

Chapter 9:

Justice: A Distant Dream in Thoothukudi

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It has been more than a year since the peaceful protestors in Thoothukudi in Tamil Nadu were brutally killed by police firing during protests seeking the closure of the heavily polluting Sterlite Copper smelter plant in Thoothukudi, Tamil Nadu. Protests and dissent, which have always

been the strength of the Indian democracy, were mercilessly and in the most inhumane manner, murdered in Thoothukudi. The image of a policeman in a yellow shirt with a sniper atop a vehicle shooting at Thoothukudi protestors continues to haunt.

In the name of progress – Commission of Inquiry

A day after the police firing in Thoothukudi, the Tamil Nadu government appointed a Commission of Inquiry consisting of a single member, Honourable Justice Aruna Jagadeesan, retired judge of the Madras High Court, to inquire into the causes and circumstances leading to the firing that resulted in deaths and injuries on May 22, 2018^{iv}. Out of the 15 persons who lost their lives in the police firing and *lathicharge*, the Commission has collected statements from the families of 13 of the deceased. The Commission has also held an inquiry into 316 persons from amongst those who were critically injured and were eyewitnesses. In total, 329 persons were examined by the Commission until May this year. The Commission has received statements of 440 persons and 200 Sterlite employees, who are yet to be examined.

The Commission was mandated to complete

its investigation within three months of its appointment. A year has passed and the Commission still 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. It is anticipated that at the present force, it will take the Commission several more months to complete its task.

In addition to the compensation, the Government of Tamil Nadu also promised to provide employment to one family member of each of the deceased. Most of them have been appointed as *Thalayaris* (village assistants). This possibly is one of the lowest levels of government employment available in the state of Tamil Nadu. The government, clearly, did not apply much thought while appointing the people.

Lethargic CBI Inquiry

The Madurai Bench of the Madras High Court ordered for an inquiry by the Central Bureau of Investigation on August 14, 2018 into the incidents of police firing. This was a ray of hope for the residents of the town. However, despite explicit directions from the court on the investigation being completed within four months (i.e. by December 2018), the investigation remains

incomplete nine months after the deadline has passed. Once the CBI started its investigation, persons expressing their stand in opposition to Sterlite faced continuous harassment by the police – incidents that the CBI did not take into cognizance. This has left the people in total despair with little hope of justice from the CBI investigation, too.

Reprisals on Human Rights Defenders

The defenders of human rights have had tremendous challenges in Thoothukudi, facing the wrath of the state. Those who have withstood the struggle have been publicly accused of being ‘people who have indulged in violence, extremists or terrorists’. The large number of omnibus FIRs^v that were registered were used generously to book anybody who belonged to any of the numerous ‘anti-Sterlite’ movements in Thoothukudi, to ensure that 2000-7000 accused could be included in each of the FIRs. To this end, started the herding of young people across the town, their illegal detentions, torture, verbal abuse, their false implication in several cases and remand after illegal detentions. This soon became the subject of public protests, interventions by political parties and even a public interest litigation filed in the Madurai Bench of the Madras High Court.

The next course of action that immediately followed was to attempt the use of preventive 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^{vi}. Through a series of legal interventions challenging each of the detentions, all the detainees were released by July 2018^{vii}.

Thirumurugan Gandhi, a prominent human rights activist and defender in Tamil Nadu, was arrested at Kempegowda International Airport, Bengaluru, in August 2019. He was returning to India after attending the recent United Nations Human Rights Council (UNHRC) session, formal meetings in the European Commission as well as other meetings in Europe. During the UNHRC sessions in June 2018, Gandhi had on record mentioned the death of 15 people in Thoothukudi due to police firing and other police actions meted out against the peaceful protestors. He was charged with sedition for his speech at the UNHRC.

Investigation by the National Human Rights Commission

The National Human Rights Commission (NHRC) had initially on May 23 2018, on the basis of reports that appeared in the Times of India, taken suo-motu cognizance of the incident. Citing the said report, the NHRC registered a complaint with Case No: 907/22/41/2018 and sent an investigation team to Thoothukudi to conduct an independent enquiry.^{viii}

Despite serious concerns that still remain and justice not being delivered to the victims and their families, the NHRC closed the case stating:

“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 that 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.”

