

UNIVERSAL PERIODIC REVIEW

Stakeholders Submission

(Joint Submission)

This joint submission is the outcome of a state level consultation organized by Tamil Nadu Civil Society Coalition on 31st July 2016 for various civil society organizations working in Tamil Nadu to prepare the joint stakeholders' report to the third cycle of UNIVERSAL PERIODIC REVIEW. Over 50 civil society groups, community based organizations and grassroots movements from different parts of the state attended the consultation and contributed to the report.

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Access to Justice

- Victims compensation funds which is deducted from prisoners wage kept separately. It have not been properly disbursed to the victims of crime. Huge amount accumulated without use.
- Prison staffs and officials' uniform colours must be changed to differentiate from Police which will enable prison staffs to learn their duties as workers of correctional institutions and emphasis their unique and prime duties are only concentrate on rehabilitation. Sometime prison staffs personate themselves as a police department staff and take advantage to misuse general public.
- Prison department administrative head should not be a police official or an IPS cadre because there are chances of stereo typical approach with regards to rehabilitation. Crime is outcomes of diseased mind so the prison department

administrative and operational heads must be doctors and IAS officers who are specially trained in human psychology.

- There should be a system in place to protect the children of prisoners, children monitoring committee to safeguard these vulnerable section of children. In no way children contributed for their parents crime so these innocent children should not be punished even 0.1%. It is the duty of the state to punish culprit as like the same it is prime duty of the state to protect the innocent particularly the children.
- As many people are languishing inside prison years together due to their long pending trail in the court, so legal aid should be provided to those who are economically poor on meticulous manner and time to time intervention.
- Custodial death in the prisons are raising as an alarming issues due to custodial torture, negligence by prison department in treating the sick, lack of medical attention.
- Aged prisoners who are above age of 65 years should be considered for clemency or premature release to spend their final stage of life with societal care. As they are returning to their juvenile stage at the end of life.
- Psychiatric ill prisoners should be provided special medical attention and classification of prisoners should be done proper manner, first time offenders must be given psycho social counselling meticulously by appointing many psychology & social work dedicated experts to reduce re-offending rate. Habitual offenders should be imparted job skill trainings during their incarceration.
- Total number of jail inmates 4,18,536 as on 31.12.2014 in this country. Since all of them denied of casting vote in the any of the election Whether there can be a possibilities to strategize some mechanism to be adopted to engage them in casting votes during election as they are also citizens of the country.
- The Prison officials and staffs should be trained on periodically on various aspect of rehabilitation process i.e. Psychological Aspect of understanding human behaviours, Gandhian principles, Human rights, Personal safety and security, Dealing with psychiatric ill inmates, Legal aid aspects and etc...,
- There should be much importance given to practice of restorative justice system in all the prison where the prisoners should be given a chance of understanding

the pain of the victims and prevent the untoward incidents in the future which will break the vicious cycle of crime.

- The special camps for Srilankan Tamil Refugees in Tamil Nadu are like prisons. The Tamil refugees lodged in the camps are denied of rights and they are being treated under the draconian Foreigners' Act 1946, gross violations are taking place in the Special Camps.
- There are gaps between the Fundamental Rights of the Indian Constitution and the provisions under Criminal Procedure Code and Indian Penal Code.

REFUGEES:

- India has not yet signed the United Nations Convention on the Status of Refugees, 1951 and the Protocol, 1967. It has consistently refused to do so. In UPR II, India has not accepted the recommendation made by UNHCR to ratify the conventions relating to refugees and stateless persons.
- The only international document India has signed with some relevance to this theme is the UDHR, 1948, which requires the signatory states to treat refugees on a par with citizens in the matter of rights.
- There is no law in India that recognizes the fact of the existence of refugees in the country, even though there are nearly a million of them, mainly from Tibet, Sri Lanka and Bangladesh. The law that is invoked in India to treat, rather persecute, the refugees is the Foreigners Act, 1946, a law from the colonial era.
- The Government of India has now mooted a law, namely the Citizenship (amendment) Bill, 2016, which seeks to grant citizenship to migrants from neighboring countries, those who have stayed in India for six years and more. But not all the neighboring countries. Only Pakistan, Bangladesh and Afghanistan. Sri Lanka, the source of more than a lakh of refugees, is excluded for no stated reason. Even from Pakistan, Bangladesh and Afghanistan only minorities are included to the exclusion of Muslims. This bill has now been referred to the Select Committee of Parliament.

