman 1980:64ff), from which is born a deity such as Murukan (Clothey 1978:81) or Aiyanar (Dumont 1957:401). In this context the pot itself is the womb. The central shrine of a Saivite temple is itself a 'womb chamber' (Skt. *garbha-grha*), of course, and from that viewpoint the pot carried by CELVI is equivalent to the movable image (*utsava murti*) used for external processions at grander temples.

⁶ The local terms are *sami pidikki*, 'god caught'; *samiyadi*, 'god-dancer'; or simply *sami*.

⁷ To reduce ambiguity, the following notation is adopted below: 'Teyva Pillai' refers to the man himself in his normal physical and spiritual state; 'Celvi', 'she' and 'her' to the goddess (or her image) in general; and 'CELVI', 'SHE' and 'HER' to the goddess as manifest and incarnate in her medium.

⁸ There may be two *nakasvaram* ('oboe') soloists, and a third who supplies the tonic drone (*sutipetti*). The drummers play the *tavilmelam*, a drum with a convex wooden barrel; the *urimi*, an hour-glass shaped instrument; or the *pampai* and *mantam*, two straight-barrelled drums worn one above the other.

SHE may also carry a metal trident with lemons or Margosa fruits impaled on the prongs, and bunches of Margosa leaves tied around the shaft. The fruit and leaves, like the turmeric water SHE drinks from time to time, are cooling substances, and such items are deployed around possessed persons to control their possession and restrict the heat and energy associated with it (Babb 1975:233; Reiniche 1979:177). The position of the fruits, ‘blunting’ the points of the trident, also suggests this.

After first becoming incarnate, CELVI sets off to visit the local Aiyanar temple, to ‘invite’ the god to her festival.⁹ SHE then begins a clockwise circuit of the village, known as ‘village playing’ (*ur vilaiyadutal*). Every householder hands over their *vari* (their contribution to the festival costs) on a winnowing basket. In return, CELVI puts holy ash on the residents’ foreheads, beginning with the senior male occupant, and places a pile of ash on the basket.¹⁰ Once every house has been visited, CELVI, now followed by the entire population, returns to dance outside HER temple, and then leaves HER medium’s body.

Meanwhile the Oduvar, helped by the village Watchman (*talaiyari*) and Temple Servant (*tandal*), both of Maravar caste, has been decorating the inner shrine. The goddess image is caked in turmeric paste, with her eyes and vampire-like front teeth picked out in white, and dressed elaborately in a red and yellow sari. She holds a large, red trident, its prongs blunted by Margosa fruits. This awesome figure represents that form of the Goddess created to slay the demons and prevent premature destruction of the cosmos (*Mark. Pur.* 80.21-44; O’Flaherty 1975:248-9).

The Watchman cooks chicken and mutton curries on the temple plinth, while inside the building the Oduvar prepares a pot of *ponkal* rice. Wooden spikes with chains attached are set up before the altar and the Kattavarayan pyramid. A red cloth is tied across the inner door of the shrine to prevent Celvi seeing what follows. Similarly, a white cloth placed between altar and pavilion conceals events from the village officials and important guests gathered there.

The rice and meat curries are served onto four plantain leaves spread on the ground between altar and temple door. The Watchman and Servant impale roosters on each spike, afterwards throttling the birds with the chains. They lay a black and white male goat-kid on its side between altar and door, and cut its throat. The head is placed on the pile of food, facing into the temple with one severed fore-leg in its mouth.¹¹

The Watchman removes the screens and invites the important guests into the building, as lesser spectators press forward to watch. Teyva Pillai becomes possessed to the accompaniment of a drum crescendo and *kuruvai* ululations, both from outside (women are not admitted at this point). After some time, CELVI gives ash to the

⁹ This is termed ‘inviting the inhabitants’ (*kudi alaippu, kudi alaittal*).

¹⁰ Holy ash (*viputi*), made from burnt cow-dung and consecrated by being offered to a deity, is used very frequently in South Indian Saivite ritual as a physical manifestation of divine grace.

¹¹ This episode has the rather literal title *tullukutti kalusaval* (‘frisky goat-kid impaled rooster’). Reiniche reports the variants *tivalakkutti* or *tevalakkutti* (‘shaking-kid’ or ‘temple-kid’) (1979:157).

village Accountant (*karnam*) before dancing outside and around the food offering. SHE returns to the temple and leaves Teyva's body. The Oduvar distributes ash and sandalwood paste, to cool the participants and spectators.

There follows the eponymous episode of the festival, the communal cooking of *ponkal* rice outside the temple. All local married women go there in procession, and their temporary cooking hearths are laid out in accordance with caste hierarchy. In fact, this was the only occasion when I saw TV residents organising themselves on the basis of the full hierarchy as they had set out it for me verbally, in the abstract. 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, as explained below, humans are vegetarians on the plinth and meat-eaters outside it.

