Journal of Contemporary Law and Society, *Volume 2, Issue 4, December 2025, pp. 201-205*

RESEARCH ARTICLE
Online ISSN: 3139-1079
Doi: 10.18311/JCLS/2025/v2i4/51602

INFORMATICS JOURNALS

Online ISSN : XXXX-XXXX

Journal of Contemporary Law and Society

Contents available at: *www.informaticsjournals.co.in/index.php/jcls*

JCLS

Wheels of Nostalgia, Burden of Labour- A Constitutional and Policy Analysis of Kolkata's Hand-pulled Rickshaw Dilemma in Light of the Recent Matheran Judgment of the Supreme Court

Shivam Saha

The West Bengal National University of Juridical Sciences (WBNUJS), Kolkata – 700010, West Bengal, India; llm070225@nujs.edu; advocate.shivamsaha670@gmail.com

Abstract

On August 6, 2025, the Supreme Court of India, while hearing an interlocutory application in the popular "Godavarman" case, strongly reprimanded the inhumane custom of hand-pulled rickshaws as being inconsistent with the constitutional ethos of social justice and the contemporary ideals of equality. This judicial observation, while rooted in ecological protection, raises complex social questions concerning livelihood, labour dignity and ethical boundaries. In this context, the paper analyses the rationale behind the Supreme Court's ban on these hand-pulled rickshaws and, by drawing a connection to Kolkata's long-enduring practice of human-pulled rickshaws, it calls for an in-depth analysis of its continued persistence even in today's globalised society. The paper then traces the historical origins of these rickshaws on the streets of Kolkata and examines the political dilemma and historical failure of the State in balancing the right to livelihood with the right to a dignified life, which has repeatedly thwarted legislative attempts to phase out this practice. The paper further analyses the appropriateness of the practice in light of constitutional principles emanating from various landmark judicial pronouncements and argues that balancing the right to a dignified life with the right to livelihood can translate these principles into a meaningful policy. Advocating the adoption of a Matheran-like framework in Kolkata, the paper finally concludes by highlighting the State's responsibility in furthering the cause of social and economic justice and asserting that the protection of human dignity must prevail over exploitative traditions, even when those have acquired the status of 'heritage'.

Keywords: *Article 21, Hand-Pulled Rickshaws, Human Dignity, Kolkata, Matheran Judgment, Right to Livelihood, Social Justice*

1.0 Introduction

"It is really unfortunate that 45 years after the observation made by this Court in the case of Azad Rickshaw Pullers Union, the practice of a human being pulling another human being is still prevalent in the town of Matheran" (Bawa, 2025).

This is how the Supreme Court lamented the fact that even after 78 years of independence, the inhuman and undignified practice of hand-pulled rickshaws still continues in our country.

On August 6, 2025, the three-Judge Bench of the Supreme Court, while hearing an interlocutory application filed in connection with the case of *T.N. Godavarman Thirumalpad v. Union of India* (popularly known as the *"Godavarman case"*) (2025), declared the hand-pulled rickshaws in the eco-sensitive zone of Matheran Hill Station as "inhuman" while holding that such an inhuman practice needs to be abolished.

The Apex Court quite aptly observed that the manual pulling of rickshaws violates not only the right to live with dignity of the rickshaw pullers but is also inconsistent

with the sacrosanct "preambular promise of social justice". With these observations, the Court directed the Maharashtra Government to phase out these hand-pulled rickshaws and replace them with e-rickshaws in the Matheran Hill Station, a popular tourist destination in Maharashtra.

Even though these hand-pulled rickshaws are one of the eco-friendly transport options in the eco-sensitive hilly areas of Matheran, in the twenty-first century, characterised by technological advancements, compelling a human being to pull another using his sheer physical labour is not only inconsistent with our constitutional principles but also evokes the exploitative labour hierarchies of colonial rule (T.N. Godavarman Thirumulpad v. Union of India & Others, 2025).

These hand-pulled rickshaws, originally introduced during the British Raj, gradually faded away from Indian transport systems and were replaced with more modern and humane modes of transportation, but are prevalent in the streets of Kolkata, even today and are often viewed as 'cultural heritage'. In this context, the conflict of humanity and heritage in Kolkata, the so-called "City of Joy", with respect to its hand-pulled rickshaw system, is highly relevant and calls for an in-depth analysis.

