

WRITTEN SUBMISSIONS

1. JALLIKATTU is an ancient religious and cultural event for Tamil Communities.

a. Ancient Tamil Literature

Jallikattu was known as “eru thazhuvuthal” (hugging the bulls) in Tamil Nadu during ancient times. This practice has been clearly recorded in the *Sangam* Literature of Tamils. *Sangam* Literature flourished between 400 B.C.E. and 300 C.E. Sangam Poet *Cholan Naluruthirananar* has sung seven poems describing “eru thazhuvathal” events. According to this ancient poet:

*“ these events would be held in villages abutting forestlands. The lands abutting the forests were known as “Mullai”. The main occupation of the people in those areas is cattle rearing. The folks who lived in Mullai region and who reared cattle were known as “Aayar”. Their livelihood depended on these cattle and from the produce of the cattle viz., milk, curd and ghee. They raised bulls of great valour and strength in their houses. The event of “eru thazhuvathal” (Jallikattu) would be held after beating the drums in the village and announcing the festival. The parents of the girls who are to be married would then announce that the one who tames their bull alone can win the hands of their daughter in marriage. After the event of eru thazhuvathal is over the bride to be and the groom would sing the praise of Lord Vishnu along with the friends of the bride [Source: **Mullaikali Poetry by Sangam Poet Cholan Naluruthirananar**] ”*

b. Origin in Srimat Bhagavatam

Jallikattu or Eru Thazhuvathal (hugging the bull) probably had its origin from the life of Lord Sri Krishna narrated in detail in Srimat Bhagavatam and in the earlier works about Lord Sri Krishna. In Srimat Bhagavatam it is described how Lord Krishna tamed seven bulls to win the hand of Naknajeeti in marriage. Naknajeeti was the daughter of Naknajeet, the king of Koshala.

c. Ancient Tamil Vaishnavite Scriptures:

Lord Sri Krishna taming seven bulls is sung in many poems of the Azhwar Saints of Tamil Nadu. Nagnajeeti, the princess of Khosala is known as “Nappinnai” in Tamil and Sri Periazhvar, who is said to have lived in the middle of 8th century C.E. has captured in his sacred poems, Lord Sri Krishna’s act of taming seven bulls and marrying “Nappinnai”. Similarly, Sri Tirumangai Azhwar and Sri Nammazhvar who belonged to the 8-9th centuries C.E. have repeatedly recorded in their sacred songs that Lord Sri Krishna tamed the bulls. These and other songs of the Azhwars are recited in the Srivaishnavite temples in Tamil Nadu with religious fervour and devotion for more than thirteen centuries.

d. Jallikattu is a distinct religious ritualistic cultural practice of Tamil Communities:

Taming the bull or showing one’s valour by holding on to the bull’s hump for a few seconds when the bull runs across a very short stretch of land in the Jallikattu enclosure known as “*Wadi*” or “*Wadivaasal*” has been celebrated as part of Harvest and Temple festivals in Tamil Nadu for more than a millennium. **That there are worship and conduct of rituals before and after such events and the fact that the events always take place in temple lands show that Jallikattu is not only an ancient cultural festival but also a traditional religious ritual for the Tamil Communities that honour and glorify the domestic milch and draught cattle.** Every ethnic region in Tamil Nadu had its own breed of ethnic cows and bulls and Jallikattu is an wonderfully evolved way of selecting the best bulls amongst them. These bulls would be treated to excellent care and affection till the time of their natural death. The bulls would serve the community to which they belong by sustaining the progeny of the distinct ethnic cattle breed.