Ponkal is not ordinary cooked rice (*soru*). It is made from raw grain (*arisi*) rather than the parboiled variety (*pulunku*) used in daily cuisine. The cooking process is special too, and every step, especially the moment when the pot comes to the boil, is marked by prolonged *kuruvai* trills from the cook and her neighbours. This quintessential Tamil rite of *ponkal* cooking has been discussed more fully elsewhere (Good 1983). Briefly, it provides yet another example of the association between the goddess and a pot. Again this pot contains divine 'seed', this time in the form of rice. But *ponkal* is not a static, symbolic configuration: it is a *process*. The verbal noun *ponkal* refers to the action of boiling, bubbling up, fermenting, abounding or flourishing (Fabricius 1972:744). This is brought about by fire, consistent with the idea that red or 'hot' substances bring about transformations, whereas whiteness is linked to stasis.¹² *Ponkal* cooking is in fact the archetype of Tamil transformational symbolism, and is connected with both agricultural and cosmological transformations.

There is a long interval after the women return home. At about 8 a.m. the drums start up again and people begin drifting over to the temple. There is a tense, excited atmosphere, and those about to do the actual 'cutting' are identifiable by the erect, self-conscious swagger of their bearing. The priest smears their upper bodies with cooling sandalwood paste, in preparation for the fierce heat of blood sacrifice.

Goats are cut first, generally by Watchmen or their sons. Such activities are felt appropriate for Watchman families and the young men of such households usually participate in blood sacrifices whatever the occasion, though unlike the earlier, communal goat sacrifice they are not always exclusive to them. The goats, full adults this time, are garlanded with flowers and anointed with turmeric water. They are held by the hind legs and bundles of *Margosa* leaves are waved to attract their attention and cause them to hold their necks straight and still. It is considered auspicious for the animal to shiver or tremble at this stage, as a sign that the deity has accepted the offering. The head must be severed with a single blow of the curved sickle (*aruval*), or a fine of Rs 5 (Rs 1 in the case of roosters) is payable to festival funds. This money

¹² 'Thus in a *ponkal* ceremony a white substance [raw rice] is taken, transformed by fire [red], and a new, improved white substance results' (Beck 1969:556; glosses added).

is handed over beforehand, and the Revenue Officer (*munsip*) decides whether it should be returned to the cutter. A failure is a considerable blow to a man's pride, as the event is so public and so widely discussed afterwards.

Dozens of roosters are cut next, mainly by unmarried Maravar and Konar youths. The bird is held by the legs in the cutter's left hand and swung to and fro. If this is done properly, the bird's neck becomes stiffly extended and can easily be severed. The body is then thrown forwards to be reclaimed by its owner. At the end the rooster carcasses and heads, together with the heads and forelegs of the goats, are laid to the north of the pavilion, facing into the temple¹³.

Note that the sacrificial cutting is done with the implement also used to harvest the rice crop. Reiniche (1979:12n) pointed out that the winnowing baskets used to hand over the *vari* are obvious symbols of separation and transfer, and a similar argument can be advanced for sickles, which link the beheading of the animal to the severing of ripened heads of grain. Indeed the same verb (*aru*) may be used for both acts.¹⁴ The widespread functional separation between *sacripliant* and *sacriificateur* (Hubert & Mauss 1964) also seems manifest here, for the animal's owner rarely, if ever, cuts it himself, though I was never told of explicit rules to this effect.

The cutting takes place in silence, the Musicians having withdrawn (cf. Reiniche 1979:214). Once the offerings have been laid out, they return and play at furious tempo while onlookers crowd into the pavilion. The Oduvar and Watchman distribute ash and sandalwood paste for cooling purposes, because although the actual cutters are naturally felt to become hottest, even passive witnesses to the violence are heated to some extent. In fact spectators crowd in close during the sacrifices, and it is considered good to get a few spots of blood on one's new clothes.

Afterwards people return home to prepare and eat their meat curries. Gifts of raw or cooked meat are sent to relatives or neighbours who have none of their own. The distinction between meat-eaters and vegetarians, foreshadowed by the spatial arrangements during *ponkal* cooking, only really becomes manifest at temple festivals, because almost the only meat ever eaten is sacrificial meat. All meat-eating, in other words, has sacramental significance for those who indulge in it.

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 allows a slightly impure thought to compromise this status, so her husband orders Parasurama to take her into the wilderness and cut off her head. In some versions Siva and Parvati pardon her in recognition of her virtue, and appoint her to guard the gateway to

¹³ At another local festival, the incarnate deities actually drank the blood spurting from the necks of the freshly decapitated goats.

¹⁴ The sickle is also the archetypal murder weapon and beheading is the normal means by which the crime is said to be carried out. Every murder is *described* as a 'cutting', with gestures to match.

heaven. At the same time, the god Karuppasami obtains her aid to protect villages from disease: she guards the north and he the other three directions. In another version (Moffatt 1979:249) she embraces a Paraiyar woman in a desperate plea for help, so Parasurama accidentally cuts off both their 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. The myth then distinguishes goddesses with Paraiyar heads and Brahman bodies, from those in whom this arrangement is reversed.¹⁵

In other words, the goddess is produced by sacrificial decapitation. She 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, which itself lies to the north (Good 1980). Finally, she is chaste and has no (longer any) sexual or familial relationships.

