

**Submission to the UN Universal Periodic Review  
41<sup>st</sup> Session of the UPR Working Group**

*Submitted on 31.03.2022*

**Joint Stakeholders' Report on the State of Tamil Nadu, India**

**Submitted by the Forum for UPR in Tamil Nadu**

**This UPR Submission is supported by People's Watch, Human Rights Defender's Alert – India (HRDA) and 1993 endorsees across the State of Tamil Nadu, India.**

For this UPR submission, 1993 endorsements across Tamil Nadu have been received out of which 1317 endorsees wish to remain anonymous. Anonymous endorsees have given their consent to endorse but due to the reprisals they have seen being targeted against organizations and human rights defenders by the Government of India, they have chosen to remain anonymous.

## Content

<b>S.No.</b>	<b>Title</b>	<b>Page No.</b>
1.	Introduction	03
2.	Violation of Rights of Religious Minorities in Tamil Nadu	04
3.	The Refugee Crisis in Tamil Nadu	06
4.	Status of Coastal Communities in Tamil Nadu	07
5.	Women in Tamil Nadu	09
6.	Dalits, Adivasis and De-notified Tribes	10
7.	Farmer's Issues in Tamil Nadu	13
8.	Status of Human Rights Defenders (HRDs) in Tamil Nadu	14
9.	Children in Tamil Nadu	16
10.	Rights of the Disabled in Tamil Nadu	17
11.	Tamil Nadu Migrant Workers	19
12.	Unorganized Sectors	20
13.	Freedom of Association and Assembly	21
14.	Arbitrary detention of prisoners for more than 25 years in Tamil Nadu	22
15.	State Human Rights Institutions (SHRIs) in Tamil Nadu	23
16.	Custodial Violence in Tamil Nadu	25
17.	Annexure	

## A. Introduction

- I. Working Group on Human Rights in India and the UN (WGHR) has been responsible for organizing consultations for the UPR II and III in India. The Republic of India will be going for the UPR fourth cycle in November 2022 and the deadline for the stakeholders' report submission is March 31, 2022. Though the initial proposal by WGHR was to conduct a regional consultation clubbing the south and west zone, after many informal meetings and discussions throughout December, the members of WGHR from the south zone who have been working on the UPR for years, decided to conduct consultations language-wise in the south.
- II. However, after the online preparatory meeting in January 2022 with 67 human rights defenders from the six states of the south zone- Kerala, Tamil Nadu, Puducherry, Karnataka, Telangana and Andhra Pradesh - the decision was unanimously taken to conduct state-wise consultations in the south, instead of language-wise consultations. It was also decided to conduct all the consultations in the vernacular languages. Thus, conveners were selected in each state who could lead the UPR IV consultations in their respective states.
- III. The six-state consultations came to end by the mid of February and all the southern states are submitting a separate state report to WGHR, for them to refer to and make use of the appropriate portions from each of the six state reports to incorporate them to the WGHR national report which will be submitted as a joint stakeholders' report to the OHCHR before March 31, 2022.
- IV. The Tamil Nadu state consultation took place from 1<sup>st</sup> - 8<sup>th</sup> February, 2022 and 19 themes<sup>1</sup> were covered during the consultation. There were more than 200 participants on almost all eight days of the Tamil Nadu state consultation. All the participants were grass root level activists from different sectors and their presence was not restricted to the sessions of their areas of work, but other sessions as well which helped the participants to get an understanding of various pressing human rights issues in the context of Tamil Nadu. This active

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<sup>1</sup>Violation of rights of religious minorities in Tamil Nadu; the refugee crisis in Tamil Nadu; status of coastal sector in Tamil Nadu; women in Tamil Nadu; Dalits, Adivasis and De-Notified Tribes; farmers issues in Tamil Nadu; status of Human Rights Defenders (HRDs) in Tamil Nadu; children in Tamil Nadu, Rights of Disabled in Tamil Nadu; Migrant Workers in Tamil Nadu; unorganized sectors in Tamil Nadu; status of freedom of association and assembly in Tamil Nadu; arbitrary detention of prisoners for more than 25 years in Tamil Nadu; State Human Rights Institutions (SHRIs) in Tamil Nadu; Custodial Violence in Tamil Nadu; shrinking space of civil society organizations (CSOs); urban poor in Tamil Nadu; status of sex workers in Tamil Nadu and; transgender and gender non-conforming (GNC) children in Tamil Nadu.

participation from activists of various sectors throughout the eight days consultation made the Tamil Nadu UPR IV consultations unique and successful.

