

A Year After Thoothukudi Burned



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FOREWARD



I was in Thoothukudi on the 22nd May 2018 witnessing for myself from ground zero, along with my colleagues at People's Watch and a team of 10 summer interns at our office what was taking place minute to minute. What we witnessed we will never forget for the rest of our lives. We were there officially after official intimation to the District administration that we were there only to 'monitor' what was going on. What followed is history today to all others, but to those who were on there participating in 'their' protest for their air, water and land and the family members of the deceased and the injured, these are not events that are easy to forget.

People's Watch was a contributor to the People's Inquest process involving a jury of 23 eminent persons in early June, 2018. But we could not even print the five volumes of 2400 page English report with the printing establishments all over the State of Tamil Nadu, who had closed their doors to print such a revealing, evidence based document. The Tamil version of the reports' dedication in Thoothukudi on 22nd of July 2018 was itself an event that 'incorporated' in it all forms of violations possible in the presence of a former Judge of Supreme Court, Justice Gopala Gowda and veteran Tamil Nadu politician Mr.Nallakannu and Madam Kanimozhi MP. Month after month what my colleague Mr. Mohan, who spent the past 12 months accompanying victims in Thoothukudi shared with me are violations after violations. Mr. Sandeep Nanduri IAS, the Collector of Thoothukudi and Mr.Murali Lamba IPS the Superintendent of Police of Thoothukudi were independently summoned by the Madurai Bench of Madras High Court - the former in July 2018 and later in January 2019 for 'advice' by the court. If it was not for the High Court intervention that were undertaken and the timely judgments that were obtained from them, things would have been worse in Thoothukudi.

We were however surprised by the silence of the NHRC, the CBI and Justice Aruna Jagadeesan. We therefore decided that it will be our duty and an act of homage to the deceased families to dedicate a report on what has happened in the past one year with victims' families in the different courts and tribunals and on the ground Thoothukudi. The week that our team spent in Thoothukudi, patiently listening to the travails, disappointments and the sufferings of over 40 different families is something they cannot easily forget.

This report is being released one day prior to the 1st anniversary and 2 days prior to the declaring of the results of the elections to our Parliament. We have attempted to be fair as always. We have tried our best to adhere to International and National standards of Human Rights but above all we want to speak loud and clear what our recommendations on behalf of

the deceased, the injured and their families are. I will end up repeating what my colleagues told me after their week-long interviews. Almost all the families of the deceased in their greatest pain still continue to demand the permanent closure of Vedanda in Thoothukudi. That alone, they said, will be a respectful homage to the departed souls. They will all resurrect in the near future along with the people of Thoothukudi and their allies all over the state, country, and globe because it is the people and their struggles that will ultimately prevail. Justice will never loose.

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We remember each of the families who once again places their trust upon us and provided us detailed statements of what they have endured. We are sure this report will form the basis of ensuring not only closure of Sterlite but regaining of all rights to peacefully assemble, to associate, to protest, to dissent and to criticize for blossoming of our democracy and protection of environment in Thoothukudi.

Introduction

It has been almost a year since the peaceful protestors in Thoothukudi were brutally killed. Eleven of them were killed at the Thoothukudi District Collectorate, four others in the streets of Thoothukudi by trigger happy Thoothukudi Police and a lady who died due to arson. May 22, 2018, marked the 100th day of peaceful demonstrations against the then proposed expansion of Vedanta's Sterlite Copper. Protests and dissent which have always been the strength of the Indian democracy were mercilessly and in the most inhumane manner murdered on May 22 in Thoothukudi. The image of a policeman in yellow shirt with a sniper on top of a vehicle shooting at Thoothukudi protestors continue to haunt us.

Almost a year later, justice for the people of Thoothukudi remains very distant. According to the National Human Rights Commission (NHRC) which was looking into this case concluded on October 25, 2018, *"Since adequate compensation has been paid to the victims and appropriate steps have been taken by the State Government to bring law and order situation under control, and the Judicial Commission is already looking into the angle of use of force/police excesses, if any, no further intervention in the matter is required."* Government of Tamil Nadu appointed Justice Aruna Jagadeesan headed Commission of Inquiry continues to be in operation. The Central Bureau of Investigation (CBI) is also investigating the matter after the direction of the Madurai Bench of the Madras High Court on August 14, 2018.

According to the NHRC, 'adequate compensation' was one of the parameters for it to close the case, conveniently choosing not to exercise its powers. The Government of Tamil Nadu had sanctioned financial assistance of Rs 20 Lakh each for the family of deceased persons, Rs Five Lakh each for the severely injured and Rs 1.5 Lakh each for other injured persons. Reports suggest that the compensation was paid before the end of May 2018 and this is totally credited to the initiative of two senior bureaucrats who took control of Thoothukudi before any minister could ever have the courage to enter Thoothukudi. Families of the deceased and those injured in Thoothukudi confirm that they have received this compensation without any payments having to be paid as is most often the known procedure in the state. This compensation paid from the Chief Minister's Fund at best is only an 'ex-gratia' payment to the victims and survivors of the horrifying acts of the State on May 22 and the following days.

The Government of Tamil Nadu had also promised to provide employment to one of the family members of the deceased. They did provide jobs to all except one family. However, this report will discuss the nature and kind of jobs provided by the government. It is unfortunate that despite one year no one is held accountable for what happened in Thoothukudi on May 22. What is more disturbing is that there is no information if there is any action contemplated or initiated by the Government of Tamil Nadu against the senior revenue and police officials in Thoothukudi. History of this country provides very less grounds for belief in justice through one person led commissions of enquiry. The parameters of justice have been reduced to ex-gratia compensation and jobs. The apex human rights body of this country which prides itself

of having completed 25 years last year and claims to be an 'A' status National Human Rights Institution (NHRI) as accredited by the Global Alliance of NHRIs (GANHRI), in this case chose to be toothless. It did not register a single case related to May 22 events in Thoothukudi sent from People's Watch and groups closely associated with the on-ground interventions. Sterlite despite its closure in Thoothukudi, cushioned by a well loaded public relation machinery and political backing, continue to advertise and promote itself through its 'Corporate Social Responsibility'.

This report by People's Watch is therefore an attempt to speak on behalf of the people of Thoothukudi and share the developments in Thoothukudi after the May 22 incident. Families of all the deceased and a sample from among the injured people (who wished still to speak) were individually met in Thoothukudi and their detailed statements were recorded. In their best interest and apprehending retaliations from State agencies, which has been the custom in Thoothukudi since May 22, the names are withheld. Review of the petitions before the Madurai Bench of the Madras High Court, Supreme Court, NHRC and National Green Tribunal was undertaken along with the review of the daily news from Thoothukudi.

Fear has taken a backseat in Tuticorin, people are resolute not to let the martyrdom fail. They continue to say – Ban Sterlite!

Key Findings: Derived from Interviews in Thoothukudi

This section is solely based on the interview with the family members of 15 out of the 16 deceased and 19 among those who were seriously injured in police actions on May 22 and the following days. The findings are categorised under three heads, namely compensation, employment and others. Names and identities of the interviewees are withheld as there remains genuine concerns of reprisals. People's Watch retains all the statements of the interviewees.

Compensation:

All the families have confirmed that they received the wholesome amount of compensation announced by the Government of Tamil Nadu. The Government of Tamil Nadu had sanctioned financial assistance of Rs 20 Lakh each for the family of deceased persons, Rs Five Lakh each for the severely injured and Rs 1.5 Lakh each for other injured persons. Several of the family members of the deceased and those injured strongly expressed that compensation is no justice and at best is only an 'ex-gratia' payment to the victims and survivors of the horrifying acts of the State on May 22 and the following days paid from the Chief Minister's Relief Fund.

One of the families which received this ex-gratia amount by the Government of Tamil Nadu was even considering donating the same to a public trust and not using it for their personal use since according to them this was 'tainted money'. Among the 16 families of the deceased which were offered money by the political parties in Tamil Nadu, one of them refused any sort of financial support from any of the political parties. This rejection they say was out of their political conviction and that money alone cannot buy justice and what they want is legal justice.

There is a common feeling of dejection and disappointment among all the families as there have been no action against any of the state officials including the police whose actions led to the deaths and everything seems to be settled against the ex-gratia payments made. They articulated that martyrdom of their family members cannot be weighed against Rs 20 Lakh.

On further questioning on the use of the ex-gratia received from the Government of Tamil Nadu, families revealed that they have either invested it in banks and living out of the interests from the same or used it to settle their debts. Families also revealed that the ex-gratia payment, almost in the immediate aftermath of May 22 incident, caused rift within families among the siblings. For those injured, the payments of Rs 5 and 1.5 Lakh was found to be grossly inadequate as in several cases more money was required for the medical expenses in private hospitals for attending to their respective cases. Those with bullet injuries

and now 'physically challenged' persons, because of the same are more affected than the others.

Similar to the families who had lost one of their own, even each of those severely injured in police actions stated about their family debts. There is a public perception that the families have received a lot of money. This has resulted not only in breaking down of family relationships in some cases but also friendships in the localities where they live; this has added more to their trauma. In the words of one of the injured persons – “one policeman shot at me one year ago but today everyday my relatives are shooting at me with their words eying the petty Rs 5 Lakh given to my family.”

With those severely injured and already burdened with debts, the compensation amount is insufficient to sail them beyond a point. One of the injured persons is stated to have refused receiving any compensation from the government.

Employment

In addition to the compensation, the Government of Tamil Nadu also promised to provide employment to one of the family members of the deceased. All the families of the deceased, except two, confirmed that one of the family members was given a government employment. Out of the 14 person entitled to such government employments, 12 of them have been appointed as Thalayaris (village assistant). A Thalayari assists the Village Administrative Officer (VAO) in the tasks and the monthly salary of Thalayari is said to be around Rs 12,000. This is lesser in rank than even a peon in government office. One of them is given the job of being an assistant to a government cook in Thoothukudi.

It is important to note here that for the position of a Thalayari minimum education required is SSLC (class 10th pass) and this position does not make them eligible for any promotion. This possibly is one of the lowest levels of government employment available in the state of Tamil Nadu.

There was no application of mind by the government in appointing people for the required employment. The skill sets and experiences were not matched in all the cases. For example, in one case a trained and experienced driver was appointed as a Thalayari. The same person with his skill sets and experience as a driver would have been more suitable to be a driver in any of the government departments. Similarly, in two such cases, daughters of two deceased persons were also given the position of Thalayari. Both the girls were undertaking graduation from reputed colleges and had to abandon it to take up the Thalayari position. In such cases, the government should have assured them suitable employment and allowed them to complete their formal education. In one case, a BBA graduate was posted as a Thalayari and in another case, one person was appointed as an assistant to a government cook. In yet another case an MSc. B.Ed has also been appointed as a Thalayari!

Several representations to the District Collector were made by the families of the deceased and grievously injured seeking adequate and suitable jobs. Several letters were written by the families but there was no response to any of their pleas. We were also reliably informed that there were communications in this regard also from the Justice Aruna Commission of Enquiry in a few selected cases but the same has not been responded to positively.

These employments were allotted in random villages across Thoothukudi district. There was no assessment undertaken to factor in the distance to the workplace from the residence. In one case one of the families had to relocate from Madurai district to Thoothukudi district for the sake of this employment. Families testified that they have to pay up to Rs 150/day towards transportation cost and this when placed alongside Thalayari's salary is a significant expense.

In two of the cases, no employment was provided to anyone in the deceased's family. Among those severely injured, employment was provided to only one person. This person holds a diploma in mechanical engineering however like in all other cases is appointed as a Thalayari.

Many of those injured by the bullets cannot continue the same jobs they were engaged in earlier, especially those in fishing and agriculture and all of them are forced to sit idle at home. No attention was paid to their requirements and in the absence of a genuine needs' assessment, employment announcement is merely a tool to ridicule the survivors. In some of the cases, injured persons had to undergo more than one surgery and a few of them have their third surgery scheduled for June 2019. Yet the ex-gratia paid to all of them is the same.

Most of the injured persons have given petitions to the Justice Aruna Jagadeesan Commission of Inquiry seeking adequate and fair employment opportunities. The Commission of Inquiry claims that they have made recommendation to the government. Till today nothing has developed on this front that has not been made known to any of the injured families.

Others

The family members of the deceased expressed their resolve and conviction to continue the struggle against Sterlite and continuing it from where their loved ones have left. For them it is also a question of dignity within their own communities. As said by one of them – 'the blood he shed will not go waste'. They believe that their lives were dedicated for a good cause and the only demand of the family members today is Ban Sterlite! On this, one of the injured persons who refused any compensation stated – "I am proud of my engagement but frustrated that we have not received any concrete justice from the NHRC, the CBI and Justice Aruna Jagadeesan Commission of Enquiry."

Almost all the people who were interviewed complained about the constant police harassment and threats that they have been subjected to in their respective houses. They

stated that the police constantly visited them in their houses for the initial three months and used to threaten and harass them. This continued until the cases were formally handed over to the CBI from the CB CID as a result of the order of the Madurai Bench of the Madras High Court. Those injured confirmed that in the immediate aftermath of May 22, while they were still in hospitals undergoing treatment and in pain, their families were harassed by police and were constantly asked to come to the police station. Out of this fear of police harassment, several injured avoided admission and treatment in government hospital and opted for private hospitals, in some cases outside Thoothukudi. After the treatment, many of the injured persons were repeatedly called to the police station. Such persons have not yet been provided any ex-gratia payments either by the Government and no one has chosen to meet them from the district administration

What came as a very disturbing and insensitive incident was during Tamil Nadu Governor's visit to Thoothukudi on December 11, 2018. He visited Thoothukudi to inaugurate an emergency ward in the Thoothukudi Medical College Hospital. At that point of time, 19 patients related to Sterlite incident were undergoing treatment. At 2 AM on December 11, 2018, some policemen and a doctor visited these patients and ordered them to vacate the hospitals before 6 AM. This was done to ensure that no questions or petitions regarding their situation post the Sterlite incident were registered with the Governor and that no media access was available to these patients. There has not been a word of apology to these persons from the district administration for what was done to them.

Though some of the injured people have been issued temporary PWD card for a period of one year, this was of very limited use for them. The administration should have at least educated the people who were issued such cards of the benefits associated with the card. Several cases of disability were denied the temporary PWD cards in the absence of a genuine needs' assessment. Some of interviewees confirmed that they had monthly expenditure of over Rs 8000 towards medicine cost and those with artificial limbs had to pay hefty amounts. Many of them were not part of the temporary PWD benefits as out of fear of reprisals from police and the administration, they opted for private treatment.

Not one family of the deceased or those severely injured confirmed that they were provided with post trauma counselling by the Government of Tamil Nadu though there were announcements in the local media by the District Collector that one Dr. Sivasailam would be providing counselling to the families of the deceased and injured, In not even one case examined by the team were we informed that the families did receive this counselling. This also shows the shallowness in the rehabilitative approach by the government after such a gross human rights excess hat has taken place leaving 16 persons killed, over 43 with major injuries and over 74 with minor injuries. The actions and omissions of the government and its agencies appear to have added to the trauma suffered by the people post May 22.

Almost all the family members confirmed that they have been examined by the Justice Aruna Jagadeesan headed Commission of Inquiry and the CBI. Only a few of them were examined by the NHRC's investigation team when they were there in the first week of June 2018. They continue to be deeply disappointed and, in their words – one year has passed but no justice is visible through any of the institutions.

Several of the families confirmed that after the May 22 incident, Sterlite made attempts to directly interfere with the deceased's families. Brokers/middlemen on Sterlite's behalf approached these families placing huge monetary offers seeking compromise in the case. Families were assured lakhs of rupees equivalent to the 'compensation' provided by the government. This Sterlite's offer was rejected by almost all the families given the dignity of those who died in the protests. However, it can't be ruled out that there could have been one or two of the families who have agreed to accept money from Sterlite. It is a pity that the justice systems have not only failed but collapsed forcing such families opt for mere survival among all adversities. It is shameful and most unethical for Sterlite to interfere directly with families using its capital power. Sterlite with billions in its account and running a cover up campaign through its public relation and corporate social responsibility wings (CSR), resorting to such tactics with the victims and survivors demonstrate its true inhumane face. It is the most shameful act of theirs and the fact that the district administration which was so vigilant to ensure that all democratic voices raising issues against Sterlite were tackled using different 'policing and surveillance measures' – were totally silent when Sterlite resorted to such measures as was known openly to the public. Why was this selective failure of the different police intelligence agencies?

Lethargy in CBI Inquiry

The Madurai Bench of Madras High Court ordered for inquiry by the Central Bureau of Investigation on August 14, 2018 into the incidents of police firing in Thoothukudi on May 22, 2018. The court ordered that the investigation should be complete by 4 months. Only after the transfer of this case, the harassment by police in Thoothukudi stopped.

'The Day Tuticorin Burned', a report by the People's Inquest on Thoothukudi Police Firing with 2400 pages and five volumes containing statements of families of deceased persons, injured persons, witnesses, medical documents, FIRs, findings from ground and recommendations were provided to the CBI team.

The CBI team visited the violence affected areas. They have enquired only the officers who ordered firing on May 22, 2018, policemen on duty, families of the deceased and the injured persons. There is a general concern that the CBI team have not yet enquired enough number of people. Though there were explicit directions from the court that the investigation should be completed within four months, it has been nine months until now and yet, the investigation is not complete yet. In the FIR registered by CBI, names of the policemen who were responsible were not mentioned and instead, there were two general FIRs registered.

Mr. Arjunan, District Secretary of Communist Party of India (Marxist) approached the Madurai Bench of Madras High Court against the general FIR registered by CBI. The court on 21.1.2019 dismissed the petition that the petitioner can approach the court later.

There was a ray of hope among the citizens of Thoothukudi after the case was transferred to CBI. Yet after the CBI has started their investigation, the harassment of persons who were voicing their opinions against Sterlite were continuously harassed by police, which was not taken into cognizance by the CBI. These activities have totally left the people in despair who were hoping for justice through the CBI investigation.