Turning to the sacrifice of the roosters and goat-kid outside the temple, there is space only for a partial analysis here. First, one of the roosters is said to be offered to Kattavarayan, the other to the altar. The former presents no problems since local folk-tales describe Kattavarayan as the Paraiyar foster-son of Kali (Fabricius 1972:228) who, for the sin of Brahmanicide, was himself impaled (Ziegenbalg 1869:138-9; Reiniche 1979:201n). The precise status of the altar is less clear, but it is perhaps best 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* is the usual word for boiled rice and *padaippu* means 'creating' or 'setting in order' (Fabricius 1972:651; Reiniche 1979:242). It is the Tamil synonym of (Skt.) *sruti*, the Revelation contained in Vedic texts. The goddess fits into this picture because this revealed, everyday world is simply a great illusion (Skt. *maha-maya*, itself an epithet of the goddess). According to the *Devimahatmya* (*Mark. Pur.* 81.47-8), this world is merely a transient emanation or manifestation of the atemporal, unchanging goddess. Thus the *padaippu soru* offering – which we can now gloss as 'food of emanation' – coincides with the goddess becoming fully installed in her temple. Moreover, it leads to a further emanation, as she again takes possession of her medium.

Her emergence to dance around the sacrificed animals raises another question. Is she vegetarian, as the Oduvar asserted beforehand, or a meat-eater, as this episode suggests? Though she does not witness the actual sacrifices CELVI does 'eat' the meat curries. SHE did not physically consume any of the offerings on this occasion, it is true, but I have often seen other incarnate goddesses do so, and it seems clear that the episode should be understood in that way. Later, the Oduvar offered the view that Celvi is a vegetarian inside her temple, but a meat-eater outside it. This dichotomy is neatly encapsulated by the version of her myth that portrays her as part vegetarian Brahman, part meat-eating Harijan.

¹⁵ Whitehead (1921:116-7) interprets this as evidence of Aryan-Dravidian religious fusion. It is more plausibly viewed as bringing out the complementarity of high-caste and Harijan goddesses.

The *padaippu soru* offering of meat curry and rice is subsequently divided up into nine shares, which go to: (1) the Accountant; (2) the Revenue Officer; (3) the Watchman; (4) the village Barber; (5) the two village Washermen, a half-share each; (6) the Temple Servant; (7) the village Carpenter; (8) the village Blacksmith; and (9) the Cakkiliyar from the next village, who act as local scavengers. In short, virtually every local specialist and official 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 prestations during the festival cycle would be to ignore their most crucial feature. Though modelled upon and/or paradigmatic for purely human transactions, they involve a third party in the person of the deity, through whose interposition they are transformed into *pirasadam*, sanctified substances imbued with divine grace (*arul*). For village officials and artisans, for example, their festival activities are performed on behalf of the community they represent but are directed towards the deity, from among whose offerings they draw their *sastiram* rewards.¹⁶ It is possible to regard every aspect of the festival as a prestation by or to the congregation, individually or collectively, the recipient or donor respectively being the deity. From the broadest perspective, the ultimate prestations are, on the one hand, the proper worship of the goddess by her devotees, and on the other, her bestowal of health, human fertility and social order during the coming year. The entire festival is in the last analysis a cosmic, rather than merely a sociological prestation.

The ban on sacrifice

The *Madras Animals and Birds Sacrifices Prevention Act, 1950 (Act 32 of 1950)* was promulgated by the Madras government at a time when the state still resembled the old, colonial Madras Presidency, containing much of what are now Andhra Pradesh, Kerala, and Karnataka, as well as modern Tamil Nadu.¹⁷ Pressure for a ban had been growing for some time. For example, a 1926 Jain campaign against animal sacrifice had gained support from many Saivites too. The ideology of this movement was heavily influenced by the writings of Maraimalai Adigal, who advanced a view of history whereby human culture evolved unilineally from lower to higher forms. In this framework animal sacrifice was portrayed as a relic from a lower, less civilised stage (Pandian 2005:2314-5). Later on, the Bill itself was a result of further Jain pressure, again with Saivite supporters who included the then Chief Minister.

When the Bill was debated in the Legislative Assembly, it was apparent that animal sacrifice was extremely widespread and numerous striking examples were cited by speakers. However, it seems that all who spoke in the debate were in favour of a ban, though for differing reasons.

¹⁶ The Carpenter and Blacksmith make the spike and chain for the temple sacrifice. On the notion of *sastiram* ('knowledge') gifts to village artisans, as opposed to *sampalam* ('salaries'), see Good (1982).

¹⁷ In 1969 it was formally renamed the *Tamil Nadu Animals and Birds Sacrifices Prevention Act*, and all mentions of 'Madras' in the text were replaced by 'Tamil Nadu'.