RECOMMENDATIONS:

- India sign and ratify the international conventions relating to refugees and stateless persons as recommended by the UNHCR.
- India respect and guarantee the economic, civil and political rights of the refugees as per the International Covenants.
- India respect the fundamental right of refugees against refoulement, the right not to be forcefully sent back to country of origin.
- India respect the rights of refugees to democratically fight for an end to the conditions of persecution which, or fear of which, made them flee their homeland. India invite the United Nations High Commission for Refugees to operate fully and do refugee registration in all States.
- India desist from discriminating between refugees from different regions and from different periods. India grant citizenship to all those children of refugees born in India and those refugees who have stayed there for more than five years. And grant others provisional Indian citizenship if they so wish.
- India close down the Special Camps in Tamilnadu for Sri Lankan Tamil Refugees which are in reality prisons without legal warrant.
- Amendments are needed in the Foreigners Act and the Passport Act in tune with the provisions of the Indian Constitution and the International Human Rights Law.
- The gaps between the Constitutional Provisions and Criminal Procedure Code and Indian Penal Code needed to be identified and rectified (amended accordingly)

Migrant Workers

Migrant workers from other states who work in Tamil Nadu have no protection and are exploited at various levels. Many die in accidents but no compensation is provided to the migrant workers. These workers need to be properly registered by the Labour Department and legal benefits should reach them.

Discrimination at Muslim Prisoners

Government of Tamil Nadu had released 1400 prisoners from the various jails in the year 2008. This premature release was denied to Muslim prisoners on the excuse of their religion. Many of the Muslim prisoners are suffering in jails from 14 to

22 years. Neither the court of law ensured their premature release, which other prisoners enjoyed.

The old prisoners (above 65 years) can be released under jail manuals. In addition, on medical grounds the prisoners can be released and 15 days parole is also denied for Muslim prisoners.

Recommendation

There should not be any discrimination on the basis of religion and the Muslim prisoners should not be denied access to justice and legal protection, on the religious grounds. Govt of Tamil Nadu should release all these Muslim prisoners who languish more than 10 years in jail.

Children / Violence / Abuse / Exploitation

- Define child as all persons below the age of 18 years in all legislation related to the children
- Evolve School Child Protection Policy and complaint mechanism for children to address and protect children from all forms of abuse, discrimination, violence and exploitation in all schools Govt, Govt aided, CBSE, Minority and all private schools. (Karnataka State has School CPP) (Behaviour Protect for teachers and school management staff)
- Consider signature and ratification of Ops Crc. (Optional protocol on the convention of the rights of the child)
- Ban all forms of child labour up to 18 years
- Violence consider against children as protection from all forms of violence, Abuse, Discrimination, Exploitation and Denial.

Sumangali Thittam

Modern Forms of Slavery

India is largest export yarn and garments to Europe and US. 60% garments and yarn exporting from Tamil Nadu. Textile Mills highly exist in Western Tamil Nadu Coimbatore, Erode, Tirupur, Nammakal, Salem and Dhindukal.

Approximately 3 laksh young adolescent girls are working in the Textile mills. They are from south part of Tamil Nadu and North India. They recruit in the name of scheme, camp labour, Sumangali Scheme, Mangalya Scheme. This schemes or camp labour

system introduced by mill owners for exploitation of workers entitlements. This girls have to stay inside the Hostel. Hostel is located inside the mills. They allow to leave 6 months only. In between anything happening in the home. Girls are not allowed to home. This girls are recruitment by agents. More girls are receiving advance last 4 years 86 girls are death inside the hostel.

Mills are not pay entitlements, wage, PF, ESI 60 to 70% girls are belong to dalit 80% girls are below 18 years.

Recommendation

There should be an end to all contract schemes to all contract schemes / Sumangali scheme that enact modern forms of bonded labour in Textile and garment sector.

In UPR 2, Recommendation No. 10 & 26, Accede to the ILO Convention No: 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, Ratification of ILO Convention 138 concerning minimum age for admission to employment.

Use of Money Power in Elections and Ways to Curb Them

The Election Commission of India demanded an amendment to the Representation of the People Act, 1951 through a letter to the Union Ministry of Law and Justice. In the letter, the ECI urged the government to be conferred with special powers to postpone polls upon finding money power being used to influence voters.

This step was taken after ECI invalidated the poll notification for two assembly constituencies in Tamil Nadu- Arakurichi and Thanjavur- based upon reports of hefty distribution of money to voters by the nominated candidates and political parties. The annulment of the elections was taken under Article 324 of the Constitution that vests the ECI to conduct elections fairly.

As of now, there is no specific procurement in the Representation of the People Act, 1951 to have this effect and the ECI understands that the Article 324 should be invoked effortlessly.

What are the adverse effects of money power in elections?
It is an undeniable fact that one who is financially superior gets the electoral advantage,

and has a greater chance of winning elections. This is best known from the case of Kanwar Lal Gupta and Amar Nath Chawla in Supreme Court. The above observation can be easily justified by the 2014 Lok Sabha election results in which 27% of all the candidates belonged to richer strata of the society. The average bank balance of each candidate was around 3 crore rupees. The percentage of these rich candidates increased from 16% in 2009 Lok Sabha elections. Two types of cases are involved in election financing, where industries/ private parties use money to ensure facile regulation, and the money used then leads to favourable policies.