Only the Inspector of SIPCOT police station has been transferred while the rest of all the policemen and officers remain in the same posts and do not even face any enquiry until now. This does not add hope to the victims who are seeking justice. Though five months have passed after the time limit given by High Court for investigation, there is no clear picture on where the investigation is heading to.

Working of the Commission of Inquiry headed by Hon'ble Justice Tmt. Aruna Jagadeesan

A day after the police firing in Thoothukudi, the Tamil Nadu government appointed a Commission of Inquiry consisting of a single member, namely, Hon'ble Tmt. Justice Aruna Jagadeesan, Retired Judge of High Court of Madras, to inquire into the causes and circumstances leading to the opening of fire resulting in death and injuries to persons on 22.05.2018.

Terms of reference conferred to the Commission¹:

- i. To inquire into the causes and circumstances leading to the opening of fire resulting in death and injuries to persons on 22.05.2018 at Thoothukudi arising out of law and order disturbances including damage to public and private properties;
- ii. To determine whether appropriate force was used as warranted by the circumstances and whether all prescribed procedures were observed before opening of fire;
- iii. To ascertain whether there was any excess on the part of police officials and if so, to suggest action to be taken;
- iv. To recommend suitable measures to prevent the recurrence of such incidents in future.

The Commission was also mandated to complete its inquiry and submit its report to the Government within a period of three months from its appointment.

Mr. Arjunan, the District Secretary of Communist Party of India (Marxist) challenged the terms of reference conferred to the Commission of Inquiry in the Madras High Court². The terms of reference were then amended as follows³:

“the Government of Tamil Nadu in G.O.Ms.No.472, Public (Law & Order-F) Department, dated 04.07.2018 to widen the scope of the Hon'ble Tmt. Justice Aruna Jagadeesan Commission of Inquiry has amended the above said terms of reference empowering the Commission to enquire into the causes and circumstances leading to the opening of fire resulting in death and injuries to persons on 22.05.2018 and subsequent events at Thoothukudi and nearby areas including damages to public and private properties. Therefore, the General Public and victims can furnish the facts and information known to them either directly or indirectly through authorized person or representative to this Commission on or before 27.07.2018 relating to the above subject matter.”

¹ G.O.Ms.No. 368, Public (Law & Order-F) 23 May 2018 No.11(2)/ PuLO/481(C) 2018

² W.P.(MD). No.13231 of 2018 – Mr.K.S.Arjunan vs Mr.Praveen Sinha on 14.08.2018 – Madras High Court

³ Tamil Nadu government Press Release dated 05.07.2018

Progress made by the Commission of Inquiry

The Commission of Inquiry operated from Chennai and Thoothukudi from Government Bungalow No. 28, P.S.Kumarasamy Raja Road, (Greenways Road), Chennai and the Camp Office at Government Old Circuit House, South Beach Road, Thoothukudi respectively.

The Commission worked from the Thoothukudi camp office continuously for five days every month and rest of the days from Chennai. Out of the 15 persons who lost their lives in police firing and the lathi charge, the Commission has collected statements from 13 of the families of the deceased. The Commission has also enquired 316 persons among those who were critically injured and eye witnesses. Until May 2019, a total of 329 persons have been examined by the Commission. The Commission has received statements of 440 persons and 200 Sterlite employees who are still to be examined.

The Commission had recommended to the District Collector to provide adequate medical treatment for Princeton, Vijayakumar⁴, Veerbaghu, Maria Judy Hema⁵. Upon this recommendation, Rs. 1,51,042 was provided to Vijayakumar and Rs. 42,000 was provided to Maria Judy Hema for their treatments.

Justin Selvamithish, who suffered head injury due to police attack with an iron rod succumbed to his injuries on 15.10.2018. Though the Commission recommended⁶ Rs. 20 lacs as compensation and a government job to a member of his family, neither of the recommendation has been followed by the District Collector.

During the police firing, one Mr. Maharajan had sustained injuries near his right eye, the Commission recommended⁷ for proper treatment for him. Based on the recommendation, he was provided treatment at Aravind Eye Hospital in Thoothukudi.

Intervention by People's Watch

'The Day Tuticorin Burned', a report by the Peoples Inquest on Thoothukudi Police Firing with 2400 pages and five volumes containing statements of families of deceased persons, injured persons, witnesses, medical documents, FIRs, findings from ground and recommendations were provided to the Commission of Inquiry.

Public opinion about the Commission of Inquiry

There are genuine questions about why the Commission has not found the reasons for the absence of the District Collector on 22.5.2018, although orders under Section 144 CrPC were promulgated. There are also questions about why the Commission is not in possession of the 'ballistic report' which would shed much light on the police firing incident.

⁴ Letter No. 94//AJJCOI/2018 dated 13. 08.2018

⁵ Letter No. 67//AJJCOI/2018 dated 30.10.2018

⁶ Letter No. 151//AJJCOI/2018 dated 12.11.2018

⁷ Letter No. 57//AJJCOI/2018 dated 22.11.2018

The government had announced that a government job will be provided to one member of the family of the deceased persons. Though they were educationally qualified for better jobs, they were appointed as 'Thalaiyaari' in the revenue department. The Commission also recommended to the District Collector that adequate employment should be provided as per their educational qualifications. Despite this they were provide with the same job, which amounts to disrespect the Commission of Inquiry.

The Commission was mandated to complete its investigation within three months of its appointment, now it has been nearly a year since the Commission was appointed, yet, the Commission has to examine statements from 640 persons. This brings in more despair in the minds of the victims who had held hope that justice would be met from this Commission of Inquiry. We anticipate that at the present force, it will take the Commission more months to complete it task.

A-United Nations experts respond to deadly police firing

A week after the deadly police firing in Thoothukudi on May 22, 2018, eight United Nations experts condemned the excessive and arbitrary use of force on the protestors and use of ammunition against them. They also called upon the Indian government to “*independent and transparent investigation*” immediately and to ensure accountability of the perpetrators of this gross human rights violation.

The experts in their strongly worded statement¹ also emphasise upon the importance of freedom of expression and assembly and also highlighted its importance as a tool to identify ‘*business-related human rights abuses*’. They also urged the Indian government to ensure that Sterlite plant continues its operations only after having consultations with affected communities and complying with environmental laws.

A case of ‘Reprisal’ against Thirumurugan Gandhi for raising the issue in United Nations Human Rights Council in June 2018:

Mr. Thirumurugan Gandhi, a prominent human rights activist and defender in Tamil Nadu was arrested in Kempegowda International Airport, Bengaluru in August 2019. He was detained by the immigration officials of the airport, on the basis of a ‘Look Out Circular’ (LOC). The LOC was issued against him on the basis of instructions from the Tamil Nadu Police relating to previous cases he has been charged with. He was then handed over custody to the personnel of City Crime Branch (Cyber Crime Cell) of Chennai City Police at around 9.30 PM. Mr. Gandhi was then brought to Chennai on August 10, 2018 around 7.30 AM and was produced before Metropolitan Magistrate in Chennai. The court also refused to grant his custody to the police and stated that the charges against Mr. Gandhi were not made out prima facie. The court also questioned the basis on which he has been charged with the offence of sedition. However, the Metropolitan Magistrate permitted his custody for 24 hours to the police to conduct investigations and meanwhile told the police to submit their responses to five queries regarding the charges against Mr. Gandhi including to justify the charges against him merely for speaking at the United Nations. After which, he was taken to the police premises in the old Police Commissionerate near Pantheon Road in Chennai. After enquiring him, he was released by the Assistant Commissioner of Police, who is in-charge of this investigation around 6.30 PM. The moment he stepped out of the premises of the old Police Commissionerate, around 20 policemen surrounded Mr. Gandhi and roughed him up and threatened him to come with them without stating any reasons whatsoever and took him in vehicle No TN 01 G 6685 in the presence of Mr. Krishnamoorthy, Assistant Commissioner of police, Royapettah. When Mr. Gandhi asked them the reasons, he was forcefully taken in a police vehicle and was later arrested in an old case in which he was charged. The police also

¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23160&LangID=E>

attempted to charge him under the Unlawful Activities (Prevention) Act which was refused by the Court.

Mr. Gandhi was returning to India after attending the recent UNHRC session and also attended formal meetings in the European Commission as well as other meetings in Europe. During the UNHRC sessions in June 2018, Mr. Gandhi had on record stated about the killings of 15 people in Thoothukudi due to police firing and other police actions upon the peaceful protestors against the Sterlite industry.

This incident of issuing a LOC on Mr. Gandhi and his possible arrest should be seen in context of the state terror that is being unleashed in Thoothukudi since the police firings against peaceful protestors on May 22, 2018. Human rights activists, members of civil society organisations are being persecuted with false cases by the police in Thoothukudi as also observed by the Madurai Bench of the Madras High Court and ordering quashing of the open FIRs. Six persons had been detained under the NSA by the police falsely claiming that they indulged in violence during the protests on May 22, 2018 against the Sterlite. Two lawyers who were providing legal aid to the persons who were illegally and arbitrarily detained by the police in Thoothukudi were also arrested and one of them under the NSA. Both of them as well as the others have been released by the orders of the Madurai Bench of the Madras High Court, which warned the police and the district administration of Thoothukudi not to arbitrarily detain persons under such preventive detention laws.

A complaint² on the reprisal of Mr. Gandhi was sent to National Human Rights Commission on August 9, 2018 which was registered as Case No. 1109/10/1/2018. The Commission upon looking into the complaint, disposed it off stating *“In these circumstances, the Commission finds it appropriate to forward a copy of the complaint to the Director General of Police, Tamil Nadu who is expected to look into the allegations levelled by the complainant and ensure that the victim is not subjected to any kind of harassment by the police officials and he is not implicated in false criminal case. With these observations, the case is disposed of”*.

B. Failure of the National Human Rights Commission, the National Commission for Scheduled Castes and the Tamilnadu SCPCR to ensure justice to the victims:

Human Rights Defender's Alert – India had sent a complaint to the Focal Point on Human Rights Defenders on the evening of May 22, 2018 itself when the death toll was five at that time as per news received from ground zero at 2 PM. on May 23rd, 2018, People's Watch had sent a detailed complaint to the Hon'ble Commission explaining the series of incidents and violence that was unleashed and unfolded. Commission had initially on May 23,

² <http://hrdaindia.org/hrd-alert-india-urgent-appeal-for-action-karnataka-hrd-mr-thirumurgan-gandhi-detained-at-kempegowda-international-airport-bengaluru-while-returning-to-india-after-attending-un-human-r/>

2018 on the basis of reports appearing in the Times of India taken suo-motu cognizance of the incident citing the said newspaper report and registered a complaint with Case No: 907/22/41/2018 and issued notice to the Government of Tamil Nadu and immediate action was called for. One Mr. Rajarajan, an advocate had filed a Writ Petition before the Delhi High Court regarding the police firing and violence on people during the anti-Sterlite protest on May 22, 2018. The Hon'ble Delhi High Court had directed this Hon'ble Commission to respond to the advocate's plea, which was to send an independent investigation team to Thoothukudi and conduct an independent enquiry.

Peoples Watch sent another communication addressed to the Hon'ble Chairperson of the NHRC, on 30th May, 2018 wherein it was specifically urged that this Hon'ble Commission include the petitioners as one of the complainants in this case and opportunity be given to provide more information in this case. (NHRC Diary No: 95274/CR/2018). Another reminder was also sent on July 31, 2018 to the Registrar on the same. Though there were two different complaints from HRDA, and People's Watch sent to the NHRC on this incident one on 22nd and the other on 23rd May 2018, it was not registered and also not tagged or clubbed with the main complaint which was 'suo-motu'.

Many incidents which have happened after May 22, 2018 which are of serious concern relating to the Sterlite protest which the NHRC has failed to take cognisance of and has closed its own complaint since adequate compensation has been paid to the victims and appropriate steps have been taken by the State Government to bring law and order situation under control and no further intervention in the matter is required are as follows:

- a. The first instance was during the meetings of organizing team for the People's Inquest into Thoothukudi Police Firing – a 23-member team of retired judges, senior bureaucrats and police officers, and social activists to look in to the police violence. The team meetings were being held in the office of Mr. A.D.W. Tilak, President of Thoothukudi Bar Association to discuss the release of the report. There were continuous interruptions and surveillance by uniformed policemen, mostly from Thoothukudi South PS present in large numbers at the entrance of his office, threatening some of the participants for the meeting, and also 'serving' summons for appearances of 'witnesses' in the South PS on the road - even to highly respected women activists who are also senior citizens. This happened between 19 - 21 July 2018.
- b. The second instance was on 21 July 2018 when the Inspector of Police, SIPCOT police station, Mr. Sampath, 'rounded' up the staff of People's Watch and brought them to the office of District Superintendent of Police (SP). They were near the District Collectorate in Thoothukudi distributing pamphlets for the meeting on 22nd July to be addressed by Justice Gopala Gowda, Former Judge of the Supreme

Court along with religious leaders and leaders of political parties on the event of the launch of People's Inquest report.

- c. There were numerous direct and indirect pressures from the Thoothukudi District Administration against the report release function of 'People's Inquest into Thoothukudi Police Firing'. As per the suggestion of the SP the organisers applied for permission for use of the 'Kalaingar Arangam', a private hall in Thoothukudi for the 22nd July 2018 for the report release - in an indoor meeting. This was because the police had earlier ensured that the owner Abirami Hall in Thoothukudi, that was assured to us earlier had cancelled the booking. The Inspector of SIPCOT police station had made very stringent, illegal conditions thereafter to ensure that we cannot have our meeting there in Kalaingar Arangam and hence it had to be shifted to a third venue at 12 Noon on the 22nd July for the meeting to take place at 4 PM that day thereby severely restricting the fundamental freedom to peaceful assembly as enshrined in the Constitution. The Thoothukudi police took major efforts, to which Justice Gopala Gowda, the religious and political leaders were an eye witness, to ensure that all people coming to this venue were video graphed at the entrance of the compound leading to the hall and Justice (Retd.) Gopala Gowda's presence was also recorded on a video camera by the police. The police were also stationed in large numbers at different places around the venue to prevent people from coming to this meeting.
- d. On 20 August 2018, a few days after the judgment of the Madurai Bench of the Madras High Court, a meeting was organized for the victims and witnesses of the police firing and violence which was informed to the respective SHOs of Thoothukudi with copies of the same also made to the Superintendent of Police and other senior police officers. The venue of the meeting was a private compound in Thoothukudi and even there the SHO of the Thoothukudi South PS Mr. Muthu was present with a number of uniformed police personnel and it was only after a protest and bringing this to the attention of the Inspector General of Police (Intelligence) that the police personnel were withdrawn after a long drawn argument. This was only an effort to indirectly threaten victims and witnesses from deposing and having access of justice efforts from lawyers.
- e. On November 20, 2018, a summons addressed to Henri Tiphagne had been delivered at People's Watch office at 32, Besant Road, Chokkikulam, Madurai to appear before the Deputy Superintendent of Police on 21.11.2018. The summon is regarding a complaint sent by People's Watch to the Tamil Nadu State Human Rights Commission (SHRC) on threats and intimidation to the persons who had testified regarding the police firing in Thoothukudi on the anti-Sterlite protest which happened on May 22, 2018. It is a fact that the Hon'ble Madurai Bench of Madras

High Court on 14.08.2018 had ordered that all the cases regarding Sterlite police firing and violence to be transferred to the Central Bureau of Investigation. Hence, the Tamil Nadu Police Department had no jurisdiction pertaining to cases involving the protests and police firing during anti-Sterlite protests in Thoothukudi in May 22, 2018 as per the orders of the court. Since the matter is only about a complaint to the SHRC, it does not come under the ambit of Chapter XII of the Code of Criminal Procedure and hence the summon itself was an attempt to intimidate and influence the complaint by People's Watch before the SHRC. This is an example of how the government and police have ensured that the law and order situation in Thoothukudi is 'under control'.

A number of PILs in relation to this incident were also pending before the Madurai Bench of the Madras High Court at that point of time relating to a number of issues. They were in the following cases: W.P. (MD) Nos. 11391, 11394, 11396, 11397, 11398, 11399, 11401, 11402, 11502, 11661, 12297, 13231 and 13417 of 2018 and W.M.P.(MD) No.10382, 10383, 11543, 10389, 10390, 10391, 10392, 10393, 10394, 10398, 10479, 10480, 10481, 11178, 12064, 12223, 12224 and 12225 of 2018. The subjects that were covered in each of them all related to a variety of human rights violations such as indiscriminate killings by police men; non-following of the provisions of the Police Standing Orders relating to the order of police lathi charge; use of tear gas and ultimately firing; internet shut down for more than 4 days in three districts of Thoothukudi, Tirunelveli and Kanyakumari; torture and illegal detention of several hundred people; need for second post-mortem ; quality treatment of injured in the government hospital etc. In cases of gross violation under Sec 12 (b) of the PHRA 1993, NHRC can intervene in any proceeding involving any allegation of human rights pending before a court with the approval of such a court.

The steps taken by the Government to bring in normalcy and law and order situation under control has only ended in more human rights violations and there is now a huge distrust among the citizens of Thoothukudi against the police, district administration and the government. The NHRC has overlooked these issues which still exist and have prematurely closed this case without bringing justice to the victims. There has been no actions, prosecution or inquiry against the police officers and government officials on duty yet. The Commission while putting the onus on the Judicial Commission formed by the Government of Tamil Nadu has failed to use its own powers under the Protection of Human Rights which is more wide and powerful than the Terms of Reference of the Judicial Commission appointed by the Government of Tamil Nadu.

The NHRC could have in this case also insisted for asking for details of the disciplinary action initiated against those senior officers whose command was responsible for the actions that followed leading to over 16 persons being killed and several hundred injured. Not a single police officer has even been suspended in this matter since 22nd May 2018. Till date there is

no FIR that names any police personnel or officer responsible for the deaths that have occurred and the several hundred injured persons.