Many of the arguments advanced during the debate were ‘grounded in secular rationality’ rather than addressing the issue *qua* religion (Pandian 2005:2316). One member portrayed it as a law and order issue, as it would prevent precedence disputes which often escalate into violence; others said animal sacrifice was a revolting, gruesome practice and should be banned in the name of progress; whereas the justice minister tried to portray the bill as aimed at the prevention of 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 offered by 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’. Several sought to argue that animal sacrifice, and the supposed 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 such legislation constituted 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 require 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 the preamble, was noteworthy. Indeed, it was highly succinct: even with the addition of numerous, but purely formal, amending footnotes the 1969 version runs 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).¹⁸

In section 2(b) sacrifice was defined as ‘the killing or maiming of any animal or bird for the purpose or with the intention of propitiating any deity’. Section 3, in its entirety, stated ‘No person shall sacrifice any animal or bird in any temple or its

¹⁸ A ‘Statement of Objects and Reasons’ underlying the legislation had been published in the *Fort St George Gazette* as early as 13 January 1948 (Part IV-A, page 3).

precincts'; the penalty for so doing was a fine of up to Rs 300 (a very large sum in those days).¹⁹ 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 that no-one should knowingly allow a sacrifice to be performed in a temple under their control. In both cases the penalty was again a fine 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 Prevention Act, 1950* was considered such high priority that significant preparatory work had been 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 substance of the Act once it came into force on 1 June 1951. I can find no recorded prosecutions in the months or years that followed.

Enforcement of the ban

The 1950 Act remained a virtual dead letter for more than half a century. 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 buffaloes at a village festival in Tiruchi District.

There was some confusion in contemporary news reports as to the legal basis on which this order was made. Next day *The Hindu* claimed that the ban had been issued under 'the Tamil Nadu Prevention of Cruelty to Animals Act, 1950, and its subsequent amendment',²⁰ and went on to argue that because of the use of this particular Act the ban was – or could be portrayed as – overtly non-religious, an assertion that forms the starting-point for Pandian's (2005) paper.²¹ However, another report at the time, in the news magazine *Frontline*, clearly linked the ban to the *Tamil Nadu Animals and Birds Sacrifices Prevention Act, 1950*. There is in fact no such legislation as this supposed Tamil Nadu Prevention of Cruelty to Animals Act, from 1950 or any other year. There is, however, a piece of national legislation with a very similar title, *The Prevention of Cruelty to Animals Act, 1960 (Act 59 of 1960), as amended by Central Act 26 of 1982*, but its Section 28 explicitly states that it does *not* apply to animal sacrifice: 'Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion of any community' (Krishna 2010:34).²²

¹⁹ Taken literally, this implies that the goat-kid sacrifice on the TV temple plinth was illegal, but the later sacrifice of goats and roosters in the 'wilderness' was not. It is doubtful if that was the intention.

²⁰ www.thehindu.com/2003/08/29/stories/2003082907440100.htm; accessed 25/06/2015.

²¹ 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 *amendments*' (2005:2313; my italics).

²² <http://bamu.ac.in/dept/zoology/1.%20Prevention%20of%20cruelty%20to%20animals%20act.%201960.pdf>; accessed 25/06/2015.

It must therefore have been the 1950 Tamil Nadu Act that was invoked in Jayalalitha's letter because the 1960 Central Act provides no basis for any such ban. This rather negates the assertion in *The Hindu* that the ban presented itself as secular. Indeed, that very same article contradicts its own central thesis when it reports that her letter 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'.²³ Another piece in *The Hindu*, two days later, confirmed that it was indeed the *Tamil Nadu Animals and Birds Sacrifices Prohibition Act, 1950* that was being used to underpin the ban.²⁴ Clearly the initial writer in *The Hindu*, in his eagerness to put an 'animal rights' spin on the story, had confused two quite different pieces of legislation. This in turn misled Pandian, who assumed the article to be factually accurate; fortunately the bulk of his analysis remains valid despite this.²⁵

Jayalalitha's move was strongly supported by the rationalist DK, by BJP leaders, and by most constituent groups of the Sangh Parivar. One interesting exception was S. Gurumurthy, the all-India co-convenor of Swadesh Jiaganan Munch. He referred to the Kali temple festival in his native village at which Brahmans and other vegetarians worshipped Kali with vegetarian offerings before sunset, after which other castes would go to the temple during the night and perform animal sacrifice. He wrote, 'During the day, that Kali was vegetarian; during night, [she was] non-vegetarian. That is worship based on the lifestyle of the worshipper' (Pandian 2005:2314). The parallels between this and the TV Oduvar's contrast between vegetarian and meat-eating forms of Celvi are striking.

The main opposition parties – the DMK, Communist Party of India and Communist Party of India (Marxist) – were rather caught on the hop: although not at all in favour of animal sacrifice, they felt obliged to oppose the ban, which they did by questioning the wisdom of seeking to end an ancient and widespread practice by mere enforcement of a law.²⁶ The General Secretary of the CPI-M, for example, said that sacrifice 'was "part and parcel" of the lives of Dalits and other backward classes and the order would offend them'.²⁷ Jayalalitha's perennial rival, the DMK President M. Karunanidhi, found himself in an especially awkward position:

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).

²³ www.thehindu.com/2003/08/29/stories/2003082907440100.htm; accessed 25/06/2015.

²⁴ www.thehindu.com/2003/09/06/stories/2003090605760100.htm; accessed 25/06/2015.

²⁵ Unfortunately but unavoidably, that same error has since been unwittingly perpetuated by authors citing Pandian's work (for example Srinivasan 2010:30).

²⁶ www.frontline.in/static/html/fl2020/stories/20031010001205000.htm; accessed 18/06/2015.