The second case involves self-service which the organisations do to gather information about public interest.

Steps to curb money power in elections

The Law Commission of India has recommended the following steps in its March 2015 report on Electoral Reforms.

Election expenditure: The candidate should submit the expenditure reports from the date of nomination to the date of declaration of results and the prescribed fee to the district election officer.

Political party and inner party democracy regulation: It strongly recommended maintaining internal democracy within political parties viewing growing link between industrialists and top rank party leader.

Independent Candidates: Independent candidates should be ruled out from contesting elections because the current generation of independents is mostly non-serious candidates.

Cultural Rights (imposition of Hindi and Sanskrit on the non - Hindi speaking people in India)

The Central Government is trying to impose Hindi and Sanskrit on the non - Hindi speaking people in India, which is against the principles of Federation. As per the New Educational Policy pushed by the Union Government, all people should learn Sanskrit, the dead language. Millions of tax payers' money is being spent on this, inspite of resistance from various quarters. Similarly Hindi has been projected as the only official

language of the country, against the wishes of the ordinary people in different states, in Govt offices, official communications.

Footnotes

1. According to Some Inputs for Draft National Education Policy 2016 - http://mhrd.gov.in/sites/upload_files/mhrd/files/Inputs_Draft_NEP_2016_0.pdf

”Keeping in view special importance of Sanskrit to the growth and development of Indian languages and its unique contribution to the cultural unity of the country, facilities for teaching Sanskrit at the school and university stages will be offered on a more liberal scale.”

2. VISION And ROAD MAP For the Development of Sanskrit - http://mhrd.gov.in/sites/upload_files/mhrd/files/Report-CVRM.pdf

”NCERT may be asked to submit a status report within three months on the implementation of Three Language Formula in Secondary Schools and Two Language Formula in Higher Secondary Schools in all the Secondary & Higher Secondary Education Boards. Further, it may indicate in its report the following - 1) which are the three languages offered 2) from which class to which class 3) for how many marks 4) how many periods are allotted to Sanskrit and other 9 languages in a week 5) at Higher Secondary level, whether Sanskrit is being offered for students of all the three streams i.e. Arts, Science and Commerce”

<http://www.ndtv.com/india-news/india-trying-to-get-129-votes-to-get-hindi-as-un-language-sushma-swaraj-1212876>

3. “It is ordered that government employees and officials of all ministries, departments, corporations or banks, who have made official accounts on Twitter, Facebook, Google, YouTube or blogs should use Hindi, or both Hindi and English but give priority to Hindi”, the Economic Times reported.

<http://www.telegraph.co.uk/news/worldnews/asia/india/10914978/Indian-officials-ordered-to-ditch-English-for-Hindi.html>

Forcible Eviction of Slums in Chennai

Poor people living in central parts of Metro Chennai are being forcibly evicted and relocated outside the city without any facilities. (in places like Kannagi Nagar, chemmancheri) Most of these poor people lose their livelihoods, when they are relocated. No proper schools for the children in the area and high rate of dropouts in

the secondary school level. During recent floods they were relocated and have no support.

Assault on cultural rights of Tamils by the Union Government

The cultural other and self-sufficient economic aspects of Tamils have been systematically assaulted by the Union Government. Five thousand years old Jallikattu, traditional art forms of Tamils has been banned by the Union Govt under the pretext of cruelty to animals, which is actually against Art. 29 (1) of the Indian Constitution. The native bulls, which is used for ploughing and cultivation systematically lose the protection because of the decision of the state.

Footnotes

1. Chennai slum (surya nagar) erupts in anger as govt forcibly shifts them to distant colonies.
<http://www.thenewsminute.com/article/ground-report-chennai-slum-erupts-anger-govt-forcibly-shifts-them-distant-colonies-38162>
2. Traffic suffered at the Manimanagalam-Mudichur road junction on Friday morning as around 300 residents protested against the eviction drive while refusing the resettlement sought to be provided by Kancheepuram district administration.
<http://www.deccanchronicle.com/nation/current-affairs/060216/chennai-residents-protest-eviction-drive.html>
3. [http://www.hic-sarp.org/documents/Kannagi Nagar Report 2.pdf](http://www.hic-sarp.org/documents/Kannagi%20Nagar%20Report%202.pdf)
4. Only 9% of kids at Kannagi Nagar resettlement site have access to education
<http://timesofindia.indiatimes.com/city/chennai/Only-9-of-kids-at-Kannagi-Nagar-resettlement-site-have-access-to-education/articleshow/39319874.cms>
5. The five star hotels and the high-rise office and apartment buildings of MRC Nagar on the Adyar estuary complex, the Phoenix mall on the Velachery lakebed, the elevated expressway on the Cooum River and the Mass Rapid Transit System (MRTS) rail line on the Buckingham Canal, are only a few instances of mammoth structures that have been permitted to be built on waterways and waterbodies. "It is only the Dhideer Nagars, the Alamelu Nagars, the Ambedkar Nagars that are removed , because they are slums, because they are considered eyesores. This is discriminatory action in the name of environment.
<http://www.caravanmagazine.in/vantage/placing-the-poor-in-the-flood-pathpost-disaster-slum-resettlement-in-chennai>