Despite serious concerns which still remain, and justice not been delivered to the victims and their families, the NHRC closed the case stating³:

“Since adequate compensation has been paid to the victims and appropriate steps have been taken by the State Government to bring law and order situation under control, and the Judicial Commission is already looking into the angle of use of force/police excesses, if any, no further intervention in the matter is required. Report is taken on record and the case stands closed.”

An investigation was carried out in July, by the National Commission for Scheduled Case by its Vice-Chairman to look into the police firing in Thoothukudi which had claimed lives of four Dalit persons. The report of this investigation has not been made public yet and no actions or recommendations have been taken by the Commission.

Though many children were tortured and illegally detained by the police in the violence between May 22-23, 2018 the National Commission for Protection of Child Rights (NCPCR) has not taken cognisance of the matter. The Tamil Nadu State Commission for Protection of Child Rights (SCPCR) whose Hon’ble member had investigated into the issue and the SCPCR claimed to have submitted a report to the Government, the same has not made public as yet and the Government has not initiated any action on the recommendation known to the public for prosecuting those responsible for the violation. The 30 juveniles who were kept in illegal detention and were subsequently also tortured were then released on orders of the Judicial Magistrate who searched the premises where they were detained.

³ NHRC order in Annexure

Democratic protests in Thoothukudi after police firing and its curtailment

After the police firing on May 22, 2018 the Tamil Nadu government ordered for closure of the Sterlite plant on 28.5.2018. As Sterlite management was trying to reopen the plant, there were various protests in Thoothukudi for permanent closure of the plant by the public, movements and political parties. Most of these protests were denied permission by police and they also foisted false cases on the organisers and participants.

Protests in Thoothukudi

- People who were injured during the incidents on May 22, 2018 were treated at Thoothukudi Government Medical College Hospital. They were coerced by the police and made to sign on blank papers by saying that they will be given medical insurance. Finolin (21) from Fathima Nagar and Priyanka (19) from Fishermen Colony, were being treated in the government hospital and they were asked by policemen in plain clothes to sign in blank sheets for which they refused¹
- Police had identified persons who had indulged in violence on May 22, 2018 and based on their CCTV recordings they arrested eight persons belonging to the Revolutionary Youth Front. They were arrested without even issuing any summons or warrant²
- On 10.6.2018, Isakkidurai, Mahesh and nine others belonging to Naam Tamilar Party were arrested for inciting violence on May 22, 2018³
- Villagers from Kumarareddyapuram village on 11.6.2018 met the District Collector and requested for the release of Mahesh and others who were arrested on May 22⁴
- All the families in Madathur village vacated their houses as they were harassed and intimidated by the police who were indulging in mid-night arrests⁵
- Communist Party of India (Marxist) had sought for permission to protest against Sterlite Industries on 18.6.2018. As it was denied by police, permission was granted on the orders of the Madurai Bench of Madras High Court. The protest was held in Chidambaram Nagar bus stop and on 20.6.2018, thousands of people who participated in the protest were booked by the police⁶
- Women from Kumarareddyapuram village met the District Collector and requested for permanent closure of Sterlite plant on 18.6.2018⁷

¹ Theekathir, 2.6.2018

² Dinamani, 2.6.2018

³ The Hindu, 11.6.2018

⁴ Theekathir, 11.6.2018

⁵ Dinakaran, 16.6.2018

⁶ Theekathir 19.6.2018

⁷ Theekathir, 19.6.2018

- Thoothukudi Bar Association held demonstration on 21.6.2018 led by their President Mr. A.W.D. Thilak and demanded a policy decision on closure of Sterlite plant⁸
- Mr. Tamilmanthan sought permission to hold 30 days homage meet for those killed in the police firing with the district administration which was denied and hence he approached the Madurai Bench of Madras High Court for directions⁹
- Viduthalai Chiruthaigal Katchi sought permission to hold a meeting regarding the police firing incident with the district administration which was denied and hence they approached the Madurai Bench of Madras High Court for directions, which was granted, and a meeting was organized on 3.7.2018
- SDPI party sought permission to hold a meeting regarding the police firing incident with the district administration which was denied and hence they approached the Madurai Bench of Madras High Court for directions, which was granted, and a meeting was organized on 21.7.2018¹⁰
- On 15.8.2018, during the gram sabha meeting in South Veerapandiyapuram village, it was demanded by the villagers to permanently close Sterlite plant. The government officers who were leading the meeting due to absence of local body representative protested refused to it and hence he villager boycotted the meeting¹¹
- 28.08.2018 was the 100th day of the police firing in which 16 persons lost their lives. The families of the deceased along with the church planned to organize special mass and prayers for all those who lost their live in the same place in Chinnakovil. The district administration did not permit for the special prayers and insisted that the prayers be held in their respective neighborhood¹².
- On 19.9.2018, the anti-Sterlite people's movement during a press conference called for changing the expert committee members appointed by the National Green Tribunal¹³
- Police arrested Hari and Vignesh for pasting posters on behalf of 'Federation of Thoothukudi People Against Sterlite'. They were released after a protest in front of the Thoothukudi Central police station
- On 3.12.2018, members of SFI, DYFI, CITU and other movements went to District Collectorate to submit a memorandum on permanent closure of Sterlite Industries¹⁴

⁸ Theekathir, 26.6.2018

⁹ The Hindu, 30.6.2018

¹⁰ The Hindu, 18.7.2018

¹¹ The Hindu, 16.8.2018

¹² Indian Express, 29.8.2018

¹³ Dinathanthi, 20.9.2018

¹⁴ The Hindu, 4.12.2018

- Villagers of Pandarampatti on 6.12.2018 went on a dharna calling for the Tamil Nadu government to enact a special legislation for permanent closure of Sterlite and also called for election boycott after which the Superintendent of Police visited the village and asked the villagers to submit a petition to the District Collector¹⁵
- Mahesh and Michaelraj from anti-Sterlite people's movement were arrested on charges that they were inciting people against Sterlite after the orders of NGT. On 6.2.2018 advocate Hariraghavan was charged in a case under Section 505 (1)(b) for speaking against Sterlite Industries¹⁶
- On 17.12.2018, 30 persons were arrested in Chennai for protesting against Sterlite Industries¹⁷
- Santhanakumar, Rajan and Khaleel were arrested on charges that they distributed pamphlets calling for permanent closure of Sterlite plant on 19.12.2018¹⁸
- As the National Green Tribunal ordered in December to reopen Sterlite, many households in Thoothukudi had tied black-flags in front of their houses in protest of the judgement. But the police themselves removed these black-flags, thereby not allowing the people to protest in a democratic manner¹⁹
- After the judgement of the National Green Tribunal ordering opening of Sterlite plant, peace talks were organized in District Collectors office which were attended by anti-Sterlite people's movement, political parties and trader's association²⁰
- 10 students who protested against the judgement of the National Green Tribunal ordering opening of Sterlite plant in Chennai were arrested on 20.12.2018²¹
- Thoothukudi police have been summoning people to the South Police Station every day in an attempt to check the spread of social media messages against Sterlite plant and are asking people to answer 31 questionnaire form. In an effort to stifle future protests against Sterlite, the police have been putting pressure on residents to exit WhatsApp groups that circulate information about the plant²²
- Children and people from Periyannayagipuram village went on a rally with national flags and called for permanent closure of Sterlite plant on 24.12.2018²³

¹⁵ The Hindu, 7.12.2018

¹⁶ Indian Express, 14.12.2018

¹⁷ Dinathanthi, 18.12.2018

¹⁸ Deccan Chronicle 19.12.2018

¹⁹ FaceBook page of Peoples Rights Protection Centre, 20.12.2018

²⁰ Vikatan, 19.12.2018

²¹ 21.12.2018, Indian Express

²² Direct testimony from People's Watch

²³ Dinathanthi, 25.12.2018

- Prince Cardoza of anti-Sterlite people's movement was picked up by the police and was questioned outside police station for two hours after there were protests in front of police station asking for his release²⁴
- A call for holding black-flags to demand for permanent closure of Sterlite was made in newspapers. The representatives of trader's association and fishermen association were summoned by the police on 22.01.2019. Those who were summoned were made to wait at Thoothukudi Central Police Station for the entire day on 23.01.2019. After this, people protested by pasting a notice with the slogan 'BAN STERLITE' in front their houses and shops²⁵
- On 28.1.2019, permission was sought from the District Collector to hold a protest calling for permanent closure of Sterlite²⁶
- On 18.1.2019, Santosh was arrested for distributing pamphlets against calling for permanent closure of Sterlite. Villagers from Pandarampatti were protesting against the arrest of Santosh and advocate Hariraghavan who had joined them was arrested by police²⁷

When no permission was given to any protest or meeting against Sterlite Industries and when people were also arrested for distributing pamphlets, no objections were they raised for the activities undertaken by Sterlite management to influence the public through their meetings, events and processions. This is the discriminatory attitude of the Thoothukudi administration.

²⁴ The Hindu, 31.12.2018

²⁵ Samayam, 23.01.2019

²⁶ Dinakaran, 29.1.2019

²⁷ Ananda Vikatan, 17.1.2019

Protests in the past one year in support of Sterlite Copper

On 23.5.2018, on the orders of the Tamil Nadu government, the Sterlite plant in Thoothukudi was closed. After the closure, stating the employees of Sterlite, protested against the closure that their livelihood was being affected. Sterlite management also claimed that many stakeholders were affected due to the closure. Yet, the majority public opinion was against Sterlite Industries. Hence, to change this public opinion, many activities were done by Sterlite. During the grievance hearing at the District Collectorate in Thoothukudi every week, many people were brought by the Sterlite management and were made to state that they support Sterlite and that the plant should be opened soon. Similar incidents have happened over the one year which could be substantiated through the news reports.

- On 03.08.2018, twenty people from Anthonyarpuram led by Ms. Nisha, a contractual employee of Sterlite met the District Collector and submitted a petition stating that Sterlite has been providing assistance to their children under CSR funds and have implemented other welfare activities and also claimed that there has been no pollution due to Sterlite plant and that they have also lost their livelihood because of the closure of the plant and hence requested to reopen the plant.¹
- On 2.7.2018, contractors of Sterlite met Mr. Kadambur Raju, Minister for Information and Broadcasting and requested for opening of the plant²
- On 11.8.2018, contractual employees of Sterlite plant, met the District Collector and claimed that the livelihood of over 10,000 persons have been due to the closure of the plant³
- On 21.8.2018, nearly 40 farmers from Thoothukudi led by Mr. Dinakaran, President of Udankudi Farmers and Environmentalists Association met the District Collector and stated that there is a deficit of TAP fertilizer. They claimed that the supply of sulphuric acid has been stopped due to closure of Sterlite and hence the plant has to be opened.⁴
- On 28.8.2018, Ms. Subulakshmi from Ambedkar Nagar met the District Collector and claimed that Sterlite management has provided educational assistance to school children and hence it has to be reopened.⁵

¹ The Hindu, 3.6.2018

² Time of India 2.7.2018

³ The Hindu, 11.8.2018

⁴ Time of India, 21.8.2018

⁵ The Hindu, 28.8.2018

- On 4.9.2018, nearly 35 persons from Thuppaspatti village made a representation to the District Collector that their livelihood has been affected due to the closure of Sterlite Industries and requested for its opening.⁶
- On 18.9.2018, farmers from Srivaikuntam met the District Collector and claimed that the Sterlite management has carried out welfare activities towards agriculture and hence it needs to be reopened.⁷
- On 3.10.2018, the President of Thoothukudi Contractors Association Mr. S. Thiyagarajan and President of Private Bus Owners Association Dr. S. Rajasekar met the Chief Minister and requested for opening of Sterlite plant⁸
- On 25.10.2018, former President of South Veerapandiapuram Mr. S. Ponraj and Thoothukudi Contractors Association President, Mr. S. Thiyagarajan met the Union Minister for Health Mr. Harshvardhan and Union Minister for State Mr. Haribai Chaudhry and also made a representation in the Prime Minister's Office regarding reopening of Sterlite plant.⁹
- On 5.12.2018, about 300 villagers and members of Lorry Owners Association rallied in support of Sterlite Industries and met the District Collector.¹⁰
- On 18.12.2018, Thoothukudi Cargo Ship Traders Association President, Mr. Vel Shankar, Chemical Industries Association Vice-President, Mr. Gurumurthy, met the District Collector and requested for reopening of Sterlite plant.¹¹
- On 19.12.2018, the President of the Tamil Nadu Chamber of Commerce Mr. Rathinavel issued a press release that Tamil Nadu government closed Sterlite plant without proper inquiry and asked for its reopening.¹²
- On 19.12.2018, people from 15 villages met the District Collector and requested that Sterlite plant which gave them livelihood be opened..¹³
- On 20.12.2018, 500 persons in support of Sterlite Industries petitioned the District Collector asking for opening of the plant as per the orders of National Green Tribunal¹⁴

⁶ Dinathanthi, 4.9.2018

⁷ The Hindu, 18.9.2018

⁸ Deccan Chronicle, 3.10.2018

⁹ Dinamani, 25.10.2018

¹⁰ Indian Express, 5.12.2018

¹¹ The Hindu, 18.12.2018

¹² The Hindu, 19.12.2018

¹³ The Hindu, 19.12.2018

¹⁴ The Hindu, 20.12.2018

- On 8.1.2019, women from Krishnarajapuram, Swamy Nagar, Caldwell Colony met the District Collector and stated that Sterlite has been running an evening school and child care centres in their neighbourhood and hence should be reopened¹⁵
- On 24.1.2019, around 2000 members from the lorry owner's association, met the District Collector and represented that their livelihood had been affected due to closure of the Sterlite plant and requested for its immediate opening¹⁶
- On 26.1.2019, about 100 staff of Sterlite Industries conducted a dharna for opening of Sterlite plant¹⁷
- On 12.2.2019, people from Threspuram fishing colony met the District Collector and requested for opening of Sterlite Industries¹⁸
- On 3.1.2019, President of Puthiya Thamilgam Party Dr. Krishnasamy, and President of Hindu Makkal Katchi Mr. Arjun Sampath called for opening of Sterlite plant¹⁹

FINDINGS

1. It could be seen that various representatives claiming to be from lorry owner's association, contractual employee's association, contractor's association, public have met the District Collector at least once every week requesting opening of Sterlite plant.
2. It is also found that the people who come to make representation in support of Sterlite Industries to the District Collector are paid Rs. 200 from reports in news reports.
3. Those who have made representation before the District Collector, Ministers, Chief Minister, Prime Minister's Office have been direct or indirect beneficiaries of the CSR activities of Sterlite Industries. This also affirms that the Sterlite management is behind these stage-managed incidents of stakeholders claiming to be affected due to closure of Sterlite Industries and hence asking for its resumption.
4. While this stage-managed representation made in favour of Sterlite receives support from government, those who make representations against Sterlite have been targeted and harassed by police. Administrators of WhatsApp group which discuss about Sterlite issues are threatened by police to remove contents against Sterlite. It can be clearly seen that the district administration and the police have been acting against the orders of High Court and have failed to ensure fundamental freedoms in Thoothukudi to all people equally.

¹⁵ The Hindu, 8.1.2019

¹⁶ The Hindu, 24.1.2019

¹⁷ The Hindu, 26.1.2019

¹⁸ Indian Express, 12.2.2019

¹⁹ The Hindu, 3.1.2019

Activities of Sterlite after the closure of the plant on 28.05.2015 as ordered by Tamil Nadu Government

Thoothukudi district in Tamil Nadu witnessed environmental hazards due to the emission from Sterlite plant in terms of air and water pollution, respiratory ailments, and there was a larger public opinion regarding effects of cancer. There were several protests since the inception of the plant and in 2018 it led to intensified 100 day protests where violence was unleashed by police and in the police shootings, 13 persons were killed and several were injured and 3 others lost their lives. After this tragic incident Tamil Nadu government ordered for closure of Sterlite Industries in Thoothukudi on 28.05.2018.

Sterlite management tried in all ways to reopen the plant. The management also tried to change the public opinion including undertaking the following:

- I. Full page advertisements in English and Tamil news dailies propagating falsehoods about the plant and the effects caused by it
- II. The amounts which were to be spent by Sterlite on 'Corporate Social Responsibility' were utilized to create a positive image on Sterlite
- III. The management used its employees to change the narrative about Sterlite among the public

The management tried many strategies including the above to create a positive narrative about the plant. Tamil Nadu government did not take any steps against the Sterlite management in this regard. At the same time, Tamil Nadu government did not allow for any protests or meetings regarding against Sterlite. Police had foisted numerous false cases against thousands of people who protested against Sterlite.

1. Advertisements in English and Tamil news dailies

There were full page advertisements in English and Tamil news dailies which claimed that there were no environmental hazards due to the Sterlite plant. The advertisement claimed that "Sterlite has been producing copper for the past 22 years without affecting the environment and has been making Tamil Nadu proud" and also stated that it "does not pollute ground water". These advertisements were clearly targeted to influence the public opinion about the plant.

a.) 'Did Sterlite pollute the environment?'

In September 2010, there were petitions filed before Madras High Court filed by Mr. Vaiko and others. This was heard by the bench headed by the Chief Justice and they ordered for the permanent closure of the plant. Sterlite management appealed against this order in the Supreme Court. After hearing the appeal, the Division Bench of Justice A.K. Patnaik and Justice H.L. Gokhale dismissed the Madras High Court order on closure of the plant but

ordered a fine of Rs. 100 crores on Sterlite Industries for polluting the environment in Thoothukudi for the past 16 years. The important part of the judgement was that between 1997 and 2012, Rs. 100 crores were ordered in lieu of the damages caused by environment.

Contrary to the findings made in the Supreme Court judgment which states about the pollution caused by Sterlite, the advertisements by the management claims completely false information that it has not caused any pollution for the past 22 years.

b.) 'Tamil Nadu is not the cancer capital of India'

In the advertisements by the Sterlite management it was claimed that 'Tamil Nadu is not the cancer capital of India'. They also claimed that according to the data by Tamil Nadu Public Health Department, out of 32 districts in Tamil Nadu, Chennai, Kanchipuram and Coimbatore are the top three districts in terms of cancer patients and that Thoothukudi stands 13th in the list for men and 25th in the list for women suffering from cancer.