²⁷ www.religioscope.info/article_211.shtml; accessed 19/06/2015.

The banning order came immediately after Madras High Court notified the Home Secretary and DGP about a Public Interest petition seeking just such a ban.²⁸ It also coincided with nationwide discussion over a proposed bill in the Indian Parliament, banning the slaughter of cows. Indeed, the Government's action came immediately after its decision to support the demand for such a ban. Several opposition parties dubbed the move as yet another proof of the ruling party's 'pro-Hindutva slant', portraying it as systematically depriving Dalits and backward communities of their age-old cultural rights.²⁹ This view was shared by sections of the media, including *Frontline*, which noted:

the beneficiaries... are the Hindutva forces, which are only too willing to 'cleanse' temples of village deities which are 'polluted' by 'undesirable' practices... organisations 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).

However, the newly-enforced ban evoked support from a number of other sources, for a variety of reasons. The initial article in *The Hindu* was correct at least insofar as animal rights campaigners formed another prominent supporting faction. The vice-chairman of the Animal Welfare Board of India, Chinny Krishna, 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,³⁰ even advanced a feminist argument that portrayed 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'. She went on:

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).

²⁸ www.thehindu.com/thehindu/mp/2003/09/08/stories/2003090800700100.htm; accessed 17/06/2015.

²⁹ *The Hindu*, 8 September 2003: <http://alt.religion.hindu.narkive.com/a61KXcNi/hindutv-the-great-nationalist-ideology>; accessed 17/06/2015).

³⁰ 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 Nanditha Krishna's arguments, see Kent (2013:172-5)

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.³¹ 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.hindu.com/op/2003/09/09/stories/2003090900130300.htm; accessed 18/06/2015).

Popular reaction

Jayalalitha's decision generated widespread resentment, especially in southern Tamil Nadu. In Tirunelveli and Tuticorin districts in particular, devotees went ahead with their customary sacrifices at local temples, openly defying the ban. Even in the city of Madurai, 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.³²

On 5 September, S. Senthivel Nadar, a devotee of Sudalai Andavar temple at Sirumalanji in Tirunelveli district (only a few kilometres from TV) challenged the ban through a PIL petition in Madras High Court, arguing that it violated Articles 19 and 25 of the Constitution. He described the ban 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 impending temple festival, pending disposal of the petition. An 'understanding' was reached with government that no arrests would be made at the festival.³³

At Sirumalanji itself, however, although the 'mood... swung from depression to enthusiasm following the report that the court had issued notice to the Government', the police appeared to ignore this understanding. They warned that those who defied the ban on animal sacrifice would be arrested immediately.³⁴ At the festival itself that night, police intervened to prevent the large-scale animal sacrifice that was due to take place – said to involve 2,500 goats, 1,000 pigs and 500 chickens. They placed Muthuraj, the god's medium, under what appeared to be house arrest, and banned the Musicians from playing. A huge crowd was present however, and in an attempt to maintain calm the police eventually asked Muthuraj to appeal to them to abide by the law. After donning the god's robes he was allowed to go to the temple, where he made the appeal as requested but afterwards, now speaking as the deity, HE

³¹ http://natureprofiles.hpage.co.in/animal-sacrifice_61987868.html; accessed 17/06/2015. 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).

³² www.religioscope.info/article_211.shtml; accessed 19/06/2015.

³³ www.frontline.in/static/html/fl2020/stories/20031010001205000.htm; accessed 18/06/2015.

³⁴ www.thehindu.com/2003/09/06/stories/2003090605760100.htm; accessed 18/06/2015. This report says that Senthivel's petition cited Article 14 on the Constitution, rather than Article 19.

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 at a distance from the temple itself. Muthuraj told reporters that ‘enforcing the ban is a clear act of discrimination’.³⁵

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 debate prior to the passing of the Act, defined animal sacrifice as ‘a *social* menace like sati and untouchability [that] had to be brought to an end’ (my italics).³⁶ The petitioner’s advocate argued that animal sacrifice was an age-old practice in Tirunelveli district, to which 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’.³⁷

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 a faction of the Communist Party of India (Marxist-Leninist) (Pandian 2005:2313), sacrificed a goat in front of the Sappani Swamy temple, only a few days after the completion of its maha kumbabishekam ceremony. Those involved were arrested, as were others performing or trying to perform sacrifices elsewhere. Even the participants in a march protesting against the ban were arrested.³⁸ In general, it seems that although the ban was quite effectively enforced in larger temples administered by the Hindu Religious and Charitable Endowments Department – albeit, as in the Tiruchi case, sometimes only by dint of large-scale arrests – it continued virtually unchecked in smaller temples, especially in villages.³⁹

Policy reversal

The government’s move to enforce the Act continued to face strong resistance from those groups, particularly Dalits and members of Backward Classes, who claimed that it violated their constitutional right to worship and constituted an interference 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.

³⁵ 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.

³⁶ www.frontline.in/static/html/fl2020/stories/20031010001205000.htm; accessed 18/06/2015.

³⁷ www.thehindu.com/2003/09/09/stories/2003090905090400.htm; accessed 18/06/2015.

³⁸ <http://www.thehindu.com/2003/09/09/stories/2003090905080400.htm>; accessed 19/06/2015.