While the people of Tamil Nadu, rural and urban, educated and uneducated are seized of the importance of Jallikattu and its vitality to save the region’s Indian Native Cattle, the rest of India may find it difficult to understand the facts behind Jallikattu since they are not exposed to it as part of their long evolved culture.

e. Protection under Article 29(1) of the Constitution:

Jallikattu is also known as *Manju Virattu* (running of bulls) or *Vada Manju Virattu* in certain regions of Tamil Nadu. Before *Jallikattu*, the bulls are taken in procession and a hero's welcome and veneration of the holy are accorded to every one of them by the villagers and visitors. The festival, the practice of rearing such bulls and using them to protect the progeny of the ethnic bulls are clear cultural practices and are "Intangible Cultural Heritage" maintained by traditions and social values. **Jallikattu is indubitably a cultural celebration of certain Tamil Communities that has been practiced for more than 20 centuries.** The Tamil communities practicing and sustaining such distinct Heritage and Cultural traditions are protected by Article 29(1) of the Constitution of India and **they have a fundamental Constitutional right to conserve the same subject of course to reasonable restrictions arising from issues of morality, health and public order.**

The Tamil Communities practicing **Jallikattu** not only have a right to conserve that **distinct cultural practice under Article 29(1)**, they also deem it as **an indispensable part of their fundamental duties - to value and preserve the rich heritage of the composite culture to which Jallikattu also belongs. (Article 51A (f)).**

2. 'Temple Bull' System

Jallikattu is a part and parcel of Hindu Religion as practiced in most villages in Tamil Nadu, and it involves the ancient 'Temple Bull System' which is still in vogue in these villages. Rearing and maintaining a stud bull is a 24x7, labour-intensive and expensive affair. Since stud services are free in Tamil Nadu even today, it provides no revenue to the owner.

The poor farmers of the village, who might have one or more cows, cannot afford to have a stud bull of their own. Hence the whole village collectively adopts a stud bull and designates it as the 'Temple Bull'. The

entire village pampers the temple bull; its only task is to provide free stud service to the village cows.

To diversify the gene-pool, a few more bulls would also be reared in the village. Depending on the number of cows in the village, the village may adopt more than one stud bull as temple bulls. Some of the more affluent people of the village would also come forward to rear stud bulls as a service to the villagers. This is a fine example of the Indian mind set of serving the community expecting nothing in return, which is in stark contrast to Western ideology.

The designated Temple Bull will be changed after three years; exchanged with the temple bull of another village, to *avoid in-breeding* by preventing the bull from mating with its own calf. Thousands of years ago, our ancestors in Tamil Nadu practiced what the modern Western science has 'discovered' today!

Jallikattu is the religious and cultural function to honour the Temple bull, other stud bulls and their owners for their selfless service during the annual Temple Festival for the presiding deity (*Grama Devata*) of that village.

3. The Prevention of Cruelty to Animals Act, 1960

There is no provision in the Prevention of Cruelty to Animals (PCA) Act, 1960 that could support enforcement of a permanent ban on Jallikattu or even for a limited period.

This Hon'ble Court had relied on Clauses (a) and (m) of sub-section 1 of Section 11 of the PCA Act, 1960 besides Section 3 of the said Act, while imposing a permanent ban on Jallikattu and similar sports in its judgment dated 07-May-2014.

This Hon'ble Court also held that the rights of the Bulls under Sections 3 and 11 of PCA Act read with Articles 51A(g) & (h) are cannot be taken away or curtailed, except under Sections 11(3) and 28 of PCA Act. It is humbly submitted that the rights guaranteed to Citizens of India under Article 29(1) to conserve their distinct culture of Jallikattu would rise superior even more since the Jallikattu Bulls are imparted the best

treatment that could be given to domestic bovines and are not subject to cruelty of any kind.

Even if a ban on Jallikattu could be made based on the provisions of the PCA Act, 1960 **such provisions would be hit by Article 13 of the Constitution of India.**

The fundamental rights of Citizens cannot be completely taken away or even abridged. It can be subject to reasonable regulations that do not take away or alter the character of the said fundamental right.

4. Doctrine of Proportionality

A ban on Jallikattu - an ancient practice that is both cultural and religious - is not only unconstitutional - it is also in violation of the Doctrine of Proportionality. Concept of Proportionality is an integral criterion of fairness and justice in statutory interpretation process - especially in Constitutional law. There must be a correct balance between the restriction placed by the corrective measure and the severity of the nature of the prohibited act. Doctrine of Proportionality would have to be necessarily applied when the issues relate to fundamental rights.