A long-standing allegation against Sterlite Industries by the public and civil society is that there are many cancer patients in the villages around Sterlite plant. To dismiss this claim, the Sterlite management diverted the issue by calculating the cancer patients in the entire district and thereby claiming that effects of cancer in Thoothukudi are minimal.

c.) Corporate Social Responsibility

After the closure of the plant in 2018, Sterlite announced that it will be spending Rs. 100 crores on welfare activities in Thoothukudi. Some of them are:

- i. Vedanta Resources, which owns Sterlite Industries assured before the National Green Tribunal that it will invest Rs. 100 crores for welfare activities in Thoothukudi¹
- ii. Under its CSR activities, Vedanta spent Rs. 1.8 crores towards educational expense of 4933 children in 150 villages studying from LKG to Post Graduate studies. The children were provided an amount between Rs. 1500 to Rs. 10000 according to their educational level. Initially an amount of Rs. 26 lacs were given to 735 students and later it provided Rs. 1.54 crores to 4198 students. The management also claimed that this activity was being carried out since 2000 and if the plant is closed, these students will also be affected.²
- iii. The Sterlite management planned for six activities of Rs. 100 crores in Thoothukudi. They are education, tree saplings, women's skill development, skill development for youth, multi-specialty hospital and drinking water facilities to 15 villages.³

¹ Vikatan, November 10, 2018

² Times of India, October 16, 2018

³ Deccan Chronicle, January 12, 2019

- iv. It was claimed by the Sterlite management that 1500 families met the Chief Executive Officer of Sterlite Industries and requested for the sparely in the opening of the plant⁴
- v. Sterlite management arranged for computer training camp for 60 students in Thoothukudi for 30 days.⁵

2. Details collected from Pandarampatti village

Following activities have been carried out by Sterlite Industries under its CSR venture:

- Educational scholarships have been provided to school children in their villages. Many other school students in Thoothukudi have also received an educational assistance of Rs. 2000/- and the management has obtained a copy of the students' family AADHAR card
- Cost of drinking water connection costs between Rs. 16000 – Rs. 18000. Many families in the village do not have drinking water connection and upon knowing this, Sterlite management provided the cost for drinking water connection from its the CSR funds to over 100 families in the village. This amount was totally paid to the Municipal Corporation. The management has also obtained the copies of AADHAR card from the all these families.
- 'Diwali gift box' were given to over 70 persons in the village which contained sweets, saree or dhoti, a day before Diwali
- The Sterlite management has also tried to influence the religious community in Thoothukudi by deputing influential persons in each community and through them influencing the people in support of Sterlite. In particular, in CSI churches this campaign in been organized and also with the traders in the city

Copies of AADHAR cards were collected with a mala fide intention. These copies were submitted in the National Green Tribunal that so many people support the opening of the plant, though these persons, including children, did not in any manner support the opening of Sterlite Industries. It is also clear that the activities under CSR were misused and were undertaken only to falsely claim in the courts and tribunals that public are in support of Sterlite. Sterlite management also tried to implement similar activities in other villages also, since there were protests against this, they were called off.

Testimonies of Women residents from Pandarampatti village:

Sterlite management has provided Rs. 50,000 to over 50 women in the village and had told them that it need not be repaid, It was informed that in case the plant is not allowed to resume

⁴ CSR News, January 2, 2019

⁵ Dinakaran, May 15, 2019

its operations then the amount should be paid back. Women in this village also informed that when they had complained about these incidents to the police, no actions were taken.

3. Activities by Sterlite management to gain public support

Sterlite management has been actively involved in activities to gain public support for their plant. Some of them are:

- To carry out these activities, the employees of Sterlite Industries were told to report to work from July, 16, 2018. They were divided into groups and were sent to gain public support and also enquire people about their grievances and act as a liaison between the public and the management. As a result, many groups including villagers, contractors, contractual employees, lorry owners have recently met the District Collector, Minster and other officials and asked for reopening of the plant.⁶
- Sterlite management sponsored for 6 participants in a National Taekwondo competition from Thoothukudi and also provided assistance for 20 others⁷
- As part of Women's Day celebration, a developmental center was started to train women.⁸
- Sterlite management provided Rs. 12 lacs for procuring medical equipment in CSI Mission hospital, Nazarethpet.⁹
- On 03.08.2018, twenty people from Anthonyarpuram led by Ms. Nisha, a contractual employee of Sterlite met the District Collector and submitted a petition stating that Sterlite has been providing assistance for their children under CSR funds and have implemented other welfare activities and also claimed that there has been no pollution due to Sterlite plant and that they have also lost their livelihood because of the closure of the plant and hence requested to reopen the plant.

These activities carried out by Sterlite management has the support of the district administration and the police. When no permission was given to any protest or meeting against Sterlite Industries and when people were also arrested for distributing pamphlets, no objections were even raised for the activities undertaken by Sterlite management to influence public opinion. This amounts to briefing the public with CSR funds when the company is scaled by the Government and matters are pending in various courts.

When the operations of Sterlite Industries have been closed by the government, the company should also not be allowed to carry out any other activities including under the CSDR, which is being misused by the company to influence the public.

⁶ The Hindu, Tamil July 16, 2018

⁷ Dinakaran September 19, 2018

⁸ Indian Express March 9, 2019

⁹ The Hindu, May 10, 2019

The Tamil Nadu Government the past one year

Following are the observations made on the activities of the state government in the past one year after the police firing on May, 22, 2018:

- Following the police firing incident, on 23.05.2018, Tamil Nadu Pollution Control Board orders for closure of Sterlite Industries and also orders for disconnection of electricity to the plant. Tamil Nadu government vide its G.O¹ orders for permanent closure of Sterlite plant
- On 28.5.2018, when the state Minister for Information met the injured people at Thoothukudi Government Hospital he told the journalists that 'extremists' were responsible for the violence that happened on May, 22, 2018 ²
- On 2.6.2018 in the floor of the Tamil Nadu legislative assembly, Chief Minister stated that only those who had indulged in violence and damaged public properties were arrested and the Inquiry Commission will investigate about the allegations of illegal arrests ³
- Tamil Nadu Chief Minister also stated that since the government has passed a G.O. on closure of Sterlite plant, it will be closed permanently and hence there is no reason for people to protest and that Tamil Nadu is the first state in the country in terms of number of protests⁴
- On 10.6.2018, the Superintendent of Police, Thoothukudi Mr. Mahendran and Inspector General of Police Mr. Shailesh Kumar Yadav were transferred and Mr. Shanmuga Rajeswaran was appointed as Inspector General of Police⁵
- On 11.6.2018, the District Collector informed that there will be a special team formed to find the needs of the villagers and actions will be taken on that regard and necessary steps will be taken to provide employment for those who had lost their jobs due to closure of Sterlite⁶

¹ 09.9.2018, The Hindu, GO No.72, Environment and Forests Department dated 28.5.2018

² Dinamalar, 28.5.2018

³ Theekathir, 04.06.2018

⁴ Dinamani, 04.06.2018

⁵ Dinamalar, 10.6.2018

⁶ Deccan Chronicle, 11.6.2018

- District Collector informed that out of the Rs. 100 crores collected as fine from Sterlite, Rs. 41 crores have been spent on welfare activities in villages around Sterlite and welfare activities worth Rs. 25 crores are the stage of completion⁷
- District Collector transferred all three revenue department officials – Mr. Sekar, Mr. Chandran, Mr. Kannan who gave orders for shooting on May 22, 2018.
- It was found that there was a leak of the stored sulfuric acid and phosphoric acid inside Sterlite plant and then with 92 tanker lorries, 2412 tonnes of Sulfuric acid was removed stated the District Collector⁸
- After reviewing the welfare activities being undertaken in the villages around Sterlite plant such as South Veerapandiyapuram, Kumarareddyapuram, the District Collector informed that drinking water supply will be provided soon⁹
- After the National Green Tribunal ordered that Sterlite can access the plant for maintenance purposes, an emergency meeting was convened by Chief Minister along with senior Ministers and officials¹⁰
- District Collector announced that those who have lost their legs during the firing incident will be provided with artificial limbs by the government¹¹
- Tamil Nadu government's Chief Secretary stated that the findings about Sterlite by Central Water Board are false and unscientific¹²
- Compensation amount and appointment letters were given to victims by the Chief Minister in Chennai¹³
- Tamil Nadu Pollution Control Board stated that if Sterlite is allowed to resume its operation then it will pollute the environment of the villages around the plant and also submitted the proof for it¹⁴

Findings

1. Chief Minister of Tamil Nadu Mr. Edapadi Palaniswamy has not met the victims of police firing in Thoothukudi even nearly after a year of completion of the incident

⁷ The Hindu, 19.06.2018

⁸ Theekathir, 25.06.2018

⁹ Times of India, 04.07.2018

¹⁰ The Hindu, 12.8.2018

¹¹ The Hindu, 28.08.2018

¹² The Hindu, 10.09.2018

¹³ Indian Express, 28.09.2018

¹⁴ Times of India, 08.12.2018

2. Many state ministers who had commented on the police firing incident that took place on May 22 told that it was caused due to the work on 'extremists' which is seen as an attempt to delegitimize the genuine and peaceful protest of the citizens of Thoothukudi
3. The statement of the chief Minister in the floor of the legislative assembly itself is a testimony of how the state is trying to portray that all protestors were violence and also keeping away from acting on the illegal arrests made by police
4. Deputy Chief Minister Mr. O. Pannarselvam, while visiting the injured persons in Thoothukudi hospital only met a few persons, which shows that it was only a token visit
5. The actions of Tamil Nadu government remain hypocritical in Sterlite issue. While the government had defended its stance on closure of Sterlite in courts and NGT, it had transferred Mr. Nasimuddin, Chairperson of TNPCB who was instrumental in passing the orders on 23.5.2018 for closure of Sterlite.
6. The fact that there are no Members appointed in the Southern Bench of National Green Tribunal in Chennai which made Sterlite to appeal before the Principal Bench of NGT in New Delhi raises several questions
7. Though health and environmental hazards were the reason for closure of Sterlite plant as stated by Tamil Nadu government, there has been no proper health assessment or survey done by government though there are three government medical colleges around Thoothukudi
8. Though it is clear that courts cannot interfere in cabinet decisions, Tamil Nadu government yet has not made a cabinet decision on the closure of Sterlite and thereby passing the buck on to the courts
9. Though there have been continuous and systematic curtailment of fundamental freedoms in Thoothukudi, the state government continues to extend its patronage to the District Collector and the Superintendent of Police who blatantly fail to uphold the orders of Madurai Bench of Madras High Court.
10. By curtailing protests against Sterlite in Thoothukudi, the district management has only extended its support indirectly to Sterlite management

Reprisals on human rights defenders

The situation of human rights defenders in Thoothukudi is very special. Many years of this protest continuing, defenders have had long relationships running into years. There have been defenders who have dropped out of the race years ago and there are others who have continued without any compromise or exhaustion, both inside and outside courts. The ranks of HRDs opposing sterlite has also increased and multiplied in numbers because of the long struggle. Sterlite which has had an open reputation of having had the capacity to win over people who protest, have also their share in testifying to authorities their versions of who are genuine and those who are on their 'pay rolls'. The human rights defenders have therefore had the tremendous challenge in Thoothukudi of not only having to face the wrath of the state and its intelligence agencies but also of the public relations wing of Sterlite and its 'accusations' of people who they allege are on its pay roll. Thoothukudi being a multi-religious and multi-caste town and district it has been all the more difficult to maintain this delicate balance in membership and leadership in the movement and the momentum in the movement against Sterlite. Those who have withstood the struggle after 22nd May 2018, have been publicly accused to be 'people who have indulged in violence (*vanmuraialargal*), extremists (*Theevarvathigal*) or terrorists (*Bayangaravathigal*). The large number of omnibus FIRs that were registered were used generously to book anyone who belonged to any of the many 'anti-sterlite' movements in the town and district.

The district administration with its new Collector and new Superintendent of Police were also assisted in the initial weeks by two senior reputed IAS officers of the state, namely, Mr. P.W.C. Davidar IAS and Mr. Gagandeep Singh Bedi IAS .But their duty was only to restore normalcy and bring in civil society and human rights defenders – whether they were lawyers, traders, businessmen, academics, fisherfolk, agriculturists, salt pan workers etc to the discussion table and attempt at restoring discussions with officials and bringing in normalcy. This was also at a time when politicians could not enter the town and the town was filled with police everywhere. This was facilitated by immediate wholesome ex gratia payments from the Government being disbursed by these two officers.

The new Collector and Superintendent of Police were also assisted by another larger team of police officers headed by a ADGP, and comprising 4 IGs and 2 DIGs and 23 SPs. It was this team that laid down the plan to ensure that human rights defenders were 'attended' to. Different legal course of actions were meticulously planned and unleashed one by one. But one would see they were all unsuccessful.

The first was to ensure that there will be **generous use of the over 243 omnibus FIRs** registered in the different police stations in the town and its adjoining areas to ensure that

from 2000 to 7000 accused could be included in each of the FIRs. To this end started the rounding up of young people across the town, their **illegal detentions, torture, verbal abuse etc. and falsely implicating them in several cases and remanding them after illegal detentions**. This soon became the subject of public protests, interventions by political parties and then even a PIL in the Madurai Bench of the Madras High Court.

The next course of action that immediately followed was to **attempt the use of prevention detention laws like the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 and the National Security Act, 1980 (NSA)** against a few leaders of the Naam Tamilar Party, Makkal Athigaram etc. Unfortunately for the state, the tremendously well organised legal interventions undertaken, broke this attempt of the use of such prevention detention laws and very soon through a series of legal interventions challenging each of the detentions all the detenues were released by July 2018.

The extremely intelligent use of criminal law and courts – both is the sub-ordinate courts and high court by a dedicated team of lawyers assisted by senior counsel – all pro bono was what resulted in bail petitions being granted soon and one order of bail made applicable to several cases against an accused and one surety alone being made sufficient for the release of an accused with several cases. It is needed to appreciate these orders of the Madurai Bench of the Madras High Court that made all this possible and with this the strategy of the police of foisting several cases against HRDs and making them lavish in judicial custody for months together that is usually successful in other places failed miserably in Thoothukudi.

In fact, the most interesting of all cases was that an attempt to foist a preventive detention against Mr. Hariraghavan an HRD and Advocate, Thoothukudi that was fought in court with such meticulous documentation and excellent legal arguments and also so well responded by the Hon'ble Court that the District Magistrate and Collector, Mr. Sandeep Nanduri IAS had to be summoned to the Division Bench only to be advised not to blindly follow the recommendations of his Superintendent of police in matters related to preventive detention. This saved Mr. Hariraghavan of his detention and he was thereafter released.

The case of Mr. Vanchinathan, Advocate and State Organiser of the Human Rights Protection Centre who has been working with the anti- Sterlite peoples movement is also of importance. While he was returning from the Supreme Court after attending a case, though he had an anticipatory bail petition that had been argued and reserved for orders in the Madurai Bench of the Madras High Court, he was initially arrested by the Thoothukudi police at Chennai Airport . This was in a case in FIR bearing Crime No. 190 of 2018 of the SIPCOT PS where though the petition for anticipatory bail was dismissed by the Madurai Bench of the Madras

High Court, the formal order of the Court was not available on the day of the arrest and for more than a week later. When the bail petition was filed for Mr. Vanchinathan there were over nine criminal cases registered against him. An habeas corpus petition was filed in the case of Mr. Vanchinathan by his wife Nandini in HCP 881 of 2018 and it is this meticulous legal strategy that prevented the state from being ever able to use preventive detention law against Mr Vanchinathan and he was thereafter soon released on bail in all the multiple cases registered against him with stringent conditions. However, it is sad that even after one year of the occurrence Mr. Vanchinathan cannot even today enter Thoothukudi. !

The next legal strategy that fought the police efforts to **register a large number of cases against HRDs** of their choice was brought to an end by the legal challenge filed before the Madurai Bench of the Madras High Court in W.P.(MD) No 15421 and 15660 of 2018 where orders were finally passed on 02.08.2018 directing that all FIRs registered in connection with happenings of 22.05.2018 and related in any manner to the anti-Sterlite protests at Thoothukudi be treated as 161(3) Cr. P.C. statements in Crime No 191 Of 2018 , originally registered as by the Inspector of Police, SIPCOT PS and then before the CB CID (before being handed over to the CBI). With this the capacity to continuously harrass using these 243 omnibus FIRs ceased bringing relief to all human rights defenders.

The next attempt by the police was to then start **using Sec 41A by issuing summons to many of the HRDs they wanted to contain in their actions**. This was also soon thwarted by efforts undertaken by Mr. Raja and Prof Fatima in the Madurai Bench of the Madras High Court.

All attempts at **meetings by any of the HRDs – with individual families of the deceased persons or with the grievously injured were meticulously thwarted by the local jurisdictional police** through a system of surveillance of the houses of the victim families. Wherever they were invited, or whoever visited their premises, even if they were journalists, resulted in harassment of the victims and their family members. It is necessary to state this here since most of the families of the victims are HRDs themselves as they were connected with the movements even prior to the attack or killing.

The next strategy by the police by July was to try **to use provisions of the Sec 107 Cr. P. C. to try and get most of the HRDs brought under subsequent bonds** that they could get administered using these provisions. The HRDs were quick once again to gain access to the Madurai Bench of the Madras High Court as a result of which these initial cases were stayed by the High Court and the police had to give up using the Sec 107 proceedings as a means of restricting the rights of HRDs.

The following unsuccessful attempt was to **'literally 'bully' people into getting out of their 'anti-sterlite' Whats App groups.** This was also fought on the ground and when they were threatened with legal consequences, this also gradually stopped.