³⁹ <http://archive.deccanherald.com/deccanherald/sep15/n8.asp>; accessed 19/06/2015.

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 whatsoever. 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’.⁴⁰ Whereas the previous year Jayalalitha had justified the ban by describing sacrifices as ‘cruel acts’, she now ‘bowed to the wishes of people who felt they might invite divine retribution if they did not fulfil their vows’.⁴¹

Rather more cynically, most political analysts noted that ‘she faced a backlash in the forthcoming general election if the ban was not lifted’.⁴² As S. Murari explained in the *Deccan Herald*, her ‘somersault’ was understandable politically:

Her alliance with the BJP for the coming Lok Sabha elections 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 so long as they are ranged against the DMK-led front. Sacrificing animals and birds is chicken feed to her (<http://archive.deccanherald.com/deccanherald/feb292004/sl4.asp>; accessed 19/06/2015).

In criticising Jayalalitha’s policy reversal, India’s best-known animal rights campaigner Maneka Gandhi, and the Animal Welfare Board of India’s Chinny Krishna, asserted that animal sacrifice is also forbidden by the central *Prevention of Cruelty to Animals Act 1960*. As shown above, that is not in fact the case. They also cited the *Wildlife Protection Act 1972* as providing the legal basis for a ban, but by my reading, not only does that Act not address animal sacrifice, but the Schedules listing the species covered do not include the domesticated livestock used in animal sacrifices.⁴³ In that context, their reported 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’ appears doubly implausible, firstly because the cited legislation provides no basis for this, and secondly because in any case, as the 1960 Act illustrates, the constitutional guarantee on freedom of religion ‘tends to trump the constitutional requirement that citizens have a duty to respect animal welfare’.⁴⁴

⁴⁰ www.aghilham.com/news/tamilnadu/20040221b.html; accessed 19/06/2015.

⁴¹ <http://archive.deccanherald.com/deccanherald/feb292004/sl4.asp>; accessed 19 June 2015.

⁴² http://news.bbc.co.uk/2/hi/south_asia/3506623.stm; accessed 19/06/2015. Links were drawn with another measure a few days earlier, again seen as designed to woo voters: she had extended the scope of a scheme whereby power was supplied free of charge to agricultural pumpsets (<http://archive.deccanherald.com/deccanherald/feb212004/n1.asp>; accessed 19/06/2015).

⁴³ <http://envfor.nic.in/legis/wildlife/wildlife1.html>; accessed 08/07/2015.

⁴⁴ <http://www.animalpeoplenews.org/04/3/proanimalIndiapols3.04.html>; accessed 08/07/2015.

Temple entry and the ban on sacrifice

The remainder of this paper considers the influence of Hindu reformist nationalism upon the events described above. It looks more broadly at the context, immediately before and after Independence, within which the 1950 Act was brought into law. It then assesses the growing role of the courts after Independence, in not merely deciding religious disputes but actually creating the conceptual and definitional framework within which their decisions are made. Like the post-Independence behaviour of the Madras legislature, decisions of the Indian Supreme Court, too, can plausibly be related to the predominant roles played by judges from the same kinds of urbanised, well-educated Brahman (or at least Brahmanic) backgrounds. Finally, it considers the more recent rise of Hindutva,⁴⁵ not merely as a reformist, homogenising ideology very much in that same tradition, but also as a political movement whose influence a politician like Jayalalitha would ignore at her peril.

How to explain the seeming contradiction between the urgency accorded to the anti-sacrifice legislation and the subsequent failure to enforce it? Dumont proposed that the introduction of the ban was part of the high-caste Hindu response to the opening of temples to Dalits. This argument over-simplifies the situation, however, and seems partly self-contradictory.

Even before Independence, the *Madras Temple Entry Authorisation and Indemnity Act (Act XXII of 1939)* had authorised 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)*⁴⁶ made this opening compulsory for all public temples. Dumont notes that despite the resistance of traditionalists, ‘the reform was more or less generally imposed’ (1970:230). He comments that, as a result:

a sort of 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, as emerged clearly in the Legislative Assembly debate itself, it seems at first sight strangely undemocratic that MLAs should have been so 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

⁴⁵ The term Hindutva (‘Hindu-ness’) is widely used generically in political debate within India, as the news media extracts cited here amply demonstrate. For convenience I sometimes adopt this usage myself below. However, it is important to bear in mind that although the organisations thus labelled can all be broadly characterised as conservative or nationalist in outlook, they may have differing views on particular issues, as S. Gurumurthy’s response to Jayalalitha’s ban (above) illustrates.

⁴⁶ www.tnhrc.org/pdf/TNHRCE_RULES_1959_PART17.pdf; accessed 10/07/2015.

is the forcible reform of the Untouchables, so that they would cease to be abettors of impurity (1980:231).