There cannot be a blanket ban on the practice of Jallikattu citing certain acts of cruelty that alleged to be caused or have been caused in the past by some of the owners of the Bulls or by the participants of Jallikattu. That would be akin to banning milk production since some unscrupulous traders indulge in adulteration of milk or some dairy farmers use steroids for enhancing milk production.

5. Regulation vs. Ban

Jallikattu cannot be done away with, especially when it is a beneficial practice and a distinct culture of Tamil Communities who have a fundamental right to conserve it.

Government of Tamil Nadu has taken many steps since 2009 to insure that the Jallikattu events are carried out without any abuse of the Jallikattu bulls. Notification dated 07.01.2016 issued by the Central Government too provides for many precautionary procedures that need to

be adopted before celebration of Jallikattu. These procedures include test of the bulls by the authorities of the Animal Husbandry and Veterinary Department, the defining of the size of the enclosures where Jallikattu would be held, etc.

There can be reasonable restrictions or regulations to ensure that the fundamental rights are observed in a humane manner and to ensure public order and health. However, a fundamental right cannot be abridged or abrogated in the name of regulating it.

6. The need to sustain the progeny of invaluable Ethnic Cattle Breeds through Jallikattu

The ethnic cattle breeds of Tamil Nadu belong to the category of *Bos Indicus* cattle or Zebu cattle. These cattle are essential for the agricultural eco system of the land and there can be no natural farming without these cattle. The five produces of the ethnic cattle like its dung, urine, milk, ghee and curd are known as “*Panchakavya*” and the contribution of *Panchakavya* to the agricultural farms and to Ayurveda science are immeasurable. Many of the Ayurveda medicines are based on *Panchakavya* or on any of the five produces which the desi cattle alone can produce through its extraordinarily beneficial gut biome.

Banning Jallikattu without having studied the consequences thereof, is a sure way to ensure the ultimate decimation of the different ethnic species of the desi cattle - *Bos Indicus* and cause indescribable and irreparable loss to Indian farming methods and Ayurveda.

Every region’s cattle has evolved with adaptations that best suit the environment. The terrain, climate, flora and fauna and human requirement together play a role in their evolution.

The ethnic milch cattle breeds of Northern India are known for producing large quantities of milk. The preservation of such breeds and their progeny is therefore not a challenge but automatic. However, the milch cattle of South India and particularly of Tamil Nadu are poor milk yielders. They are however, invaluable for the purposes of Ayurveda and

to practice non-toxic farming. In these circumstances, Jallikattu ensures a sure method of retaining, using, encouraging, preserving and propagating such ethnic cattle breeds.

Though, it cannot be termed '*modern and scientific*', Jallikattu is a proven method of preservation and improvement of progeny of the ethnic milch and draught cattle and automatically saves the bulls from slaughter. Such ethnic cattle are essential for the science of Ayurveda and for the practice of natural farming. Thus, practice of Jallikattu is an '*ancient and scientific*' organization of agriculture and animal husbandry, a mandate given to the Government by Article 48 of the Constitution of India but practiced by Tamil Communities.

7. Jallikattu – An Ancient Indian Breeding Science

Jallikattu involves selection of the best of the breed, improvement of cattle breeds, cattle shows, creating a brand value for the cattle of the village/region and then marketing the same, thus commanding high prices for their produce (cattle). This exceptional system developed by Tamils thousands of years ago is still in vogue in Tamil Nadu. **It has continued non-stop even under Muslim rulers and the British Raj**, except during times of great famine and epidemics like plague when the people voluntarily suspended it. It is common knowledge that conducting clinical and laboratory experiments on animals are the cruelest acts that could be inflicted on animals even though such cruel acts are stated to be meted out to the animals experimented for the purposes of advancing human, animal and plant lives.

Such experiments are said to be controlled and supervised by a Committee formed by the Central Government on the advice of the Animal Welfare Board. Any violation of the order of the Committee is punishable only by a fine that extends to two hundred rupees.