- V. The nine conveners<sup>2</sup> of the Tamil Nadu state consultation with the help of the Tamil Nadu People's Movement coordinated the entire process and the report is drafted after consulting again each of the respective lead speakers who did the presentation on each of the 19 themes during the eight days consultation.

### **B. Violation of Rights of Religious Minorities in Tamil Nadu**

- In 2017, Mr. O. Pannerselvam the then Chief Minister of Tamil Nadu, granted permission to the Rashtriya Swayamsevak Sangh (RSS), a right-wing nationalist group to conduct a march in Chennai<sup>3</sup>.
- False alarm was made alleging that inner organs of the inmates are taken out and sold abroad by St. Joseph's Hospice, run by religious minorities based in Paleswaram<sup>4</sup>; nuns were assaulted and a school run by religious minority- was ransacked in Chinna Salem following the suicide of a student<sup>5</sup> and; following the suicide of a school student in Michaelpatti, the administrators of a school run by a congregation of religious minority have been falsely accused of attempting to the religious conversion of the girl forcing her towards suicide<sup>6</sup> etc.
- The Chairperson of Congress Minority Wing was attacked by some goons in Devipattinam<sup>7</sup>; a youth named Mohammad Faizan was attacked for uploading on social media a picture of himself consuming beef<sup>8</sup>; anti-CAA protesters were attacked

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<sup>2</sup>Thenine conveners of the Tamil Nadu State Consultation were: Mr. GanaKurinji, Tamil Nadu UrimaiPeravai; Adv. M.A. Britto, Human Rights Defender; Dr. V.A. Ramesh Nathan, Social Awareness Society for Youth (SASY) Ms. Sheelu Francis, Tamil Nadu Women's Collective; Dr. Virgil D' Sami, Forum for Promotion of Child Participation; Prof. Deepak Nathan, December 3 Movement; Mr. Thiagu, Tamil National Liberation Movement; Ms. Gandhimathi, Coastal Action Network.

<sup>3</sup>That symbolized the open welcome given by the State for their activities thereby instilling fear among religious minorities. <https://www.thehindu.com/news/cities/chennai/for-second-year-in-a-row-rss-to-hold-march/article22484593.ece> and

<https://www.newindianexpress.com/cities/chennai/2017/jan/30/16-years-on-rss-takes-out-route-march-in-chennai-1564945.html>

<sup>4</sup><http://www.thehindu.com/news/national/tamil-nadu/st-josephs-hospice-sinners-say-hospice-residents-sinned-against-says-facilitys-founder/article23037290.ece>

<sup>5</sup><https://www.thehindu.com/news/cities/Madurai/bishops-council-condemns-attack-on-school/article26703614.ece>

<sup>6</sup><https://theprint.in/features/how-a-teens-suicide-has-turned-tamil-nadu-village-into-vhps-war-zone-against-conversions/821740/>

<sup>7</sup><https://hindupost.in/politics/tamil-nadu-congress-failed-minority-under-attack-agenda/>

<sup>8</sup><https://www.firstpost.com/india/fir-filed-against-tamil-nadu-youth-allegedly-attacked-for-uploading-on-social-media-picture-of-himself-consuming-beef-7021541.html>

and their shops ransacked in Tiruppur<sup>9</sup>; the anti- CAA protests in Chennai city, which was organized by organizations including Muslim Jamaats was severely repressed by the state; petrol bomb was hurled at a mosque in Coimbatore<sup>10</sup> and; shops of Muslims were ransacked alleging that Muslims were involved in the murder of Mr. Sasikumar<sup>11</sup>etc.

- Cow vigilantes<sup>12</sup>confiscated a vehicle of farmers in Palani for carrying cattle<sup>13</sup>; a 'vel yatra', was organized by the Bharatiya Janata Party (BJP) invoking religious symbols associated with Lord Muruga<sup>14</sup>, a Hindu religious deity, to create religious polarisation and; violence was let loose by members of BJP and other right-wing groups during the election campaign of Uttar Pradesh Chief Minister Yogi Adityanath in Coimbatore and targeted shops and establishments owned by Muslims.<sup>15</sup>

### ***Recommendations***

- The government should follow the secular principles of the Constitution leaving behind its vested interest in supporting any theocratic principles.
- Legislation is required for criminalizing hate speeches and preventing communal violence.
- The Tamil Nadu State Minority Commission (TN SMC) should monitor incidents of violations of all religious minorities and should document and collect data on violence perpetrated on religious minorities.
- Repeal all repressive laws that are misused and aimed at religious minorities.