Even if that is taken at face value as an explanation for the passing of the 1950 Act, it hardly explains why that Act was never enforced prior to Jayalalitha's intervention – indeed, it makes non-enforcement still more puzzling. There are in any case two misleading elisions involved 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 set of responses to temple entry, disregarding the divisions between traditionalists and reformists that were clearly evident in the events leading up to that legislation. For example, it was 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 and others. The convoluted events following this incursion have been analysed by Fuller (1984:116-28). Briefly, most of Minakshi's temple priests in effect went on strike for six years, refusing to perform their hereditary priestly duties until the temple was purified. In the meantime the Madras government – led by another Brahman, C. Rajagopalachari ('Rajaji') – passed the 1939 Act.⁴⁷ The priests' attempts to oppose temple entry in the courts, before and after that Act came into force, were unsuccessful.⁴⁸ No other temples experienced opposition to temple entry on anything like this scale, although there is some limited evidence of an initial boycott of temples by many higher caste worshippers.

It was, then, a Saivite Brahman who spear-headed the temple entry movement, and a Madras government led by another Saivite 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 kind of defensive response to Harijans' 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. As already explained, attempts to ban sacrifice began several decades prior to the passing of temple entry legislation. What is more, the 'puritan reaction' described by Dumont was only made possible because after

⁴⁷ Section 2 of the 1939 Act specifically indemnified those involved in the Madurai incursion.

⁴⁸ *Srilasree Gnanasambandham Desikar Pandarasannadhi Avergal 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 the arguments elsewhere in this paper, that the 1945 decision was written by a British judge.

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 Harijans, but the gods too needed to be reformed: ‘there are many deities who 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 village goddess festival discussed above, these risks, as we saw, are high: a goddess who is angered by the withholding of the sacrifices to which she has been entitled is thought able to wreck harvests and inflict disease and infertility on her recalcitrant worshippers. This helps explain the persistence of blood sacrifices in Tamil Nadu despite legal and high-caste opposition.

Elsewhere in India the reformist project has 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. 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, ‘the traditional hierarchical tolerance gives way to a modern... totalitarian mentality’ (1980: 231).

More recently, 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). Even so, as Copeman also points out, ‘blood donation possesses neither a transparent nor a singular relationship with violence and non-violence. Even when enacted instead of animal sacrifice... it cannot but refer to violence in substituting for it’ (*ibid.*). It is also interesting to note the donors’ apparent underlying assumption that what is crucial to sacrifice is the offering of blood rather than the act of decapitation stressed in the mythology. While it is true, as noted earlier, that goddesses may drink the blood of sacrificed animals, and while the fluidity of blood makes it an obvious material representation of prestatinal transfer,

the stress in village goddess festivals seems rather 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 just outlined above. In an influential 1938 case, the fact that animal sacrifice was performed on a particular site was taken (along with other facts) as evidence that the site was indeed a temple.

The Madras Hindu Religious Endowments Board had appealed⁴⁹ against a decree setting aside a scheme of administration drawn up by the Board in respect of an institution known as Sri Virulu Alaya in Karampudi village in present-day Andhra Pradesh. It comprised a mandapam containing memorial stones to 66 ‘heroes’. The Board had framed the scheme on the basis that this was a temple as defined by the Madras Hindu Religious Endowments Act. The plaintiff, the Dharmakartha of the institution, sought a declaration that it was *not* a temple within the meaning of the Act, so the Board had no jurisdiction to frame such a scheme.

The District Judge hearing the initial case held that the rites performed there were not religious worship but merely a re-enactment of the war in which the heroes were said to have participated, therefore the institution was not a temple within the meaning of the Act. 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,*⁵⁰ *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;⁵¹ 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).

⁴⁹ *The Commissioner for the Hindu Religious Endowments Board v. Pidugu Narasimham and Ors.*, (1939) 1 MLJ 134.

⁵⁰ This phrase (literally, ‘daily food-offering lamp-showing’) is conventionally used as shorthand for the daily liturgy in a temple.

⁵¹ 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.

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 to support the claim that it did indeed constitute “public religious worship”. This decision, especially the italicised sentence, was regularly cited in subsequent decades, even after the passing of the 1950 Act.⁵²

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 fully at the time of the passing of the 1950 Madras Act, but in the decades after Independence such definitional questions were addressed by a series of Supreme Court decisions. Ever since the Shirur mutt case in 1954, concerning a monastery in Tamil Nadu, the legal position has been that the constitution guarantees freedom of religious practice (‘acts done in pursuance of a religion’) as well as religious belief. That decision also set the scene for another important strand of legal interpretation when it noted that ‘the essential part of a religion is primarily to be ascertained with reference to the doctrines of that religion itself’.⁵³

In 1961 the Court further 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’.⁵⁴ In 1963 the Court 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; however, should there be internal disagreement over this among community members themselves, the court itself should decide after examining the evidence.⁵⁵ Since then it has in practice been the courts who have the final say on such matters; their decisions are based mainly on textual evidence, although evidence regarding traditional beliefs and customs may be considered too (Fuller 1988:228-9).

Indian courts are of course key institutions of a modern state whose official ideology and Constitution were ‘significantly forged by the preoccupations of modern Hindu social and religious reform’ (1988:242). As the cases above illustrate, one key preoccupation was the reform of Hindu temples and monasteries, to try and separate truly religious elements from superstitious ‘accretions’. Long before the courts became involved after Independence, however, religious customs like animal sacrifice

⁵² 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.