Jallikattu is an evolved method to select the best bulls of ethnic *Bos Indicus* cattle. There are no methods of experimentation here that cause pain or suffering - necessary or unnecessary - on the bulls, even though 600 products are produced from the urine and dung of the desi cattle.

The bulls are raised with pristine care and affection by the families that own them. They are never trained to fight. After their brief trysts with Jallikattu are over, the Bulls are cared for till they meet their natural death and are given a hero's burial. This has been an indispensable part of the distinct culture of Jallikattu in all villages in Tamil Nadu that practice Jallikattu.

8. Cruelties and infliction of Pain on animals - permitted under the PCA Act, 1960

The PCA Act, 1960 permits clinical and laboratory experiments to be carried out on animals. This Experimentation of Animals is dealt with Chapter IV of the PCA Act, 1960.

9. Horse Racing and Horse Shows are permitted

There is no ban on horse racing even though there are large scale evidences of abuse of the horses and their subject to cruelty and suffering. It is common knowledge that prohibited steroids are administered on race horses, they are whipped to the finish line, some die while racing, broken or injured horses are shot and horses that can no longer compete end up in slaughter houses. Despite all the above, Animal Welfare Board can only monitor the laws and Rules which regulate horse racing.

Horse Shows involve combined driving, dressage, endurance driving, eventing, horseball, show jumping, tent pegging and vaulting. Some of these are practised in the Olympics and other international sports meets and even in the Indian Army. These activities cause immense stress and suffering to horses. However, such events are not banned.

10. Jallikattu is not a sport or entertainment:

Jallikattu is not an entertainment sport and it cannot be conducted for the sake of entertainment. A Jallikattu event can be organised only once a year in a village and that too ONLY during the annual village temple festival. It is organised by the Village Temple Committee and not by any sports/entertainment club.

There is no first place, second place for the winners. For every bull that enters the arena, either the Jallikattu participant is declared the winner if he successfully embraces the bull or the bull is declared the winner. **Jallikattu is no sport at all; it is an evolved cultural practice to showcase the magnificence of the village stud bulls and preserve their progeny.**

11. Jallikattu - post notification dated 07.01.2016:

The Prevention of Cruelty to Animals Act or any of the relevant Government Notifications in force as of 14. 12. 16, has laid out any prohibitive and reasonable restrictions that would legitimize the outright banning of Jallikattu.

Nor would the judgment of this Hon'ble Court in Animal Welfare Board vs. A. Nagaraja reported in (2014) 7 SCC 547 and the directions in paragraph 90 would be now of any merit for banning Jallikattu since the Notification dated 11 7 11 was relied on which has been superseded by the subsequent Notification dated 7. 1. 2016

In Dr. Subramanian Swamy and others vs. State of Tamil Nadu and others (2014 (V) SCC 75) the Hon'ble Supreme Court of India has categorically held (inter-alia) that:

"...nobody can claim that the fundamental rights can be waived by the person concerned or can be taken away by the State under the garb of regulating certain activities..."

While matters relating to Fundamental Rights can be regulated they cannot be done away with in the garb of removing certain mischiefs that are alleged to have crept into the practice of such matters.

The Tamil Communities that celebrate Jallikattu as part of their temple or harvest festivals have a right to conserve Jallikattu as a distinct culture of their communities and villages. This fundamental right to conserve Jallikattu is protected by Article 29(1).

Any law or directive that aims to do away with or permanently ban the distinct cultural and religious practice of Jallikattu would also be in

derogation of Article 13 of the Constitution of India and a violation of the Doctrine of proportionality.

When all is said and done, the driving concept behind the concern for humaneness for animals is rooted in the dichotomy between essential violence against animals such as for eating meat as food and inessential violence. But here too religious practice requires a caveat for legislation against such violence. Halal procedure for example is inessential violence against the animal but permitted in law as a religious practice. For Jallikattu, strict supervision and oversight is sufficient to make it humane. Banning is no solution, and is any case arbitrary, unreasonable and unconstitutional following the Government Resolution of January 7, 2016 superseding the earlier 2011 Resolution.

Submitted by

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