2.0 Colonial Origins of Rickshaws in India

The hand-pulled rickshaws, commonly known as the "*Tana*" rickshaws in West Bengal, especially in Kolkata, are not only operated daily despite there being suitable substitutions such as e-rickshaws and other modes of transport, but are often romanticised as a cultural symbol and as a central piece of the colonial 'heritage' of Calcutta.

If we look back at history, we will find that the word "rickshaw" owes its origin to the Japanese word "*Jin-riki-sha*", literally meaning a human-powered vehicle. First invented in Japan in 1869, these rickshaws spread to China in 1874 and were introduced in India by the British East India Company (Ghosal, n.d.). Shimla, the summer capital of the British Raj, first witnessed the introduction of these hand-pulled rickshaws, which eventually found their way into the streets of colonial Calcutta.

Notably, since the British East India Company was involved in the opium trade with the then imperial Chinese regime, Calcutta witnessed waves of Chinese immigrants from Canton, Shanghai, and Hong Kong, many of whom were displaced due to famines and political upheaval. It was these Chinese immigrants who first introduced the city to hand-pulled rickshaws, which later became an integral part of Calcutta's transport system. In 1919, with the enactment of the Calcutta Hackney Carriage Act by the colonial British Government, these hand-pulled rickshaws were allowed to be hired as passenger vehicles in Calcutta (The Calcutta Hackney-Carriage Act, 1919).

After World War II, while these hand-pulled rickshaws started fading out gradually from the rest of India, they continued to thrive in Bengal, particularly in Calcutta, where they became synonymous with the city's dominant '*Babu* Culture'. Even though in popular culture, the city is characterised by these *Tana* rickshaws, it has faced much criticism due to the existence of this colonial relic, even in modern times. In 2006, the then West Bengal Government tried to ban these rickshaws permanently by passing the Calcutta Hackney-Carriage (Amendment) Act, which, however, was never implemented due to political reasons (Economic Times, 2008) (The Telegraph, 2008).

Even today, these rickshaw pullers of Kolkata continue to haul their vehicles along the city's meandering alleys, enduring the scorching afternoon sun of the summer and the relentless rains of Bengal's monsoon. Despite their backbreaking labour, most of these rickshaw pullers are compelled to survive on empty stomachs and meagre earnings, barely enough to sustain themselves in today's economy, let alone a family.

Contemporary reports suggest that there are still about 3,500 hand-pulled rickshaws that operate on a daily basis in parts of Kolkata (Santra, 2024). Although modern traffic rules in Kolkata have banned them from major roads, they continue to be plied mainly in North Kolkata, along its narrow lanes where four-wheelers do not generally have access.

Even though it is absolutely justified to criticise the continuation of this inhuman practice, there are some reasons behind its long persistence. The first and most important reason is the lack of alternative livelihood opportunities. Most of these rickshaw pullers are unskilled labourers who rely solely on their physical labour. Now, if these rickshaws were banned entirely, these hard-working people would lose their only source of income. Secondly, these rickshaw pullers are seasonal migrant workers hailing primarily from neighbouring states like Jharkhand and Bihar, who are not even the owners of the vehicles they operate. They rent these vehicles from one "*Sardar*"

who is the owner of a *"Khatal"*, that is, a rickshaw garage, as a source of livelihood when their fields back home lie fallow (Ghosal, n.d.) (Santra, 2024).

3.0 Constitutional Analysis of the Practice in Light of the Matheran Judgment

In light of the Supreme Court's judgment in the Matheran case, the issue of hand-pulled rickshaws in Kolkata has become a relevant topic for discussion and policy analysis, warranting critical evaluation. Even though it is undeniable that these *Tana* rickshaws are immortalised in literature, cinema, and popular imagination- from Satyajit Ray to Dominique Lapierre, their continued operation in Kolkata at the expense of human dignity and the recent Matheran judgment has prompted us to ask the critical questions- is it justified to romanticise and glorify a practice, which is in itself a human rights violation, and contradicts the fundamental right to life and liberty as enshrined in Article 21 of our Constitution and includes the right to live with dignity as held by the Supreme Court in the landmark case of *Maneka Gandhi v. Union of India* (1978), and later reiterated in a catena of judgments? Does it also not violate the promise of the Preamble that social justice must be ensured for all?