⁵³ *Commissioner of Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar, Shirur*, AIR 1954 S.C. 282, 290.

⁵⁴ *Durgah Committee, Ajmer v. Syed Hussain Ali*, AIR 1961 S.C. 1402, 1415.

⁵⁵ *Tilkayat Shri Govindlalji Maharaj v. State of Rajasthan*, AIR 1963 S.C. 1638.

– predominantly non-Brahmanical and for which textual sanction is allegedly absent – had been denigrated as superstitious by Jains and reformist nationalists, among others. As a result, the formerly widespread traditional view that it is wholly appropriate for different communities to have different religious beliefs and practices

has been partially displaced by 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 (*ibid.*:243).

Hindutva influence in Tamil Nadu

When Jayalalitha’s initial Order enforcing the ban on sacrifice met with widespread public opposition and was challenged in the High Court, the government repeatedly justified its actions by referring to the support for the policy on the part of heads of monasteries and State BJP leaders. 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 some detail in a *Frontline* issue largely devoted to the spread of Hindutva values in southern states.⁵⁶

The article begins by quoting the sycophantic comment by her Minister for Hindu Religious and Charitable Endowments, that ‘Tamil Nadu today is under the spiritual rule of Jayalalithaa’. He went on to claim that 2,822 temples had been renovated by her AIADMK administration. His comments are seen not only as indications of government priorities, but also – more broadly – as indicating the extent to which these 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, at each other’s expense, with the BJP administration in Delhi. This was paradoxical in that the Dravidian movement, from which both parties sprang, had its roots in the rationalist, self-respect ideology of Periyar E.V. Ramsami. Because rationalist ideology remained stronger in the DMK and was still publicly espoused by M. Karunanidhi, as noted above, it could not go as far as the AIADMK in its wooing of Hindutva organisations. As *Frontline* 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 on issues such as a common civil code and the construction of a temple in Ayodhya. 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 so-called ‘forcible’ religious conversion; provided significant funding to help reconstruct temples; granted pensions to priests in small temples; provided for the

⁵⁶ 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.

feeding of poor Hindus in temples; and arranged mass weddings for poor Hindu couples. She also introduced so-called 'Vedic' colleges to train priests. In this context, the directive to enforce the law against animal sacrifice can be seen as just one more in a long line of policies designed in part to foster relations with the BJP and the Sangh Parivar more generally. As Fuller had commented even earlier, 'Jayalalitha's regime has been 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' (1996:22).

Conclusion

It was almost inevitable that by seeking greater influence within the Hindutva faction, Jayalalitha would face a decline in support among those other 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 credulity-stretching, soap-opera history of Tamil Nadu politics, to evaluate the relative importance of true conviction and tactical expediency in Jayalalitha's actions when ordering the initial 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 is a Brahman, who might be expected genuinely to regard animal sacrifice as an inferior form of worship.

What does seem clear, however, is that her rapid volte-face was a conscious attempt to gain political support among sections of the electorate that might otherwise have been expected to feel strongly hostile to her administration. Subsequent events proved that she had had good reason to worry. In the 2004 General Election, two months after the lifting of 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 5 seats. The sacrifice ban was not of itself the determinative issue at those elections, in comparison with 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.⁵⁷ It appears to have been seen by voters as yet another example of Jayalalitha's 'autocratic style of functioning'.⁵⁸ This would-be populist measure had backfired by proving in fact to be deeply unpopular.

To conclude, we 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 has noted, there is a 'widespread assumption that the modern Indian state, the powerful child of reformist nationalism, is hostile to animal sacrifice' (2004:104). The ritual, he adds, 'is seen to have lost its legitimacy at the highest political level' (*ibid.*); a far cry indeed from the 'staggering' (Sivapriyananda 1995:46) scale of the animal sacrifices

⁵⁷ www.frontline.in/static/html/fl2111/stories/20040604004602400.htm; accessed 07/07/2015.

⁵⁸ <http://www.webcitation.org/5iTJ5MvuM>; accessed 07/07/2015.

carried out in the past by the kings of Vijayanagara, and later Mysore, in the Dasara rituals that served as paradigms for all the minor princes and zamindars of southern India. Their initial importance is explained by Stein (1983) in relation to the change in 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). Because of this, the Vedic rituals that had 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-nineteenth century or even earlier (Ikegame 2013:146), indicating that even then the trend towards Brahmanic orthopraxy, if not yet reformism as now constituted, was gaining ground. All that now remains, in relation to animal sacrifice, is the microcosm; the offerings to the village goddess who replicates at the level of the village the role played by Durga in relation to the kingdom as a whole.

Nowadays, therefore, even when the perpetrators of sacrifice successfully resist the pressures of Brahmanic or Hindutva-inspired reformism – as in the Chellattammal case discussed by Fuller (2004:104-5) or the passive defiance by Sudalai Andavar’s ‘god-dancer’ as described above – they do so at the cost of acknowledging the subordinate inferiority of their practices – and their deities – from a high-caste viewpoint. Seen in this light, the *Madras Animals and Birds Sacrifices Prevention Act, 1950* appears above all as an act of delegitimation rather than an Act primarily intended to criminalise those still performing such sacrifices.

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