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FAITH, FIREWORKS AND FUNDAMENTAL RIGHTS-CAN COURTS DECIDE HOW INDIA CELEBRATES DIWALI ?

-Ayushi Malhotra

Lights, Rights, and Responsibility

Every year, Diwali celebrations fill the **atmosphere** with lights and fireworks, but also spark heated discussions. For some, bursting firecrackers symbolise happiness, cherished memories, and joy. Yet, it is accompanied by a dark side, embodying sleepless nights, health hazards, and pollution. ¹The main issue is that we are still caught between faith and fundamental rights, leaving us with a sensational question: *Can the courts really decide how India celebrates?* But with each passing year, the air seems to grow darker and harder to breathe. The debate over firecrackers has been brewing in discussion rooms, news channels, and courtrooms for many years. The **Maneka Gandhi case**², which broadened the definition of life under Article 21³, laid the foundation for many other cases, marking a turning point from a passive to an actionable and deeply transformative meaning of dignity⁴. Over the years, various rulings have extended beyond the ambit of the right to life, recognising that it is not mere existence but also encompasses the right to get pollution-free air⁵, the right to live in an environment free from noise pollution⁶, the right to sleep⁷, and the right to have a meaningful life in public order.⁸

Balancing Celebration and Fundamental Rights

¹ Zee media Bureau, *Diwali 2025: How Post-Diwali Pollution Affects Your Health*, zeenews.india (Oct. 22, 2025) <https://zeenews.india.com/lifestyle/diwali-2025-how-post-diwali-pollution-affects-your-health-2974927.html>.

² *Maneka Gandhi v. Union of India* (1978) A.I.R. S.C. 597

³ INDIA CONST. art. 21

⁴ Suruchi Suman, *The Right to Live with Dignity: A Critical Analysis of Indian Jurisprudence and Constitutional Mandates*, reflections. live (Aug. 15, 2025)

<https://reflections.live/articles/20807/right-to-live-with-dignity-indian-constitution-analysis-by-suruchi-suman-24038-mecujki1.htmlst-diwali-pollution-affects-your-health-2974927.html>.

⁵ *Subhash Kumar v. The State of Bihar* (1991) S.C. 420

⁶ *Free Legal Aid Cell Suman Chand Aggarwal v. State* (NCT of Delhi) (2001) Del. 455

⁷ *P.A. Jacob v. Superintendent of Police* (1993) Ker. 1

⁸ *Re Ramlila Maidan Incident v. Home Secretary, Union of India* (2012) A.I.R. SCW 3660

In respect to Diwali, it is not just for fun and emotion, and courts don't regulate festivals for fun they step in to maintain balance when rights conflict. While Article 19(1)(g) allows citizens to practise any profession or carry on any trade or business, this right is subject to reasonable restrictions in the interest of the general public under Article 19(6). This means the manufacture of crackers can be restricted or even banned to protect public health and the environment under Article 21⁹. We all know that the right to live in a clean environment isn't just a luxury but a *sine qua non* for a healthy life under Article 21, a principle reiterated in several rulings.¹⁰In **M.C. Mehta v. Union of India**, it was held: “*We are conscious that closure of tanneries may bring unemployment and loss of revenue, but life, health, and ecology have greater importance to the people.*” On similar lines, the Court reaffirmed in **Vellore Citizens' Welfare Forum v. Union of India**¹¹the concept of sustainable development and introduced the *polluter pays principle*, which obliges the polluter not only to pay but also to fix the damage entirely.¹² Consequently, this is where the court plays its role to maintain balance and harmonize conflicting rights, as seen in **Mohan Fireworks v. State of West Bengal (2020)**¹³, where the Court applied *res judicata* from the Burrabazar case¹⁴, allowing limited use of green crackers while balancing public rights under Article 21 and manufacturers' rights under Article 19(1)(g).¹⁵

Not only do fundamental rights talk about the protection of the environment as everyone's responsibility, but the Constitution also imposes duties and responsibilities on the State and citizens regarding environmental protection. **Article 48A**¹⁶ mandates that the State shall protect and improve the environment and safeguard forests and wildlife. At the same time, **Article 51A(g)**¹⁷ emphasizes that it is every citizen's duty to protect the environment, including forests, lakes, rivers, and wildlife.¹⁸

⁹ Prof. & Ms. Mitali Agarwal, *Does India Need a Ban on Manufacture of Fire Crackers? – An Environmental Perspective*, 4 S. Asian L. & Econ. Rev. 125–129 (2019).