The dilemma persists because the two fundamental rights, that is, the right to live with dignity under Article 21 and the right to earn a livelihood under Article 19(1)(g) of our Constitution, are at the crossroads with each other when we discuss banning these *Tana* rickshaws.

In *Francis Coralie Mullin v. The Administrator, Union Territory of Delhi & Ors.* (1981), the Supreme Court held that dignity is intrinsic to Article 21, while in *Olga Tellis v. Bombay Municipal Corporation* (1985), it was held that livelihood is inseparable from life itself. While it is undeniable that banning these hand-pulled rickshaws is a *sine qua* non to uphold the right to live with dignity of the rickshaw pullers, a blanket ban without providing alternative livelihoods would strip them of both dignity and livelihood.

In this context, it is also necessary that we examine Article 23 of our Constitution, under which the prohibition of "forced labour" extends beyond physical coercion, thereby encompassing economic compulsion within its purview. The Supreme Court, in *People's Union for Democratic Rights v Union of India* (1982), recognised that poverty-driven labour under exploitative conditions constitutes forced labour. By this standard, the hand-pulled rickshaw drivers who are compelled to rent these vehicles from the *Khatal* owners under exploitative terms and conditions are indeed victims of forced labour.

The Directive Principles of the State Policy Under Part IV of our Constitution further strengthen the argument for the abolition of the hand-pulled rickshaws in Kolkata while securing the drivers' alternative livelihood to sustain themselves, as is evident from Article 38, which mandates the State to secure a social order with a view to promoting the welfare of its people (The Constitution of India, 1949). Again, Article 41 enjoins upon the State an obligation to ensure the right to work. In contrast, Article 43 mandates the State to secure a living wage, decent working conditions, and opportunities for leisure and cultural pursuits for all workers (The Constitution of India, 1949). Although not justiciable as fundamental rights under Part III, these provisions underscore the responsibilities of a modern welfare state to further social justice towards its citizens by addressing the inequalities and injustices they suffer and to achieve long-term success in this regard. As such, the State must strike a delicate balance in ending the exploitative practice while ensuring proper rehabilitation of the rickshaw pullers.

In this regard, insights may be taken from the Matheran case, where the Apex Court recalled Justice Krishna Iyer's viewpoint in relation to the rehabilitation of manual rickshaw pullers in Punjab in *Azad Rickshaw Puller's Union and Others v State of Punjab and Others* (1980), where, while examining the vires of the Punjab Cycle Rickshaws (Regulation of Licence) Act, he had observed that there is no higher duty or more solemn responsibility of this Court than to uphold every State measure that upholds the preambular promise of social justice reiterated in Article 38 of the Constitution. Though the case pertained to cycle rickshaw pullers, the Matheran Bench noted that even such a practice was inconsistent with the ideal of social justice enshrined in our Constitution.

Deeply agonised by the suffering of the hand-pulled rickshaw drivers, the Court directed the Maharashtra government to rehabilitate the hand-pulled rickshaw drivers in the Matheran town. Earlier, on May 12, 2022, the Maharashtra government was granted permission to introduce e-rickshaws on a pilot basis to check the feasibility of replacing the hand-pulled rickshaw practice.

Later, in January 2024, the Court clarified that these e-rickshaws would be reserved for the hand-pulled rickshaw drivers only, in order to compensate them for their loss of employment. Thereafter, in April, it permitted the e-rickshaw owners, who were the hand-rickshaw pullers earlier, to use the same for transporting tourists and locals (Bawa, 2025).

4.0 The Way Forward

If Kolkata truly wishes to lay its *Tana* rickshaws to rest, the State Government must adopt a policy akin to the Matheran model. A blanket prohibition alone will never resolve this issue, as was demonstrated in 2006. However, a Matheran-like policy of gradually transitioning hand-pulled rickshaw drivers into skilled e-rickshaw drivers by granting them the necessary licenses and financial support on a priority basis may help dignity and livelihood go hand in hand.

The State must first survey and identify genuine hand-drawn rickshaw pullers, excluding the *Khatal* owners, and provide them with eco-friendly battery-powered or solar-powered e-rickshaws supported by grants, subsidised loans, licences on a priority basis, and impart adequate training in driving, maintenance and financial literacy to them with a view to compensating and rehabilitating them.