Recently, the Commission agreed to reopen the case after an appeal by Human Rights Defenders Alert-India and Peoples’ Watch, who had initially sent complaints in this case as well.^{ix}

A Distant Dream – State of Litigation

On May 23 2018, the Government of Tamil Nadu ordered for the closure of Sterlite Industries after the police firing in Thoothukudi. Sterlite appealed against this order at the National Green Tribunal, which ruled against the closure of the plant on

December 15, 2018^x. The Supreme Court, on hearing an appeal petition against the order of the National Green Tribunal, ruled that the Tribunal lacked jurisdiction in this case.^{xi} Sterlite Industries has now approached the Madras High Court

against the order of the National Green Tribunal and the case is being heard by the Court.

Almost a year later, justice for the people of Thoothukudi remains a distant dream and it is unfortunate that despite one year having passed, no one has been held accountable for what happened in Thoothukudi on May 22, 2018. What is more disturbing is that there is no sign of any action being considered or initiated by the

Government of Tamil Nadu against the errant police officers in Thoothukudi. There is a common feeling of dejection and disappointment among the affected families due to the lack of action against any of the state officials, including the police, whose actions led to the death of people. The parameters of justice for them have been reduced only to ex-gratia compensation and jobs.

The Looming Corporate Will

Ever since its initiation in 1995, the Sterlite plant was an issue of contention as it continued to allude norms and compliances, which impacted the lives and health of people. The decision to expand in the face of such opposition had led to popular unrest in the community. They were further frustrated because despite local and national judicial and administrative bodies having documented water contamination, air pollution and other forms of environmental degradation linked to the copper smelting plant and related activities, the state had not taken cognizance of the matter and seemed to have colluded with the Vedanta group.

It is pertinent to note that it was the Company that first claimed the perceived threat based on which the action of the state followed. The Company, instead of seeking protection for itself, if it really apprehended danger, instead sought the banning of the democratic right of the people to protest in a public space. The police complied and this led to severe consequences for the people. All this was happening while the people of Thoothukudi had clearly communicated that their protest was not against all industries, but against the hazardous ones with unscrupulous practices, affecting the

people and environment. The government of Tamil Nadu had also failed to point out before the Honourable Madras High Court the huge impropriety of a private company seeking a ban on any democratic activity in the public space to safeguard its private interests. This infringement on the rights of the community to protest peacefully, seeking answers and redressal of issues of non-compliance by the Company, was a direct attack on the fundamental rights as enshrined in the Constitution of India.

Even a year after the mass reprisal and the ongoing human rights violations by the state at the behest of the corporate, the Company continues to mark its presence in the region through its CSR activities. And all this is happening while the local administration seems to be playing the role of 'watch-dog' on behalf of the Company.

The situation in Thoothukudi very well underlines a dangerous and growing reality in India where companies leverage the government and its agencies to use force to subvert popular voices against them and their unethical operations as an extension of corporate will.

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- i. Human Rights Defenders Alert-India
- ii. Partners in Change
- iii. With inputs from Himani Tiwari
- iv. <https://www.thehindubusinessline.com/news/national/one-person-commission-to-probe-thoothukudi-violence/article23967238.ece>
- v. Omnibus FIRs do not have the name of a specific accused and may be misused to implicate random people.
- vi. <https://www.thehindu.com/news/cities/Madurai/advocate-detained-under-nsa-thoothukudi/article24533329.ece>
- vii. <https://scroll.in/latest/888807/tamil-nadu-madras-high-court-summons-thoothukudi-collector-over-detention-of-advocate-under-nsa>
- viii. <http://nhrc.nic.in/press-release/nhrc-notice-government-tamil-nadu-over-killing-more-10-people-police-firing-tuticorin>
- ix. <https://www.thehindu.com/news/national/tamil-nadu/national-human-rights-panel-may-reopen-thoothukudi-firing-case/article29412230.ece>
- x. <https://www.thehindubusinessline.com/news/national/ngt-orders-reopening-of-sterlite-plant-in-tamil-nadu/article25751269.ece>
- xi. <https://timesofindia.indiatimes.com/business/india-business/supreme-court-refuses-to-allow-reopening-of-sterlite-plant/articleshow/68043399.cms>