Throughout this period **any form of peaceful assembly has also been thwarted** and this has been cited in several places in this report. Even a training program for human rights defenders being organised on 15th and 16th August, 2018 in Thoothukudi by Human Rights Defenders' Alert – India in which the Hon'ble Chairperson of the TamilNadu State Commission for Women was also attempted to be stopped by the police but due to the successful efforts of the organisers to resist their interference, the police had to retreat.

The last effort has once again been **to initiate 'history sheets' against those HRDs who have criminal cases pending against them.** Such efforts were taken up against Mr. Madasamy, who is an HRD and a law student and was going to register before the Bar Council of Tamil Nadu where he realised that an old history sheet that had been instituted had to be withdrawn. He therefore filed a Writ petition challenging this action of the police. When the police came to know that this was a case by an HRD who had also been involved in the anti-sterlite protests, the police who had initially passed orders for withdrawal of the history sheet against him, now filed a counter in the case before the High Court stating that the history sheet No 89 of 2011 had been closed and then once again reopened on 25.10.2013 and the same was closed on 06.01.2017. But later, on the basis of a letter from the Superintendent of police dated 25.11.2018, the history sheet has once again been opened against Mr. Madasamy on 27.02.2019. The challenge to this act of the police in using an history sheet is still pending for orders before the Madurai Bench of the Madras High Court. It is reliably learnt that similar efforts at starting a history sheet is being initiated against Mr. Velraj belonging to the Nam Tamilar Party from Muthiapuram, Thoothukudi. **So now history sheets are being attempted as the next strategy of the police against human rights defenders.**

The last effort as this goes for printing is the **renewed effort once again at using Sec 107 Cr.P.C.** proceedings and asking several hundreds of HRDs to appear before the Sub Collector, Thoothukudi on the 20th May, 2019. It is pertinent to mention that such summons have been issued to well known HRDs who had approached the Madurai Bench of the Madras High Court through their writ petitions before the Vacation Bench of the Court on 8th & 9th May and again on 15th May seeking the Courts permission to allow them pay homage on the 22nd in a hall. The Court had also accordingly granted permission for the same through the orders passed in W.P. No. 11786 of 2019¹ in the application moved by Prof. Fatima Babu on

¹ Order dated May 05, 2019 passed by the Hon'ble Madurai Bench of Madras High in the W.P. (MD)No.11786 of 2019 between Fatimababu Vs. District Collector Thoothukudi and three ors

09.05.2019 and in W.P. No 11900 of 2019² in the application moved by Ms. S. Jenarose and W.P. No 11901 of 2019³ in the application moved by Mr. A. Vianarasu, inspite of the very strong objections raised to the same by the state and counsels for the sterlite employees who had intervened in the court. It is now reliably learnt that summon u/s 107 Cr. P. C. have also been issued to Prof. Fatima Babu to appear on 20th May and Ms. Jenarose to appear on 17th May. Imagine the local police serving summons u/s Sec 107 to the very same petitioners who have approached the High Court for permissions for a hall meeting to pay homage on 22nd May and succeeded in the same.

In addition it is also reliably learnt, as this report goes to the press, that without even summons being served, several hundreds of people are being called over the phone from their local police stations asking people to come to the office of the Sub Collector and there are policemen there with blank printed bonds that the person who come are asked to fill up. This is contrary to known rule of law and such processes are only made to ensure that there is once again a fear caused in the minds of ordinary people not to assemble in large numbers as per the Court orders now obtained from the Hon'ble High Court. Even the first anniversary on 22nd May 2019 is not going to be devoid of police harassment it seems.

It is also reliably learnt that the District SP had also called all Roman Catholic Church Parish Priests for a meeting last week. It is in the context of the Holy Mass that is to be celebrate in each Church of 22nd May for the departed souls of those killed on 22nd May 2018. What is the SP's anxiety in the Holy mass that is to be conducted on the 22nd May this year when there has been nothing but violations that he is guilty of for the past one year almost.

On November 20, 2018, a summon was sent to Henri Tiphagne to appear before the Deputy Superintendent of Police on 21.11.2018. The summon is regarding a complaint sent by People's Watch to the Tamil Nadu State Human Rights Commission (SHRC) on threats and intimidation to the persons who had testified regarding the police firing in Thoothukudi on the anti-Sterlite protest which happened on May 22, 2018. Since the matter is only about a complaint to the SHRC, it does not come under the ambit of Chapter XII of the Code of Criminal Procedure and hence the summon itself was an attempt to intimidate and influence the complaint by People's Watch before the SHRC.

² Order dated May 15, 2019 passed by the Hon'ble Madurai Bench of Madras High in the W.P. (MD)No.11900 between S.Jenarose Vs. Election Officer/District Collector and five ors.

³ Order dated May 15, 2019 passed by the Hon'ble Madurai Bench of Madras High in the W.P. (MD)No.11901 between A.Viyanarasu Vs. Election Officer/District Collector and five ors.

The case of Mr. Thirumurgan Gandhi, a renowned social activist in Tamil Nadu has been detailed elsewhere in this report.

Mr. Nityanand Jeyaraman,⁴ noted Environmentalist was summoned by the Deputy Superintendent of Police in Thoothukudi for an enquiry regarding the alleged verification of information furnished by US journalist Scialla Mark Stephen who was working on a documentary on the health impact of the Sterlite copper smelter plant that resulted in the killing of 13 anti-Sterlite protests by cops. While US freelance journalist Scialla, who arrived in the country on a tourist visa on December 27, flew back, after being issued a leave India notice, police summoned Nityanand Jayaram on January 2. The 'interview with the police that lasted for several hours in January 2019 was bordering on his personal convictions and positions on environment and Sterlite and on who had financed the journalist to come to Thoothukudi. He was asked how often and when he had last come to Thoothukudi. This is the cost an HRD who is also a journalist and a teaching faculty of the reputed Asian College of Journalism has to pay for his own convictions.

⁴ *FB post of Mr. Nityanand Jeyarama of 4th Jan 2019*

Update on litigations against Sterlite Copper

Closure of Sterlite Copper Smelter Unit I “Original Plant”

Vedanta set up Unit I of the Sterlite Copper Smelter being the Original Plant at the State Industries Promotion Corporation of Tamil Nadu Ltd. (SIPCOT) Industrial Complex at Thoothukudi, Tamil Nadu and began its operations on January 1, 1997 with an original production capacity of 390 tonnes per day of copper, pursuant to being granted environmental clearance in 1995 and other requisite permissions. The production capacity for Unit I was subsequently increased over time, to finally reach 1200 tonnes per day, vide its Environment Clearance (“EC”) dated August 9, 2007. The consent to operate granted by Tamil Nadu Pollution Control Board (TNPCB) for the Original Plant was set to expire on March 31, 2018. Vedanta applied for renewal of the consent to operate by TNPCB on January 31, 2018, however the same was rejected by TNPCB under Section 25 of the Water Act and Section 21 of the Air Act on the basis of five deficiencies in managing and monitoring pollution at the plant, on April 9, 2018. On April 12, 2018, TNPCB passed a further order prohibiting Vedanta from resuming production operation without obtaining their prior approval / renewal.

Aggrieved by the rejection order dated April 9, 2018, Vedanta approached the Appellate Authority constituted under the Water Act and Air Act by way of Appeal Nos. 36 and 37 of 2018. Activist Prof. Fatima Babu also filed an intervention application in the said appeals, and was allowed to intervene in the matters by order dated May 4, 2018.

Meanwhile, in the background of the civil society protests and police firing, it was revealed pursuant to inspection conducted on May 18 and 19, 2018 that Vedanta was illegally carrying out activities to resume its production inspite of not having a valid consent to operate. Accordingly, on May 23, 2018 during the pendency of the above appeals, TNPCB passed an order under Section 33A of the Water Act and Section 31A of the Air Act directing closure of the plant and discontinuation of the power supply. Meanwhile the state government also endorsed the closure of the plant by issuing a Government Order on May 28, 2018, directing sealing and permanent closure of the plant. Taking note of the Government Order, the Appellate Authority before whom the appeals were pending, refused to adjudicate the issue during the currency of the government order.

National Green Tribunal sets aside the closure of the Original Plant

On June 22, 2018, Vedanta filed Appeal No. 87 of 2018 before the National Green Tribunal (NGT) under Section 16 of the NGT Act, 2010 challenging the legality and correctness of the orders dated April 9, 2018, April 12, 2018 and May 23, 2018 passed by TNPCB and

government order dated May 28, 2018 passed by the state government, in the name of a 'composite appeal'. However, the Appeal was not maintainable under the provisions of the NGT Act, 2010. Prof. Fatima Babu filed an application for impleadment in the matter on July 27, 2018, however the application was left undecided although she was an intervener before the Appellate Authority and representing the project affected people in Thoothukudi.

It is pertinent to note here that the Southern Zone bench of the NGT at Chennai, which has jurisdiction to hear matters arising in the region, was rendered inoperational due to non-appointment of members. By way of amendments made to the Finance Act, 2017 and introduction of The Tribunal, Appellate Tribunals and Other Authorities (Qualifications, Experiences and other conditions of service of members) Rules, 2017¹, the executive interference and control over the NGT was sought to be increased manifold by the central government. Consequently, the zonal benches of the NGT, which were making effective interventions to contain state irregularities and corporate violations to ensure environment protection, have become non-functional due to the failure and lack of political will to appoint members. Only the Principal Bench of the NGT in Delhi, current Chairperson of which was appointed overnight² under the current dispensation, is functional. Using this excuse, the Appeal by Vedanta was taken before the Principal Bench of the NGT in Delhi, instead of being filed and heard by video-conferencing from the bench in Chennai, as per prescribed procedure.

Counsels for Prof. Fatima Babu, Mr. K.S.Arjunan, District Secretary CPI (M), Mr. Vaiko, leader of the MDMK party, TNPCB and the state government raised preliminary objection on the ground of maintainability of the Appeal, however the argument was rejected by the NGT. The state government accordingly challenged the order before the Supreme Court of India in Civil Appeal No. 8250 of 2018, which on August 17, 2018³ directed the NGT to hear the issue of maintainability be heard with the main appeal on merits.

The NGT passed orders dated August 20, 2018 and August 30, 2018 referring the matter for fresh consideration by a three member Committee set up under the Chairmanship of Retd. Justice Tarun Agarwal, with the other two members from Central Pollution Control Board and Ministry of Environment, Forests and Climate Change respectively, with directions to file a report of their findings. Meanwhile even as the intervention application of the intervenors was

¹ <https://www.livelaw.in/finance-act-2017-cripples-national-green-tribunalngt/>

² <https://barandbench.com/justice-ak-goel-appointed-ngt-chairperson/>

³ Order dated August 17, 2018 passed by the Supreme Court in the Civil Appeal No. 8250 of 2018 between State of Tamilnadu and Ors. Vs. Vedanta Limited

not decided, at paragraph 13 of the order dated August 20, 2018⁴, it was provided that “it will be open to the Committee to hear any intervenors”. Several objections were placed regarding the appointment of the Committee and entrusting wide powers to it. Prof. Fatima Babu filed an application MA 1342 of 2018 challenging the appointment of the Committee, which the NGT dismissed on September 18, 2018⁵.

Prof. Fatima Babu received notice on September 18, 2018 of the hearings of the Committee on September 24, 2018. The Committee visited Thoothukudi and conducted inspection on the copper slag dumpsite on September 22, 2018 and the Original Plant on September 23, 2018. However, the Interveners were not allowed to remain present during the intervention of the Original Plant on September 23, 2018. During the hearings of the Committee also, all the intervenors were present at all the hearings. However, the Interveners were not provided copies of the pleadings. All the Interveners were represented and effectively participated in the final hearings of the Committee in Chennai.

The Committee filed its report on October 29, 2018 recording violations of statutory mandates by Vedanta and its recommendations. The NGT took up the matter on December 7, 2018, at which time the intervenors asked for a copy of the report but were however NGT denied the request. Also, while TNPCB and the state government were allowed to respond to the Committee’s report and suggestions, the same was denied to the intervenors, owing to the pendency of the intervention application, which the NGT while refusing to hear the same and reserving its order on December 10, 2018, said it would decide with the main appeal. In this manner, civil society representation was effectively denied and they were reduced to mere spectators.

The order of the NGT was uploaded on the website on December 15, 2018⁶, which set aside the impugned orders of TNPCB and TN state government and allowed reopening of the Original Plant Copper Smelter Unit I of Vedanta subject to certain conditions. The appeal and all its pending applications, including intervention application by Prof. Fatima Babu and the other intervenors were disposed off, the latter without adjudication. The order was uploaded on a Saturday when the court was not sitting and the matter was not listed before the court or pronounced in open court, against regular practice. It was reported on December 16, 2018

⁴ Order dated August 20, 2018 passed by the NGT, Principal Bench in Appeal No. 87 of 2018 between Vedanta Limited Vs. State of Tamilnadu and others, and applications filed therein

⁵ Order dated September 18, 2018 passed by the the NGT, Principal Bench in MA Nos. 1340 and 1342 of 2018 in Appeal No. 87 of 2018 between Vedanta Limited Vs. State of Tamilnadu

⁶ Order dated December 15, 2018 passed by the NGT, Principal Bench in Appeal No. 87 of 2018 between Vedanta Limited Vs. State of Tamilnadu and others, and applications filed therein

that an unofficial copy of the NGT order without NGT seal or watermark was in circulation by a private relations agency, allegedly even before the order was uploaded on the official website, revealing the possibility of the same having been compromised and accessed by third parties prior to its pronouncement or publication. On investigation by a computer expert, the document file could also be traced to a senior employee of the public relations agency of Vedanta and accordingly Prof. Fatima Babu filed an online complaint on December 17, 2018 at 08:47 pm with the Crime and Criminal Tracking Network and Systems Head Quarters, Delhi, bearing complaint number 801051800453, to take strict action against all the wrong-doers involved, which is pending investigation.

Supreme Court reverses NGT Order allowing reopening of the Original Plant

The order dated December 15, 2018 was challenged in Writ Petition (MD) No. 25495 of 2019 filed by Prof. Fatima Babu before the Madurai Bench of the Madras High Court on December 19, 2018, on the grounds of wrongful exercise of jurisdiction by the NGT, lack of territorial jurisdiction of the Principal bench, non maintainability of the Appeal filed by Vedanta, refusal of hearing to civil society Interveners, non-pronouncement of judgment in open court, unethical transmission of the order posing suspicions of undue influence and bias, and defects and illegalities in the Committee's report and findings and the NGT order. The Madras High Court passed an interim order dated December 21, 2018⁷ granting status quo in the matter, thereby staying the effect of the order dated December 17, 2018, until January 21, 2019, to enable the state government to take its decision on whether it proposes to file an appeal from the order dated December 21, 2018.

In the meantime, the TN State government filed Civil Appeal No. 23 of 2019 before the Supreme Court of India. Prof. Fatima Babu filed an Intervention Application in the Civil Appeal No. 23 of 2019. Vedanta also filed Special Leave Petition (SLP) Nos. 129 – 131 of 2019 against the order dated December 21, 2018 passed by the Madras High Court. The Appeal and SLPs came up before the Supreme Court of India on January 8, 2019, at which time the counsel for Vedanta prayed for an order allowing the company to reopen and start operations in light of the NGT order, which was opposed by the counsel for the TN state government. MDMK Leader, Mr. Vaiko who also filed an application in the matter personally appeared before the Supreme Court of India and strongly opposed the opening of the plant and requested that a connected petition filed by him in the year 2013 concerning violations by Vedanta also be heard along with these matters. The Supreme Court passed an interim order

⁷ Order dated December 21, 2018 passed by the Madras High Court, Madurai Bench in W.P. (MD) No. 25495 of 2018 between Fatima Vs. Vedanta Ltd. and Ors.

dated January 8, 2019⁸ staying the order dated December 21, 2018 passed by the Madras High Court and held that the directions passed by the NGT will be subject to the outcome of the appeal.

Meanwhile, the Writ Petition (MD) No. 25495 of 2019 filed by Prof. Fatima Babu came up before the Madras High Court on January 21, 2019⁹ and the same was withdrawn. Meanwhile on January 22, 2019, the TNPCB passed an order rejecting a pending application for renewal of consent to operate filed by Vedanta on the grounds of past violations by the company.

After hearing all parties in the matter, including an argument by Mr. Vaiko on the last date, the Supreme Court of India by a common order dated February 18, 2019¹⁰, disposed off all the Civil Appeals relating to Vedanta's Copper smelting Plant at Thoothukudi that were pending adjudication before it. In the order, the Supreme Court held that the NGT order dated December 15, 2018 that permitted Vedanta to resume operations subject to certain conditions, was made without jurisdiction and thus had to be set aside. The Supreme Court also set aside the order dated January 22, 2019 passed by TNPCB being a consequential order, thereby restoring the position of closure of the industry prior to NGT order dated December 15, 2018. The Supreme Court also recorded that it was open to the company to approach the Madras High Court with writ petitions challenging the orders of closure of the plant and any other interim reliefs it desired.

Proceedings now pending before the Madras High Court

Based on the same, Vedanta filed 10 writ petitions before the Madras High Court seeking different final remedies including - to quash the order of the TNPCB rejecting the Consent to Operate application filed by the industry as illegal and to direct the TNPCB to grant the company Consent for a period of 5 years, to quash the order of TNPCB directing non-resumption of production or operation of the unit without renewal of Consent, to quash the orders of closure of the plant by the TNPCB and the State Government and to direct the reopening of the plant with electricity and water supply restored and other incidental reliefs to enforce the reopening of the plant and restoration of operations. Vedanta also sought several interim prayers in the writ petitions including that of interim stay on the directions of TNPCB

⁸ Order dated January 8, 2019 passed by the Supreme Court of India in Civil Appeal No. 23 of 2019 between The State of Tamil Nadu and Ors. Vs. Vedanta Limited, with SLP (C) Nos. 129 – 131 /2019

⁹ Order dated January 21, 2019 passed by the Madras High Court, Madurai Bench in W.P. (MD) No. 25495 of 2018 between Fatima Vs. Vedanta Ltd. and Ors.