Additionally, regarding the question of 'heritage', these rickshaws should find their final homes in museums and cultural exhibitions, not on the streets. Other societies have shown us how to achieve this feat. For instance, Japan, where these rickshaws were first invented, phased out these vehicles as a mode of daily commute a long time ago. It only serves now as a tourist attraction in heritage towns like Kyoto, with licensed operators, safety regulations, and clear recognition of the puller's dignity (Asia Trend, 2021). In China, hand-pulled rickshaws gradually disappeared from the streets by the mid-20th century, and today, they serve only as a part of cultural exhibitions or guided tours (Hammer Museum (UCLA), 2013).

Kolkata must learn from these examples. Preserving *Tana* rickshaws as a memory must remain secondary, while the policy of abolishing an exploitative practice, ensuring the rehabilitation and livelihood security of the rickshaw pullers, must take precedence through conscious policymaking, meticulous implementation, and strict enforcement, as well as spreading public awareness. The true test of Kolkata's policy, therefore, lies not in how it preserves the colonial nostalgia but in how it decisively dismantles inhumane labour practices while creating dignified alternatives.

5.0 References

Asia Trend. (2021). *Jinrikisha ride experience in Japan*. Retrieved from Asia Trend: https://asiatrend.org/culture/jinrikisha-ride-experience-in-japan/.

Azad Rickshaw Pullers' Union (REGD.) CH. Town Hall, Amritsar and Ors. v. State of Punjab & Anr., AIR 1981 SC 14 (The Supreme Court of India, August 5, 1980).

Bawa, A. K. (2025). Home: top Stories: ‹*Practice of one human pulling another in a cart inhuman*›: *Supreme Court Bans Hand-Pulled Rickshaws in Matheran: LiveLaw.in*. Retrieved from LiveLaw.in: https://www.livelaw.in/top-stories/practise-of-one-human-pulling-another-in-a-cart-inhuman-supreme-court-bans-hand-pulled-rickshaws-in-matheran-300103

Economic Times. (2008). *W Bengal govt firm on pulling out hand rickshaws: The Economic Times: Panache*. Retrieved from The Economic Times: https://economictimes.indiatimes.com/dateline-india/w-bengal-govt-firm-on-pulling-out-hand-rickshaws/articleshow/576628.cms?from=mdr

Francis Coralie Mullin v. The Administrator, Union Territory of Delhi & Ors., (1981) 1 SCC 608 (The Supreme Court of India, January 13, 1981).

Ghosal, S. S. (n.d.). *Hundred years of sweat, toil and public service: Handpulled rickshaws of Kolkata*. Retrieved from Sahapedia: https://www.sahapedia.org/hundred-years-sweat-toil-and-public-service-handpulled-rickshaws-kolkata

Hammer Museum (UCLA). (2013, September 6). *Beijing Transports*. Retrieved from Hammer Museum (UCLA): https://hammer.ucla.edu/blog/2013/09/beijing-transports

Maneka Gandhi v. Union of India, (1978)1 SCC 248 (The Supreme Court of India, January 25, 1978). https://doi.org/10.1086/scr.1978.3109528

Olga Tellis v. Bombay Municipal Corporation & Ors., (1985) 3 SCC 545 (The Supreme Court of India, July 10, 1985).

People's Union for Democratic Rights v Union of India & Ors., (1982) 3 SCC 235 (The Supreme Court of India, September 18, 1982).

Santra, A. (2024, June 4). *The rickety relic of hand-pulled rickshaws*. Retrieved from Asia News Network: https://asianews.network/the-rickety-relic-of-hand-pulled-rickshaws/

T.N. Godavarman Thirumulpad v. Union of India & Others, (2025). LiveLaw (SC) 854 (The Supreme Court of India August 6, 2025).

The Calcutta Hackney-Carriage Act, 1. (1919). *The Calcutta Hackney-Carriage Act, 1919*. Retrieved September 16, 2025, from CommonLII (Commonwealth Legal Information Institute): https://www.commonlii.org/in/legis/wb/act/cha1919208.pdf

The Constitution of India. (1949, November 26). *The Constitution of India*. Retrieved from Legislative Department: Ministry of Law and Justice, Government of India: https://lddashboard.legislative.gov.in/sites/default/files/coi/COI_2024.pdf

The Telegraph. (2008). *Rule review for rickshaw ban*. Retrieved from The Telegraph Online: https://www.telegraphindia.com/west-bengal/rule-review-for-rickshaw-ban/cid/1254206