¹⁰ Vipin Sharma, *Ban on Cracker by Supreme Court of India (Judicial Activism)*, 4 Amity Int'l J. Jurid. Sci. 132–136 (2018).

¹¹ *Vellore Citizens Welfare Forum v. Union of India & Ors.*, (1996) 5 SCC 647.

¹² Aishwarya Agrawal, *Vellore Citizens Welfare Forum v Union of India*, lawbhoomi.com (Mar. 18, 2024), <https://lawbhoomi.com/vellore-citizens-welfare-forum-v-union-of-india/>.

¹³ *Mohan Fireworks & Anr. v. State of West Bengal & Ors.*, (1999) 3 Cal. L.T. 76 (HC).

¹⁴ *Burrabazar Fire Works Dealers v. The Commissioner of Police & Ors.*, (1998) Cal. 121.

¹⁵ Devika Joshi, *Firecrackers in India: A Brief Review of Decisions of the Courts*, 3 Indian J. Integrated Rsch. L.5,11

¹⁶ INDIA CONST. art. 48A

¹⁷ INDIA CONST. art. 51A(g)

¹⁸ Prof. & Ms. Mitali Agarwal, *Does India Need a Ban on Manufacture of Fire Crackers? – An Environmental Perspective*, 4 S. Asian L. & Econ. Rev. 125–129 (2019)

Religion, Faith, and Legal Boundaries

India is known for its diversity, with numerous traditions and practices, where each tradition and religion is considered sacred and sensitive. However, when faith-based practices begin to affect health, safety, or dignity, it is important to strike a balance. Under the Indian Constitution, **Article 25**¹⁹ states the free profession, practice, and propagation of religion and allows freedom of conscience. However, this right to religion is not absolute but is subject to restrictions, as this right is made subject only to public order, morality, and health. Thereafter, the constraints on the timings of bursting crackers have not violated Article 25 in the case of the **RE Pollution case**²⁰. The Hindu religious texts contain no mention of bursting crackers as an essential religious practice. Hinduism is mainly associated with devotional worship, by offering *puja* to the deities. Therefore, it is very wrong to say that its religious text feeds on noise. Another very important thing that should be noted is that a practice may be religious but not an essential and integral part of the religion, which is not protected under these provisions²¹²².

Judicial Activism and Guiding Celebration.

While Diwali is a time defined by reverence and celebration, the Supreme Court has made it clear that celebration cannot come at the expense of public health or environmental safety. In *Arjun Gopal v. Union of India* (2018),²³ the Court determined that firecrackers not certified to be free of barium salts would be banned and non-barium salt firecrackers, certified by PESO, would be allowed. This ruling recognised the importance of both faith and fundamental rights. The Supreme Court's recent ruling of 2025 further refined this balance by allowing the limited use of certified green firecrackers, with restrictions.²⁴ These rulings raise a further question: Is it within the purview of the courts to decide how Diwali is celebrated in India? The answer may not be entirely, but it can at least ensure that faith is practised in a responsible manner, where the right to celebrate does not overwhelm the right to breathe clean air.

¹⁹ INDIA CONST. art. 25

²⁰ *In Re Noise Pollution*, (2005) S.C. 3136.

²¹ *Ismail Faruqui & Ors. v. Union of India*, (1995) S.C. 605.

²² *Javed & Ors. v. State of Haryana & Ors.*, (2003) S.C. 3057.

²³ *Arjun Gopal & Ors. v. Union of India & Ors.*, (2019) 13 SCC 523.

²⁴ Anmol Kaur Bawa <https://www.livelaw.in/top-stories/supreme-court-relaxes-absolute-firecracker-ban-in-ncr-for-diwali-allows-sale-use-of-green-crackers-306958>, livelaw.in (Oct. 15, 2025).