¹⁰ Order dated February 18, 2019 passed by the Supreme Court of India in Civil Appeal Nos. 4763-4764 of 2013, 8773-8774 of 2013, 9542-9543 of 2013, 5782 of 2014, 1552-1554 of 2019, 23 of 2019 and 1582 of 2019

and the State Government and interim access to the plant to undertake essential care and maintenance.

All the writ petitions filed by the industry came up for admission on March 1, 2019¹¹ before a Division Bench of the High Court at Madras and were admitted on the same day after the Bench had sought for the records pertaining to the case, and the matters were subsequently listed on March 27, 2019. In the meantime, several interim applications were filed by public-spirited citizens including Mr. Vaiko, Prof. Fatima Babu and Mr. Raja, who sought to be impleaded as Respondents in the proceedings. Several impleadment applications were also filed by employees of the company, which are currently pending adjudication. During the last hearing held on April 23, 2019¹², Vedanta pressed their interim application for access to the plant for safety and maintenance purpose and the intervenors pressed for impleadment. However, the Madras High Court has not passed any orders on the same and all the applications are still pending. The matter is now posted to June 11, 2019 for further proceedings.

Exposing the continuing fraud and violations by Vedanta in environmental clearance obtained for expansion of the Original Plant

Prince Cardoza, an activist and Secretary of Thoothukudi People Welfare Association filed a Writ Petition bearing W.P. (MD) No. 16005 of 2018 before the Madurai Bench of the Madras High Court, reporting the fraud committed by Vedanta in obtaining EC dated August 9, 2007 for expansion of the production capacity for Unit I from 900 tonnes to 1200 tonnes of copper anode per day and the continuing environmental violations and large scale pollution by Vedanta, and praying for quashing of the EC dated August 9, 2007 and prosecution of Vedanta for the reported violations.

This matter, which exposes the fraudulent acts of setting up of industry in prohibited area, misrepresentation of land availability and concealment of land inadequacy, non existent green belt, dangerous levels of air pollution, false and under reporting of pollutants being released by the company and water contamination being caused by the company, is currently pending final hearing, although the pleadings in the matter are complete.

¹¹ Two orders, both dated March 1, 2019 passed by the Madras High Court in W.P. Nos. 5756, 5764, 5771 to 5774, 5776, 5792, 5793 and 5801 of 2019 and in applications (W.M.P.s) filed therein, respectively.

¹² Order dated April 23, 2019 passed by the Madras High Court in WMP. No. 6630/2019 in WP. No. 5792/2019

Fighting Vedanta's sinister plans to double the damage : Shut Down of Sterlite Copper Smelter Unit II "Expansion Plant" pursuant to civil society protests and successful legal intervention

The EC for Unit II was granted on January 1, 2009, which would double the daily production of copper by installing a new smelter of 1200 tonnes per day. It was only subsequently revealed that the EC for Unit II had been obtained by fraud, misrepresentation and illegality committed by Vedanta and by mischievously bypassing the mandatory requirement of the public consultation process, as reported in the Final Report of the People's Inquest conducted in June 2018. The announcement of the expansion of the polluting industry's plant in Thoothukudi in January 2018, inspite of the problems reported and objections raised by the community, had led to the large-scale protests in Thoothukudi, which was finally met with firing on May 22, 2018 on its 100th day and massive police crackdown.

It was in a Writ Petition bearing W.P. (MD) No. 11220 of 2018 filed by activist Prof. Fatima Babu challenging afresh the EC dated January 1, 2009 as renewed, on the ground of fraud, misrepresentation and bypassing of public hearing, that the Madurai Bench of the Madras High Court granted interim relief dated May 23, 2018, staying construction of Unit II. This Writ Petition was filed by Prof. Fatima Babu pursuant to response received to queries raised by her under the Right to Information Act, 2005 on April 13, 2018, which revealed the bypassing of the public hearing process by Vedanta. Although the matter had been filed before the vacation bench and listed on May 17, 2018 on the ground of urgency i.e. prior to the firing, the interim injunction was passed a day pursuant to the firing.

Vide the order dated May 23, 2018, the Madras High Court had considered the arguments raised in the Petition and held that there was no existing valid approval for Unit II in light of the bypassing of public hearing process and granted 4 months time for conducting public hearing and considering the application for renewal of approval, i.e. by September 23, 2018.

Following the order dated May 23, 2018, no public hearing has been conducted in the stipulated time frame i.e. by September 23, 2018 and to date. Meanwhile, the EC dated January 1, 2009 for Unit II, as renewed, which had in any case been rendered invalid by the order dated May 23, 2018, lapsed on December 31, 2018. Consequently, the construction and works for the Expansion Plant remain shut as on date.

Prosecuting criminal acts committed by Vedanta

Activist Prof. Fatima Babu filed a criminal complaint bearing Cr.M.P. No: 6233 of 2018 under Section 200 of the Criminal Procedure Code, 1973 read with Section 15 of the Environment Protection Act, 1986, against the company and its top officials, including the Executive Chairman, Director, CEO, CCO & GM, Vice President (Projects) etc. before the Judicial

Magistrate Court No: III, Thoothukudi, in respect of their criminal acts and environmental violations. Vide an order dated January 9, 2019, the Judicial Magistrate dismissed the complaint citing pendency of matters before the Supreme Court and the High Court.

The said order dated January 9, 2019 has been challenged by way of criminal revision in CrI.R.C. (MD) No 251 of 2019 before the Madurai Bench of the Madras High Court, and the matter is currently pending.

Challenging the interference with independent institutions

Vide an order dated August 23, 2018, the then Chairperson of the Tamil Nadu Pollution Control Board (TNPCB), Mr. Nasimuddin was transferred in violation of policy and judicial precedents on transfer and in the absence of proper rules and guidelines. The act was perceived to be vindictive and a colorable exercise of power, given the crucial role of Mr. Nasimuddin in initiating proceedings and actions against Vedanta for the environmental violations. In his place, Mr. Shambhu Kollalikal was appointed as Chariman, in violation of law.

Pursuant to representations being filed by several civil society activists which were ignored by the authorities, an Ex-armyman, an IAS officer and vocal environmental activist, Dr. M. G. Devasahayam filed a Writ Petition (M.D.) No. 18790 of 2018 in the Madurai Bench of the Madras High Court, challenging the transfer and praying for framing of appropriate guidelines and recruitment rules. The High Court passed an order dated September 3, 2018¹³, dismissing the Writ Petition relying on the statement made on behalf of the authorities that they would consider the matter of the guidelines within 90 days and found nothing wrong with the transfer of Mr. Nasimuddin on the ground that it was a mass transfer and in light of the independent committee being appointed by the NGT in the matter of closure of Unit I.

¹³ Order dated September 3, 2018 passed by the Madras High Court, Madurai Bench in W.P. (MD) No. 18790 of 2018 between G. Devasahayam Vs. Chief Secretary, Government of Tamil Nadu & Ors.

Analysis of cases filed, judgments delivered

by the Madurai Bench of the Madras High Court this past one year on matters related to civil and political rights violations

SI.No	Number of Writ petition	Action by the court and an analysis of what remained to be done
1.	<p>W.P.(MD) No.11391 of 2018: K. Kathiresan s/o Karupppiah</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing third respondent to register a criminal case u/s.302 IPC (11 counts) against respondents 8 to 10 and others responsible for killing 11 and more innocent people staging protest at Tuticorin on 22.05.2018 demanding permanent closure of Sterlite Copper by deploying snipers in un uniform and shot dead the people on their vital points without adhering the Police Standing Order and the laws and rules governing the police firing and disbursing public gathering and to order for a judicial probe headed by a sitting Judge of the Hon'ble High Court of Madras and transfer all cases relating to the firing incidents to the file of the eleventh respondent to investigate the case in accordance with law under the direct monitoring of this Court by considering the petitioner's e-mail representation dated 23.05.2018 addressed to the respondents 1 to 3 within a time frame.</p>	<p>This prayer has been sufficiently attended to by the Hon'ble Court in its final order of 14.08.2018 directing the CBI to register case/cases on the complaints received against official/ police in respect of occurrences at Thoothukudi on 22.05.2018 and cause investigation thereon. The CBI was also directed to cause investigation on the aspects which the court had specially indicated. The CBI had not been restricted to consider only issues which had been highlighted in the petitions. The Court had held it will be the duty of the CBI to get to the bottom of things and file such charge sheet/charge sheets, as investigation reveals and necessitates. The court ordered action was directed to be completed within a period of four months of the receipt of this order. Towards such ends, the Director, Central Bureau of Investigation, New Delhi was directed to appoint a special team for investigation as above ordered.</p>

2.	<p>W.P.(MD) No.11394 of 2018: A. Rajini , Advocate , No 93, Law Chambers. Madurai Bench of the Madras HC, Madurai.</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents (i) to order for an independent enquiry by the 3rd respondent to probe the causes that led to the police firing and excesses in Tuticorin on 22.05.2018; (ii) to direct the District Judge, Tuticorin, to visit the Government Hospital, Tuticorin and the High Ground Hospital, Tirunelveli and to file a report with regard to the actual toll of death and with regard to the status of missing persons; (iii) to immediately withdraw the police force from the residential localities and stop indiscriminate arrest and torture; (iv) to immediately shift the injured persons to Madurai and to provide adequate medical care; (v) to ensure the supply of basic amenities like Milk, Rice, Dhall, Electricity and other provisions and to ensure free mobility; and (vi) to ensure the release of suspended Internet, Whatsapp and other information related activities.</p>	<p>The Hon'ble High Court has sufficiently passed orders on most of the prayers made. However, the issue relating to indiscriminate arrest and torture and consequential demand for withdrawal of Police force from residential localities has unfortunately not to been attended to in the said order.</p>
3.	<p>W.P.(MD) No.11396 of 2018: Syed Abdul Kader s/o Abdul Rasheedh</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus permitting a team of Advocates and Human Rights Activists to conduct a legal aid/fact finding at Thoothukudi and its vicinity affected with regard to the above said</p>	<p>The prayer herein indicates that there had been a restriction on the freedom of movement within the city not allowing for Advocates and human rights activists to assist those who were in need. The final order in this case does however does not refer to these restrictions on the freedom of movement and consequential orders.</p>

	incidents of Sterilite agitation on 22.05.2018 at Thoothukudi in a free and fair manner without any interruption by the respondents 3, 4 and 5.	
4.	<p>W.P.(MD) No.11397 of 2018:</p> <p>S. Muthukumar, Advocate, S/O of Late K. Sankaran, Plot No 430, S.L.C. 5, LIG Colony, Anna Nagar Maduri 625 020.</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 2 and 10 to shift and transfer all the injured persons, including police personnel who were injured in the Tuticorin Sterilite protest on 22.05.2018 and on subsequent dates by allowing the members of the Indian Redcross Society and further direct the fourth respondent to accord financial sanction for the above treatments within a time frame.</p>	<p>The prayer herein is to accord financial sanction for treatment of the injured has not been attended to in the final order as a result of which many of the injured had to spend from their own sources for all private medical treatments that they availed off for the past one year.</p>
5.	<p>W.P.(MD) No.11398 of 2018:</p> <p>M. Alagarsamy s/o K. Manohar, No 96/4, Sethu Palace, 1st Floor Main Road, Koilpatti, Thoothukudi District</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents 1 to 3 to take appropriate and immediate action as against the fourth respondent departmentally as well as under the criminal law in connection with his intentional omission in making a true and real report of facts about the procession that has been taken place on 22.05.2018 in connection with the agitation against the functioning of Sterilite Industries (India) Limited, Madurai Bye-Pass Road, T.V.Puram Post, Thoothukudi District, as expeditiously as possible within the time frame.</p>	<p>The CBI investigation ordered by the Hon'ble Court would look into this.</p>

6.	<p>W.P.(MD) No.11399 of 2018: C. Ezhilarasu s/o A. Chandrasegaran, Theva Pabmavathi Illam, Mass line, Melur Main Road, Y. Othakadai, Madurai District.</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents to take appropriate action to restore the internet service among the Tuticorin, Kanyakumari and Tirunelveli District for five days.</p>	<p>The Court through its order had directed the Secretary Home Department, Government of Tamil Nadu, to form a Committee towards ensuring that in taking recourse to the Temporary Suspension of Telecom Services (Public Emergency of Public Safety) Rules, 2017, International Standards, recommended by the United Nations Special Rapporteur on the Right to Freedom of Opinion and Expression are maintained.</p> <p>The public are unaware till today whether this direction of the Hon'ble Court has been followed since there is no Public information made by Government that this has been adhered to.</p>
7.	<p>W.P.(MD) No.11401 of 2018: Kavin Malar d/o Jareen Kanthan</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration declaring the second respondent's order dated 23.05.2018 vide Letter No.TS/329-1/2018 as illegal and unconstitutional.</p>	<p>Same as for item number 6.</p>
8.	<p>W.P.(MD) No.11402 of 2018: KAnimozhi Mathi d/o N. Mathivanan</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents to form a High Level Committee consisting of former Justices, efficient executives and</p>	<p>These concerns should be carried out by CBI in their investigation.</p>

	<p>others whom this Court feels fit and direct them to visit the spot viz., Tuticorin and file the status report giving the details of death toll immediately and direct them to mediate between General Public and Police Force and help to bring peace by stopping gun shooting.</p>	
9.	<p>W.P.(MD) No.11502 of 2018:</p> <p>Kanthakuamr s/o Ramakrishnan</p> <p>Write petition filed under Article 226 of the Constitutional of India Praying to issue a writ of Mandamus directing first respondent to probe the untoward incident of using of firing arms by the police person and shooting of 13 persons and brutal attack of the police persons towards the general public in Tuticorin on 22.05.2018 and 23.05.2018 by constituting a High Level Commission consisting of retired Honourable Supreme Court Judge ailing from Tamilnadu as a presiding member of the said Commission, two retired Honourable High Court Judges of Madras High Court, a Member of State Human Rights Commission, a Member from Tamilnadu State Women Commission, a retired Police Officer not less than the cadre of DGP of Police in Tamilnadu, a designated woman senior counsel in Tamilnadu who representing for woman rights and any other person deemed to fit to be appointed as Members in the said High Level Commission in total consisting of 9 members and to conclude the said probe by the High Level Commission within a period of three months and thereby directing the first respondent to file the report and recommendation of the said High Level Commission before this Court.</p>	<p>The prayer is for the constitution of high level investigation committee, to investigate, to complete its investigation in three months and file this report before Court. This is the responsibility now handed over to CBI as stated earlier.</p>

10.	<p>W.P.(MD) No.11661 of 2018:</p> <p>N. Muthu Amuthanathan, General secretary, AILU, Tamil Nadu State Committee, 4/412, College, Street, Thasildar Nagar, Madurai 625 020.</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing first respondent to register a case u/s.302 IPC r/w Arms Act against the second respondent in its personal name and handover the said case to the Special Investigation Team as formed and monitored by this Court</p>	<p>This will be attended to by the CBI as stated earlier.</p>
11.	<p>W.P.(MD) No.12297 of 2018:</p> <p><u>Henry Thomas s/o E.R Rajaiah, D.No 13.1, Vathiar street, Thoothukudi 682001</u></p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing fourth respondent to transfer the investigation/cases related to the shooting/encounter took place on 22.05.2018 and 23.05.2018 at Thoothukudi pending on the file of eighth respondent to the second respondent, further the second respondent may be directed to investigate the involvement of police officials including the District Administration, Thoothukudi and to monitor the same by the first respondent till filing of final report before the competent Court based on my representation dated 30.05.2018 within a time.</p>	<p>This has been handed over to CBI for investigation as stated earlier.</p>

12.	<p>W.P.(MD) No.13231 of 2018: K.S.Arjunan, District Secretary CPI (M), No16, Masilamanpural 3rd street, Thoothukudi district.</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to register a FIR on the first petitioner's complaint dated 29.05.2018 and to investigate into the same in accordance with law and to transfer the investigation of the cases to third respondent pertaining to the death of 13 persons in Tuticorin town in the police firings on 22.05.2018 and 23.05.2018 to the third respondent</p>	<p>This has been ordered as prayed for.</p>
13.	<p>W.P.(MD) No.13417 of 2018: A.W.D.Tilak s/o Late V. Antonysamy Pillai, Advocate, Thoothukudi</p> <p>Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing respondents not to arrest the people illegally and issue strict orders to follow section 41A, 41B, 41C, 41D, 50, 54, 54A, 55, 55A, 56, 57 and 60A of Cr.P.C. and particularly the judgment rendered in Armesh Kumar vs. State of Bihar [2014 (3) MLJ (CrI) 353 SC].</p>	<p>The said case had in addition to the prayer made, a few other interim prayers.</p> <p>The first was to appoint panel lawyers by the District Legal Service Authority in all police stations, namely in SIPCOT, South, North, Central, Pudukkottai, Puthiyamputhur, Muthayapuram and Sayarpuram Police stations to ensure that there were no illegal detention of persons and people had access to legal assistance. Unfortunately, no specific orders were passed on the same.</p> <p>The 2nd interim direction was to direct the Chief Judicial Magistrate, Thoothukudi to inspect the Armed Reserved Camp situated at Millarpuram, Tutuorin to ensure nobody was illegal police custody. This was in the context of several protests and public outcry, including from lawyers</p>

		<p>that hundreds of people were kept in illegal detention throughout the city. Unfortunately, there were no specific orders on the same.</p> <p>The third interim direction was for the District Collector to produce the section 144 Cr.P.C order promulgated on 21.5.2018 with the proof of date, place and mode of promulgation furnished. On this issue, upon the oral direction of Hon'ble Court, the Section 144 order was made public for the first time in the last week of July by handing it over in court.. It is important to note that this was the first time after 22nd of May - more than 2 months after the incident- that the Sec 144 section order was made known to the public. However, no details of when, where and how it was promulgated was ever furnished.</p> <p>The said petition categorically stands proof to the extensive non adherence to the law of arrest and detention as contemplated under section 41 A, 41 B, 41 C, 41 D, 50, 54, 54 A, 55, 55A 56, 57, 60 A of Criminal Procedure Court and the law enunciate by the Supreme Court in Arneesh Kumar was a state of Bihar.</p>
14.	<p>CrI.O.P (MD) 13548 of 2018 :</p> <ol style="list-style-type: none"> 1. Raja @ Therlam Raja 2. Prof. Fatima Babu 	<p>This petition is once again proof of two human rights defenders, namely, Raja and Fatima Babu, who had been continuously subjected to harassment by issuance of summons for enquiry about the anti-swterlite agitations. It was the order of the Hon'ble High Court on 30th July 2018</p>