On Thursday morning, at 8am, at least 43 families living on the banks of the river Adyar in Chennai, India were faced with distressing news.

<https://medium.com/@accountability/after-floods-and-false-promises-dozens-identified-by-world-bank-funded-project-in-chennai-india-f48b5c41ab56#.466h52yqvw>

As an immediate concern, CPDR-TN is alarmed at the plight of a huge number of people affected by the recent devastating floods in Chennai, Tiruvallur, Kanchipuram and Cuddalore. In this context, CPDR-TN considers the efforts by the government, in the name of restoring water bodies, to evict the flood-affected people from their original meagre dwellings on river-banks and similar locations, after the rains ended and the floods receded, as an act of irresponsibility.

<http://sanhati.com/articles/15855/>

<http://www.newindianexpress.com/cities/chennai/Collector-Tries-to-Hard-Sell-Slum-Relocation/2016/02/03/article3258274.ece>

Recommendation:

The Union Govt should bring out a separate law to facilitate regular conduct of Jallikatu.

Footnotes

1. <http://www.livelaw.in/sc-bans-traditional-jallikattu-bull-fights-read-judgment/>
2. <http://thewire.in/19157/banning-jallikattu-will-decimate-indias-indigenous-cattle-breeds/>
1. <http://timesofindia.indiatimes.com/city/chennai/Tamil-Nadu-now-home-to-1-million-migrant-workers-Study/articleshow/50861647.cms>
2. http://nhrc.nic.in/documents/LibDoc/Migrant_Workers_A.pdf
3. <http://www.thehindu.com/news/cities/chennai/migrant-worker-welfare-only-on-paper/article6167627.ece>

Militarization in TN :

1. Tamil Nadu is being militarized slowly by deploying central paramilitary forces by Government of India. The union government's offices, institutions, industrial complexes and its residential complexes are already secured by Central Industrial Security Forces (CISF). While it's being criticized and demands to withdraw ^[1], the union government continues to extend its authority over state security by deploying security forces in Chennai High Court (formerly Madras High Court) ^[2] and its Madurai branch ^[3].

Footnotes

[1] <http://www.thehindu.com/news/cities/puducherry/withdraw-cisf-from-nlc-unions/article5804511.ece>

[2] <http://www.newindianexpress.com/nation/CISF-Security-Cover-of-Madras-High-Court-From-November-16/2015/11/06/article3116887.ece>

[3] <http://www.thehindu.com/news/cities/Madurai/madurai-hc-building-turns-into-fortress/article8809161.ece>

Discrimination of Tamils in Employment in Central Govt offices :

2. The Tamil are not getting their due share in Government of India's employment in Tamil Nadu. Tamils are being ignored and filled the Tamil's share of vacancies with Hindi speaking north Indians during recruitment conducted by north Indian officials. In railways, the ICF announced to fill the vacancies through RRB while its apprentices were staged indefinite hunger fast protest demanding appointment [1]. While in jobless, 27 apprentices were committed suicide [2] including one self-immolates during the protest [3]. Such similar issues happening in BHEL, HVF, OCF etc...[4]

Footnotes

[1] <http://www.cgpi.org/mel/struggle-rights/4386-integral-coach-factory-ap>

[2] <http://www.thehindu.com/news/cities/chennai/icf-apprentice-passouts-detained/article7514323.ece>

[3] <http://www.thehindu.com/news/cities/chennai/former-icf-apprentice-sets-himself-ablaze/article7973254.ece>

[4] <https://indiankanoon.org/doc/151897462/>

1. <http://timesofindia.indiatimes.com/home/A-FIR-registered-against-Thirumurugan-May-17-Movement-for-violating-rules-at-Marina-Beach-during-Candle-light-vigil-on-Sunday-late-evening-to-condemn-the-killing-of-Sri-Lankan-Tamils-/articleshow/9008743.cms>
2. <http://timesofindia.indiatimes.com/city/chennai/Police-try-to-stall-screening-of-documentary-film/articleshow/53892078.cms>