	<p>Petitions filed under 482 Cr.P.C to direct the respondent Nos.1 and 2 not to harass the petitioner and others in the guise of enquiry Anti Sterlite agitation and consequently, direct the respondent not to violate the fundamental Rights of the petitioner and others in engaging protest and submitting grievance to the authorities concerned in accordance with law in the matter of Anti Sterlite Industry issue.</p>	<p>that not only brought relief to these two defenders, but to several others to whom such summons had been continuously issued. This sample case brought 'temporary' ease to others in the city.</p>
15.	<p>CrI.O.P(MD). No:15172 of 2018 :</p> <p>E. Athisaya Kumar S/O Elayaperumal, Door No. 155 S.M. Puram, 5th street, Thoothukudi</p> <p>This petition was to declare the impugned notice under Section 107 Cr.P.C issued by subdivision Magistrate cum sub Collector Tutuorin dated 20.08 2018 and quashed the same as illegal.</p>	<p>The court was pleased to stay all further proceedings in the matter relating to section. 107 Cr.P.C. The order categorically stands proof to the fact that with the entire cases after 22nd May , having been transferred to the file CBI by virtue of the order of the Madurai Bench of Madras High Court, the cause of action arising out of those cases cannot be the basis of an order u/s Sec 107 Cr.P.C. The Court held that it will have to be decided whether they can be made the subject matter of this action u/s 107. Cr.P.C. This has also brought to end temporarily the efforts of booking activists and human rights defenders u/s 107 and attempting to curtail their rights.</p>
16.	<p>W. P. (MD) No.1702 of 2019 :</p> <p>Mr. S. Mohan s/o Sankarasubbiah, No 2/35, Tjiruvenkatapuram village, Elaiynaickenpatti Post, Srivaikundam Taluk, Thoothukudi District 628 851</p>	<p>In the above petition there were petitions for interim directions as follows: one directing the District Legal Service Authority to enquire victim Santhosh Raj S/o</p>

	<p>A writ petition filed under article No. 226 of Constitution of India preying to issue writ of Mandamus directing the respondents to ensure that the right to peaceful assembly, association, expression, decent and arrest and detention of persons in Tuticorin district are strictly carried out as per our Constitutional mandate and as per the provisions of the law of arrest as contained in the Criminal procedure Code, 1973 and to pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice.</p>	<p>Karuvelam about the, illegal confinement, physical torture done by the Police officials.</p> <p>The second was for just and fair compensation to the victim for the physical and mental injuries suffered.</p> <p>The third was once again seeking a direction to the District Legal Service Authority to appoint a 24 hour panel of lawyers in all Police stations of Thoothukudi District to ensure that people have access to legal assistance and ensure that no violation of the right to arrest takes place in any of the police stations.</p> <p>The fourth was seeking a direction to the Superintendent of Police of Thoothukudi to produce the details of all applications received in all police stations for hall or public meetings since 22nd May 2018 and how each of them have been disposed off, including the number of orders in all Police stations that have been provided for meetings in private halls.</p> <p>The fifth was to direct the District Legal Service Authority to undertake a study for the period between 15.08.2018 and 15.01.2019 whether all the legal standards relating to arrest are regularly being followed in Tutuorin District with the assistance of senior competent lawyers in the Taluk Legal Services Committee and District Legal Services Authority and to submit a report to the Hon'ble Court in a time bound fashion and for this Hon'ble Court to pass</p>
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		necessary orders therefore on the basis of the said report and thus render Justice. This writ petition still pending.
17.	<p>Contempt Petition (MD) N o.1662 of 2018 in W. P.(MD) No 132 31 of 2018.</p> <p>K.S. Arjunan and others.</p> <p>Petition filed under <u>Section 11</u> of Contempt of Courts Act, 1971 praying to punish the Respondent herein for contempt of court for disobedience of the order Passed by this Hon'ble court dated 14.08.2018 made in W.P.(MD) No. 13231 of 2018 on the file of this Hon'ble court. The petitioners filed this Contempt Petition alleging that the CBI while recording the FIR failed to incorporate the names of the accused not withstanding the order dated 14.08.2018 in W.P.(MD) No.13231 of 2018.</p>	<p>The petitioners had made a submission that there should be a direction to the respondent to treat the complaint of the petitioners as part and parcel of the records. The learned Special Government Pleader for CBI submitted that the complaint of the petitioners would be very much part of the records in Crime No.RC. 8/S/2018/CBI/SCB/Chennai. On this basis the contempt petition was closed.</p>
18.	<p>K.S. Arjunan, CPM District Secretary, Thoothukudi</p> <p>Prayer to quash the one person commission of Justice Aruna Jagadeesan appointed by the government to probe the Thoothukudi riot. The petitioner told the court that the appointment of the committee was not in accordance with the Commission of Inquiry Act, 1952 and claimed that the entire exercise of deposing before the commission was futile as the report of the enquiry commission would not be binding on the government and the affected people might not get any remedy by filing affidavits on oath before the commission.</p>	<p>Though this petition was closed, it was only after this initiative was undertaken by the petitioner that the Government of Tamil Nadu had decided to attend to the anomaly in its earlier GO constituting the Commission by amending and issuing a fresh GO in early July 2018, amending the terms of reference of the Commission to empower it to probe the 'subsequent events in Thoothukudi and nearby areas including damage to public and private properties.'</p>

19.	<p>WP(MD) No.1019 of 2019 :</p> <p>E. Athisaya Kumar S/O Elayaperumal, Door No. 155 S.M. Puram, 5th street, Thoothukudi</p> <p>A PIL filed before the Madurai Bench of the Madras High Court seeking a direction to close Sterlite Copper for good so as to improve air quality. The Petitioner had stated that the Ministry of Environment, Forests and Climate Change had, under Section 23 of the Environment (Protection) Act, 1986, delegated powers to the State governments to invoke Section 5 of the Act, which included power to give directions such as closure, prohibition or regulation of any industry, operation or process. Invoking these powers, the State should close down Sterlite Copper.</p>	<p>The Division Bench observed that the Supreme Court was already hearing the appeal preferred by the Tamil Nadu State against National Green Tribunal setting aside the closure order and hence refrained from passing any orders in the case and has posted the same for maintainability. .</p>
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A close perusal of the outlined above matters pertaining to 13,14,15,16 reveal a general pattern which has been extensively supported by affidavits and necessary documentation in the Madurai Bench of the Madras High Court. These are indicative of violations of the right to peaceful assembly, the right to association, the right to protest, the right to criticize, the right to freedom of expression and the right of Human Rights Defenders to carry out their responsibilities utilizing their rights as contained in UN Declaration on Human Rights Defenders 1998.

The violations that are alleged to have taken place in the past one year and addressed in detail these above mentioned litigations are as follows:

1. That the provision of section 41A, B, C and D of Criminal Procedure Code in relation to arrest had not been followed at all.
2. That in the light of the 243 omnibus FIRs having been registered in Thoothukudi district immediately after 22nd May 2018 which have up to 2000 - 7000 unnamed persons, people were suffering from the fear of arrest, not wanting to take discharged injured persons from hospital and the prevalence of a general climate of fear of reprisals.

3. There were complaints of massive and unwarranted door to door search by the police, forceful entry of police into the house, damaging the properties, complaints of people subjected to torture, illegal detentions in the Police stations and the Vallanadu Police firing range, vulgar abuse of women in homes and CCTV cameras in several places of Thoothukudi town covered with cloth, when people were illegally detained there. All the above were up to 21th June 2018. In the month of July, 2018 Human Rights Defenders Thiru.Raja and Prof. Fatima along with many others were continuously harassed through the issue of summons forcing them finally to approach the Madurai Bench of the Madras High Court for obtaining an order in this regard to put an end to the harassment.
4. The thwarting of efforts by the officials of the Police Department in Thoothukudi together with the officials of the RTO office pushing pressure on the private bus owners to stop participants from Thoothukudi from attending a program on 15th of July 2018 at Loyola college campus in Chennai for the release of the English report of People's Inquest into the violence in Thoothukudi in which Justice A.P. Shah, former Chief Justice of the Madras and Delhi High Courts and former Chairperson of Law Commission of India was to release the same.
5. The efforts undertaken for the dedication of the Tamil report of the People's inquest at Thoothukudi held on 22nd July 2018 had been met with several obstacles caused by the local police functioning solely under the directions of Mr. Murali Lamba IPS, Superintendent of Police, Thoothukudi. Some of the highlights of his illegal actions are as follows :
 - Abirami hall, a private marriage hall initially agreed to be provided to the organisers for the event to be held on 22.07.2018 was 'refused' by the owner only due to 'undue pressure' exerted on him by the district Police.
 - The issue of summons to several persons from the families of the deceased and the grievously injured asking many of them to appear in their respective Police stations for an enquiry on the basis of complaints that they had formally registered against Police a day or two prior to 22nd of July 2018 was clearly understood to be pressure being exerted only to prevent them from attending the dedication ceremony of the tamil report of the People's Inquest in Thoothukudi on 22.07.2018. .
 - The efforts on 19th July 2018 by two DSPs, Mr.Prakash and Mr..Ravi, to delay the dedication of the Tamil report at Thoothukudi from 22nd July to any date after 5th August 2018.
 - Exerting pressure on the Roman Catholic Bishop of Thoothukudi as well as on the other state level leaders of political parties and not to physically attend the dedication event on 22nd July 2018.
 - The local DMK Secretary of Tutucorin Ms. Geetha Jeevan MLA being pressurized to give approval for the use of the Kalaingar Arangam for the

dedication meeting on 22.07.2018 only after receipt of Police approval for the use of the same.

- Even when permission was sought in writing from the local DMK Secretary of Tutucorin, Ms. Geetha Jeevan MLA, the local SIPCOT Inspector cared to still asked the following questions :

- How many people will the hall accommodate ;
- List of speakers addressing the event;
- Duration of the meeting;
- How many vehicles are expected;
- Where would the vehicles be parked;
- Who were the actual organizers of the event;
- Who were the VIPs expected to attend the event;
- Details of the 'book' being released;
- Provide a certificate of the sturdiness of the stage and the building;
- Provide the electricity certificate for the building;
- What fire safety equipment was available;

- As a result of this it was at 12 noon on 22nd July that a third hall was formally booked in the Good News Centre and after which the organizer kept the Police away from the campus. All these events were continuously informed through regular whatsapp messages exchanged with the IG (Intelligence) Chennai, The IG of Police (South) at Madurai, the Superintendent of police, Thoothukudi. This only indicates that the lower officials were acting only with the knowledge of the higher police officers of the state. The participants coming to the event, political party leaders from almost all political parties, including Mr.Nallkannu one of the senior most political leaders in Tamil Nadu and Justice Gopala Gowda, a former Judge of the Supreme Court of India were all subjected to different forms of harassment by thousands of Policemen deployed all over the city to cause a sense of fear through their surveillance, provoking videography to which even Justice Gopala Gowda was subjected to.
- People from Pandarampatti, Madathur and other village surrounding Sterlite were prevented by a Village Administrative Officer on instruction from of its Tasildhar to attend the event. Yet it is to be mentioned that the event went off well with over 500 participants and almost all political parties and all religious leaders participating and dedicating the report to the families of the deceased and injured persons present.

6. On 20. 08. 2018 a meeting was planned to be held exclusively for the victim families at Xavieranna, a private compound near Bell hotel belonging to a minority institution.

This meeting of victims was visited by 12 policemen in uniform along with 3 sub inspectors who were seen to be threatening the victims who were entering the compound and videographing them as they were entering. The purpose of the meeting was to acquaint the victims about the orders of the Madras High Court directing the CBI to investigate the case that had been delivered only on 14.08.2018. These policemen were finally forced to withdraw only after a telephone call was made to the IG of police (Intelligence), Chennai and instructions were issued to the lower police officials after that.

7. That Mr. Prince Cardoza, a petitioner in a PIL before the Madurai Bench of Madras High Court was, on the night of 30.12.2018, after 10.15PM, taken from his house by police without any written orders/summons and was made to travel on his bike with the policemen as pillion, initially to the SIPCOT police station. When he neared the SIPCOT Police station he was directed to proceed to the office of District SP and later asked to proceed to the Tuticorin thermal power plant police station but finally taken near the Tuticorin Port Guest house. All these were because Mr. Prince Cardoza had accompanied a US based journalist Mr. Mark Scialla, who works with Aljazeera, to the house of the diseased and injured victims of 22nd May, 2018. It was only due to public spontaneous protest that was held past midnight that night that resulted in his immediate release.
8. Persons who are members of what's app groups related to the Anti Sterlite Movement (called by different names with different administrators) were asked to come to the compound of the Thoothukudi south police station to a building adjacent to the police station, through telephone calls made on their phones from the private number of one constable Jesuraja to fill up a 3 page questionnaire that they had to fill up containing all details of their immediate and extended family with details of telephone no, place employment, etc. These people were finally also specifically advised to get out of the what's app group that they belonged to. If this is not a violation of the right to association of human rights defenders , then what is it ? This event was also brought to the personal attention of the District Collector and the District Superintendent of Police and still continued thereafter.
9. On 17.01.2019 one Santhosh raj was called on his phone to come to the tollgate of Puthur Paandiyapuram where police officials took him in a vehicle and thereafter he was subjected to verbal abuse, threat and mentally physically tortured for his deposition before the Justice Aruna Jegatheesan commission and CBI. He was then falsely implicated by criminal case and remanded to judicial custody. If this is not a reprisal for being a human rights defender then what is this ?
10. On 18.01.2019 one Michael Anto Jeenious son of M. Johnson while standing near Amman temple at Pandarampati village was forcibly dragged by Sub Inspector Regis and 6 other policemen. He was blindfolded, pushed into a police vehicle and was abused in filthy language and threatened to withdraw the complaint before the CBI and Justice Aruna Jegatheesan commission. Thereafter, he was assaulted and subjected

to severe police torture sustaining injury to his right knee and hands. He was falsely implicated in a criminal case, formally arrested and remanded under judicial custody. If this is not a reprisal for being a human rights defender then what is this ?

11. Immediately after Mr. S. Mohan of People's Watch had filed a PIL before the Madurai Bench of Madras High Court in January 2019, and thereafter subsequently filed a complaint before Tamilnadu State Human Rights Commission on the same issue highlighted under item 8 & 9, the DSP (Rural) Tuticorin issued a written order requiring his presence on 8/3/2019 to enquire into his complaint with the Tamil Nadu SHRC. Thiru. Mohan thereafter complained about this to the DSP in writing after which only the harassment stopped.

These are but a few selected violations of the right to association, the right to peaceful assembly, the right to express, protest, criticize and the right of Human Rights Defenders that people have been subjected to in Thoothukudi this past year that have all been highlighted before the Madurai Bench of the Madras High Court and most of these cases are also pending. It is pertinent to mention that after the PIL was filed in the month of January 2019 by Mr. S. Mohan, Mr. Murali Lamba IPS, the Superintendent of Police of Thoothukudi was immediately ordered by the Division Bench to appear the day after the PIL was admitted to explain to the Hon'ble court about the allegations made. He was made to wait almost the whole day before the Court and was advised by the Court at the end of the day when the case was finally taken up, to adhere strictly to the rules and not engage in violating the rights of ordinary people to express their discontent against Sterlite. There are thousands of victims belonging to a variety of organizations who do not have the privilege of access to the High Court and therefore their cases have not been recorded.

Recommendations

A. Government of Tamil Nadu relating to families of the deceased and injured in Thoothukudi after 22nd May 2018:

A-1. Along with the exgratia payments that have been provided so far, the Government of Tamil Nadu also announced employment opportunity for one person in every family of the deceased. However, as it emerges very clearly from the recorded statements of all the family members in Thoothukudi, there was no exercise undertaken by the District Administration inspite of their claims to have constituted several teams of Thasildars and Deputy Thasildars to collect details towards this to match the skill set of the individuals selected for employment and the employment granted. Well qualified and educated individuals and even those in universities who were currently undergoing higher education were appointed as 'Thalayari' (village assistant). The minimum qualification for a 'Thalayari' position is secondary school final pass. Those holding professional skill sets and experience like driver, educational qualification of graduation and qualified mechanical engineers are offered the lowest possible government employment. This is a gross humiliation to the victims and survivors of the May 22 incident and an attack on their personal dignity. It is important that all such appointments are immediately withdrawn and the same people are provided adequate jobs according to their skills and experience and these employments should have the opportunities for promotions. People recall that in the 1996 anti-Sterlite protests, which ended as a clash between fishermen and the Nadar community that resulted in persons being killed in the police firing, their family members were provided employment as 'junior assistants' which is a higher position than 'Thalayari' and eligible for promotion. We also recall that in the Paramakudi police firing in the year 2011, the members of the 7 families of the deceased were provided employments as junior assistants. The Government of Tamil Nadu is therefore urgently required to ensure that all the two families who of the deceased and thers from the families of the grievously injured who have not yet been provided with the employment should be immediately provided the same and all the others who have been provided jobs as 'Thalayaris' need to be urgently reviewed and provided with adequate and suitable employments commensurate with their education and training but in any case the minimum being that of a junior assistant. In addition, in each of those families from the deceased having individuals eligible for old age pension, the District administration should ensure that they are all immediately included in the scheme since the bread

winner in the family who was looking after them so far is no longer there to make ends meet.

A-2. The compensation provided by the Government of Tamil Nadu is at best an ex-gratia support to the victims and survivors. This financial support by the Tamilnadu government from the Chief Minister's Fund is highly inadequate as can be interpreted from the statements recorded from the families interviewed in Thoothukudi. Unless this ex-gratia sum is coupled with other benefits ensuring each of the families' basic right to livelihood, food and shelter, this will remain a short-term cover up measure to the human rights violations suffered by the families. For those severely injured because of the bullets and other forms of police atrocities the Government provided them a sum of Rs 5 Lakh. This is grossly inadequate. This will not help the people meet their required medicine and treatment costs alone. The Government of Tamil Nadu need to urgently undertake a case by case reassessment of the financial support provided to those grievously injured.

A-3. It is important to factor here that those severely injured had also lost their employment due to the disability they are now suffering from. All injured, whether treated in government or private hospital, are required to be independently reassessed and examined on the severity of the injury and status of disability. The Government of Tamil Nadu should order an immediate medical assessment to be conducted by an independent team of qualified and experienced doctors, including specialists from outside Thoothukudi. The severely injured should have the right to have their own representative (competent NGO, lawyer or a trade union leader) accompanying them during this reassessment of their individuals cases.

A-4. All the severely injured people should be allowed to appear before the team of doctors mentioned above, irrespective of whether they underwent treatment in government or private hospitals. The Government of Tamil Nadu should allow all the accused to produce all their past medical records without any fear of reprisals even in case they underwent treatment at private hospitals. These records of private hospitals should be verified and taken on record and they should also be also provided an ex-gratia financial support of Rs 5 Lakh or Rs 1.5 Lakhs as entitled in the relevant case.

A-5. The Government of Tamil Nadu should ensure that:

- a. the freshly assessed status of injury and disability on a case by case basis should be the criteria used to provide them with adequate employment matching their skill sets, training and experience.

- b. Those who are confirmed to have disability should also be issued a disability card along with counselling on the possible use and benefits of the same.
- c. Those who require further treatment and surgery, the same should be scheduled for the same at a hospital of their choice irrespective of the geographic location of the hospital chosen within the state.
- d. In the cases of those who have been provided with or recommended support equipment and artificial limbs, the Government of Tamil Nadu should undertake and commit to their its lifelong replacement and care at the state cost.
- e. The Government should also ensure that all those with severe injuries are supported with suitable disabled friendly vehicles for their commuting.

A-6. The 16th person (initially severely injured) to die in Thoothukudi in October 2018 due to police torture resulting in severe head injuries, has not yet been paid the remaining Rs 15 Lakh compensation. The Justice Aruna Jagadeesan Commission of Inquiry had recommended that this person's family should be given an ex-gratia payment in line with the government's announcement for those killed. However, this has not been respected by the Government. Along with the ex-gratia payment, a member of this person's family should also be provided with adequate and suitable employment.

A-7. Those who lost their lives and were injured are seen and perceived as anti-socials by certain sections of society. There is a certain stigma that they feel they live with after May 22. They are also under pressure from within their own communities at times and if they are staying in rented houses, the pressure from the house owners exists. The Government of Tamil Nadu in all such cases should ensure that the families are urgently made eligible and allowed to apply for accommodation under existing government schemes and their applications should be responded without any delay.

A-8. Children and youth from the families of the deceased and grievously injured are severely affected in Thoothukudi. It is surprising that the District Child Protection Unit and (DCPU) the Child Welfare Committee of Thoothukudi did not deem it fit to meet these children in their respective houses and offer them counselling and ensure that they were not discriminated in their schools and verify if they had been forced to drop out from schooling for any reason. One of the aspects concerning them which require urgent attention is their education. Many of these children had to discontinue their school education and forced by circumstances to contribute economically to the family. Had the DCPU or the CWC intervened this situation could have been averted with

assistance being provided to the families. Compensation to these families alone will not ensure education continuity for the children and youth. In this context it is important that the authorities undertake special measures to ensure that children and youth of the affected families are ensured quality education at least till graduation. The Government of Tamil Nadu should therefore take care of all the costs for all these children and youth from the families of the deceased and grievously injured to continue their school and high education in the university and elsewhere in subjects and institutions of their own choice.

A-9. The only entity enjoying a totally 'liberal treatment' and enjoying all rights to associate, express, assemble in Thoothukudi is Sterlite. Sterlite has used its CSR funds for its own publicity and most often to mislead and spread falsehood among the public. It has been using its CSR promotion in Thoothukudi to attempt to influence the local population and change existing perceptions. The Government of Tamil Nadu should note that a company accused of environmental damage, and whose premises it has sealed and disconnected electricity connection with its own State Pollution Control Board confirming the environmental violations, should not be allowed to promote itself in the state through whatever means. When it comes to business and human rights, there are certain globally accepted principles to which India is a party to and it should not be only that CSR concerns dominates. According to these UN Guiding Principles on Business and Human Rights, all States have a duty to protect everyone within their jurisdiction from human rights abuses committed by companies. Companies also have a right to respect human rights ie. avoid infringing on the rights of others wherever they operate and whatever their size or industry and address any impact that does occur. This responsibility exists independently of whether States fulfil their obligations. When abuses occur, victims must have access to effective remedy, through judicial and non-judicial grievance mechanisms. It is important to note here that in 2013 the Supreme Court had fined Sterlite Rs 100 Crore confirming environmental violations. In Sterlite's advertisement it makes several claims contrary to the Supreme Court's view based on which it paid the fine. The resounding silence of the Government of Tamil Nadu to Sterlite's misleading and false advertisements is questionable. In the light of the above, it is important that the Government of Tamil Nadu immediately takes steps to ensure that all programs undertaken by Sterlite under its CSR are carried out only after due information to the District administration so as to ensure that they are not in any way to function against established practices in business and human rights.

A-10. Such perceptions get stronger when put against the conduct of senior functionaries of the government. The Tamil Nadu Chief Minister Edappadi K Palaniswami till date has not visited Thoothukudi city even during the recent elections. The Chief Minister should therefore visit Thoothukudi on the first anniversary of the Thoothukudi killings on May 22, pay respect to the families of the deceased and tender a public apology for the impunity that continues and the fact that the Commission of Enquiry appointed by his Government is yet to even complete one third of its task. This public apology should be according to the UN Principles of Victims' Rights and he should therefore assure the people of Thoothukudi that these kinds of violations will never be repeated under any circumstances by the Government of Tamil Nadu in future.

A-11. The Governor of Tamil Nadu Thiru Banwarilal Purohit should also apologise for the incident of chasing outpatients from the Thoothukudi Medical College Hospital, whose new emergency wing he went to inaugurate in December 2018. The Thoothukudi SP, the District Collector and the Dean of the hospital should apologise for such an inhumane act of asking over 19 injured victims from the firing to vacate their beds at 3 AM and make sure they left by 6 AM in the morning.

B. National and State Human Rights Institutions (N/SHRIs):

B.1. The NHRC has till date refused to acknowledge the complaints sent by People's Watch and Human Rights Defenders Alert – India (HRDA). It is a deliberate act of the NHRC to ensure that interventions from HRDs and lawyers closely associated with legal interventions in this case is kept out. A hasty premature closure of the case by the NHRC is a proof of the same. People's Watch and HRDA had sent reminders on May 30 and July 31, but no response and it instead closed the case on October 25, 2018. NHRC failed to acknowledge the People's Inquest report despite the personal meeting between its Chairperson and a delegation from People's Inquest team. A review petition by People's Watch is currently pending seeking to re-open the case. It is important that NHRC abides by the spirit of public disclosures and its own rules and regulations and make public its own independent investigation report and response of the Government of Tamil Nadu. The NHRC should therefore acknowledge the severity of this case and assess itself whether 'normalcy has returned in Thoothukudi'. It should rehear the victims who had deposed to its investigation team in June 2018 and reopen the case and ensure that it is heard by a full bench of the NHRC in a full court allowing legal representation on behalf of the complainants. The NHRC should comply with all existing international standards on human rights, human rights defenders and business and human rights and, acknowledge its roles and responsibilities within the same.

B.2. Mr L Murugan, Vice-Chairperson of the National Commission for Scheduled Castes, who also visited Thoothukudi should make his report public along with the recommendations of the National Commission for Scheduled Castes in this case.

B.3. The Tamil Nadu State Commission for Protection of Child Rights (SCPCR) which had undertaken an enquiry and came out of with a report concerning illegal detention of children in a police firing range, should immediately make its report public. The SCPCR should ensure prosecution of police officers responsible for these detentions and recommend adequate compensation to each of the 30 the children for their illegal detention.

B.4. The National Human Rights Commission has to urgently revisit this case and ensure that the UN Guiding Principles on Business and Human Rights 2008 have been basically adhered to by the State and Sterlite company in all their efforts this past year.

B.5. The Government of Tamil Nadu is required to urgently ensure that all its Chairpersons and members of its state human rights institutions like the SHRC, the SCW, the SCM, the SCPCR and the State Commissioner for PWDs are fulltime members and paid on par with the dignity of the tasks that have been statutorily bestowed to them. Treating some members of these institutions are part time members without adequate remuneration being paid to them robs them of their responsibilities to uphold the human rights of women, children, minorities and persons with disabilities who rights they are to uphold. The Government is further to ensure that they have adequate staff to carry out all their statutory responsibilities and further provided adequate financial resources to carry out their responsibilities. Members of the SHRIs will function independently only if their own dignity is ensured by the Government. They need to be compliant to Paris Principles.

Justice Aruna Jagadeesan Commission of Enquiry:

C.1. The Justice Aruna Jagadeesan headed Commission of enquiry needs to complete its mandate within a stipulated time frame. It is already a year since the incident took place and people's expectations are turning into extreme frustrations. From day one, the Hon'ble Commission sits for only for a week in a month. If the Commission needs more staff, more District Judges just to assist in recording evidence, the same should be made as its demand to the Government. But this has not been the case so far. At present the commission has only one retired district judge on board to assist the Commission in Thoothukudi and as things stand, to fasten the process, the government urgently needs to appoint at least a few more district judges and other staff only for the purpose of recording formal evidence from almost another 600 persons. The Government of Tamil Nadu should take efforts to ensure that this

Commission completes its mandate within the next three months with additional staff being provided. Otherwise the appointment of this Commission also will become another mockery of the institution of seeking truth and justice.

C.2. It is important to introspect and publicly debate and come to a final conclusion at least within the state of Tamil Nadu the prevailing culture of the demand for and the appointing of Commissions of inquiry to enquire into matters that arise out of gross human rights violations when over nine statutory institutions like the National Human Rights Commission, the National Commission for Women, the National Commission for Minorities, the National Commission for Scheduled Castes, the National Commission for Scheduled Tribes, the National Commission for the Protection of the Rights of the Child, the National Commissioner for Persons with Disabilities, the Central Information Commission and the National Commission for Safai Karmacharis exist at the national level and there is a State Human Rights Commission, a State Commission for Women, a State Commission for Minorities, a State Commission for the Protection of the Rights of the Child and a State Commissioner for Persons with Disabilities at the State level. Both the NHRC and SHRC have a DGP rank officer heading their respective investigation wing. The culture therefore of appointing commissions of inquiry should not be a political sham to politically silence the critics and population and should not be an attempt to delay and dislodge the truth. The Government of Tamil Nadu should ensure that the Justice Aruna Jagadeesan Commission of Inquiry comes out with its final report in the next four months or else it needs to close the Commission from carrying on with its work.

C- Central Bureau of Investigation (CBI):

D.1. The over 243 criminal cases that were initially transferred from the jurisdictional Thoothukudi police to the Crime Branch CID before the end of May 2018 by the DGP of Tamil Nadu were then transferred to the CBI for investigation as one case on Aug 14, 2018, by the Madurai Bench of the Madras High Court with the specific direction to complete the investigation within four months. Till this day, two blank FIRs alone have been registered and not a single police officer or revenue officer been included in these FIRs despite it being nine months from the date of the high court order. This is reflective of the general climate of impunity that continues to exist in all cases of torture and extra-judicial killings in the country. The CBI should take all steps to ensure that investigation is completed and the chargesheet is filed within the next three months.

D.2. The CBI should also ensure that its undertaking before the Madurai Bench of the Madras High Court in the Contempt Petition filed by Mr. K.S.Arjunan of the CPI(M) party of Thoothukudi that it shall treat all the complaints received from the victim families as part and parcel of the records in Crime No.RC. 8/S/2018/CBI/SCB/Chennai shall be meticulously followed.

E- Tamil Nadu State Legal Services Authority:

E-1. The State Legal Services Authority (SLSA) first needs to be appreciated for the excellent services rendered by its District Legal Services Authority at Thoothukudi in May 2018. In a few PILs pending before the Madurai Bench of the Madras High Court, it has been emphasised that the rights of arrest as contained in the Criminal procedure code are not being adhered to and prayers have been made for intervention by the DLSA in Thoothukudi to intervene with appointment of panel lawyers for every police station to ensure that there are no cases of illegal detentions, torture and violations of the law of arrest that take place in the district. Since continuous violations are still found to be taking place in large numbers, even as this report is being released, the DLSA should immediately ensure that panel lawyers are made available for every police station to represent on behalf of people who require their services.

E.2. It is atrocious that people who were implicated in false cases are still forced to attend courts every month for their appearance on the basis of cases that were registered against them for participating in the peaceful protest on 22nd May 2018. The Madurai Bench of the Madras High Court had reduced the 243 FIRs into one FIR and handed over the investigation of the same to the CBI. Given this, people being forced to regularly appear in the cases before Judicial Magistrate is a clear case of deliberate judicial harassment. The DLSA at Thoothukudi should appoint special lawyers in these cases on behalf of the accused who are appearing in the court in the cases. These lawyers will file petitions in the respective courts for the appearance on summons of these accused persons only if charge sheets are filed against them.

F. Human Rights Defenders:

F-1. In the case of human rights defender Mugilan, who suddenly disappeared on February 15, 2019, after his exclusive press conference at the Press club in Chennai accusing the IG of Police South Range Madurai and the DIG of Police Tirunelveli for the Thoothukudi killings, which he proved through the CCTV video footages that he provided to the media at the press meet. The CB-CID police investigating the case and reporting to the Madras High Court has not publicly acknowledged if it has examined the IG South Madurai and DIG Tirunelveli in its investigation or even any of the officials of Sterlite. Before the next hearing on June 6, 2019,

the CBCID should examine these police officers and Sterlite's senior officers about their role in the disappearance of Mugilan and present it comprehensive report to the Hon'ble Court.

F-2. This report cites several cases that were registered before the Madurai Bench of the Madras High Court HRDs, lawyers and activists' journalists in an effort to high light violations of different human rights prevalent in the district. Activists and journalists speaking to victims have also been under surveillance causing journalists visiting Thoothukudi great embarrassment. These are all acts of the district administration and police violating the fundamental freedoms guaranteed by the Indian Constitution. It is surprising that no pro-Sterlite person, including commercial reporters, were ever handled in this manner. The Government of Tamil Nadu should take urgent measures to immediately restore uninterrupted exercise of the fundamental right to associate, to peaceful assembly, to protest, to criticise and function as human rights defenders in the district of Thoothukudi. The only peaceful assemblies that the people of Thoothukudi experienced was when the Justice Tarun Agarwal led committee of the NGT visited Thoothukudi to perform its mission and when the Election Commission of India had its Observers on the ground to conduct the elections to the parliament and assemblies. Even a few days ago, the district administration did not respond to several applications seeking permission to hold events to pay homage to those martyred a year ago on May 22, 2019. It was only interventions undertaken by the applying organizations before the Madurai Bench of the Madras High Court that had permitted a hall meeting to pay homage with several conditions. Democracy has been at its lowest in Thoothukudi. The District Magistrate therefore should ensure that in all matters relating to people's right to peaceful assembly and other related rights to expression, dissent, criticize and associate human rights defenders – whether they are individuals, or associations, registered or non-registered are handled first with respect by all state instrumentalities within the district whether they are revenue officials or police officials and allowed to enforce their rights as enshrined in the Constitution without any hinderance as has been seen in the past one year. The rights that Sterlite employees and the company have and are seen to be enjoying have to be enjoyed equally by civil society organizations and individuals who oppose Sterlite since they have also been seen to be carrying out only the statutory tasks that the Government had failed to do on its own.

F-3. The Thoothukudi Police should resist from opening 'history sheets' or initiate Sec 107 or Sec 110 Cr. P.C. proceedings against persons who are named in the 243 FIRs (now reduced to one) or earlier orlater FIRs related to cases registered in the anti-Sterlite protests. These

are people drawn from all walks of life who protested peacefully exercising their democratic right guaranteed in the Constitution. They are not 'criminals' and should not be either perceived or treated as 'habitual criminals'.

F-4. The Chief Secretary should intervene urgently to acquaint all her senior secretaries and police official with the provisions of the United Nations Declaration on the rights of human rights defenders so that these gross rights violations that have been witnessed in Thoothukudi district are not seen to be continuing.

G. United Nations Special Procedures:

G.1. Eight UN Special Rapporteurs who had jointly issued a statement concerning the May 22 events in Thoothukudi should revisit this case urgently in the light of almost no efforts undertaken in the past one year to break the prevalent state of impunity. According to their mandates, they should undertake a visit to Thoothukudi (official or academic) to understand the developments over the past one year and interact with people to have real assessment from the ground. They should also undertake an assessment of the case of reprisal against Mr. Thirumurugan Gandhi for engaging with the UN mechanisms including his oral submissions at the UN Human Rights Council.

People's Watch began its journey in 1995 as a program unit of the Centre for Promotion of Social Concerns based in the city of Madurai, Tamil Nadu. For the last 20 years, People's Watch has been to fulfil its vision to promote a society free of human discriminations, injustices and create socio-economic conditions for the realisation of human values and human rights. One of the principal objectives of the organisation is to cultivate a culture of human rights through education and social awakening. People's Watch is engaged in legal intervention, human rights education, campaigning, networking and rehabilitation. People's Watch also hosts national networks and coordinates interventions concerning human rights defenders and human rights institutions in India.



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