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<sup>9</sup><https://www.newsclick.in/Tamil-Nadu-Week-Police-Assault-Anti-CAA-Protesters-Hindu-Munnani-Cadres-Attack-Shops-Tiruppur>

<sup>10</sup><https://www.thehindu.com/news/national/tamil-nadu/petrol-bomb-hurled-at-coimbatore-mosque/article30994690.ece>

<sup>11</sup><https://www.thehindu.com/news/cities/Coimbatore/Murder-of-Hindu-Munnani-functionary-triggers-unrest-in-Coimbatore/article14643841.ece>

<sup>12</sup>Members of Hindu right-wing groups that target minorities by alleging them to kill or smuggle cows.<https://www.hrw.org/news/2019/02/19/india-vigilante-cow-protection-groups-attack-minorities>

<sup>13</sup><https://www.thehindu.com/news/national/tamil-nadu/tension-in-palani-over-transporting-cattle/article19166505.ece>

<sup>14</sup><https://frontline.thehindu.com/dispatches/the-bjps-vel-yatra-seen-as-attempt-to-gain-popularity-in-tamil-nadu-by-invoking-religious-symbols-associated-with-lord-muruga-fizzles-out-with-the-government-taking-a-firm-stand-against-it/article33041506.ece>

<sup>15</sup><https://www.thehindu.com/news/national/tamil-nadu/violence-in-coimbatore-during-bjps-bike-rally/article34210541.ece>

### **C. The Refugee Crisis in Tamil Nadu**

- According to a census published by the Government of Tamil Nadu regarding the Sri Lankan Tamil refugees on 01. 06. 2021, there are 106 camps and two special camps.<sup>16</sup>
- In UPR II, India has not accepted<sup>17</sup> the recommendation made by UNHCR to ratify the conventions relating to refugees and stateless persons.
- The Foreigners Act, 1946<sup>18</sup> directs India's treatment of the Sri Lankan Tamil refugees as shelter-seekers and as illegal migrants under the Citizenship Act and not as refugees directed by UNHCR.
- India has failed to adopt a national law relating to asylum-seekers and refugees.
- The Tamil Nadu government supports refugees in their demand for Indian citizenship, but the Union Government has so far not considered this, despite a High Court order.

### **Recommendations**

- India must sign and ratify the international conventions relating to refugees and stateless persons and must also formulate its national law on refugees' issues.
- India must let the UNHCR operate in full strength in all refugee camps. The UNHCR should be allowed to act independently without any interference from the governments.
- India should consider the 2004 South Asian Declaration on Refugees and the Eminent Persons Group's proposed National Model Law based on international conventions and the 1984 Cartagena Declaration on Refugees.
- India must grant citizenship to all refugees who have stayed in the country for more than five years and their children born in India. India and Sri Lanka must also provide all the fundamental needs of those who want to return to Sri Lanka.
- The Indian Government must conduct a survey in the refugee camps in India for tracing out those 'refugees' who are of Indian origin, who are repatriates.<sup>19</sup>

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<sup>16</sup>There are 18,944 families with 58,822 refugees inside the camps and 13, 533 families with 34,122 refugees outside the camps. And also, there are 70 Tamil refugees in two special camps and 20 families with 80 Rohingya refugees from Myanmar at Kelampakkam, Chennai, Tamil Nadu.

<sup>17</sup>India has signed the Universal Declaration of Human Rights, 1948. But India has not yet signed the United Nations Convention on the Status of Refugees, 1951 and the Protocol, 1967. India indeed has refugees but does not have any law on the recognition, registration and treatment of refugees.

<sup>18</sup> An Act to confer upon the Central Government certain powers in respect of foreigners,

[https://bsmedia.business-standard.com/media/bs/data/general-file-upload/2020-01/foreigners\\_act\\_1946.pdf](https://bsmedia.business-standard.com/media/bs/data/general-file-upload/2020-01/foreigners_act_1946.pdf)

<sup>19</sup>They must be granted Indian citizenship as per the 1964 Agreement signed between the two Prime Ministers, Mr. Sastri and Mrs. Sirimao Bandaranaike on granting citizenship to the Hill Country

- India must close down the special camps in Tamil Nadu for Sri Lankan Tamil refugees which are, in reality, prisons without a legal warrant (UNO Additional Protocols I and II 1977).

#### **D. Status of Coastal Communities in Tamil Nadu**

- Tamil Nadu has the second-longest coastline in India with a coastal length of 1,076 km spreading across 14 coastal districts.<sup>20</sup>
- National economic development projects<sup>21</sup> deprive the economic, social and cultural rights of coastal communities i.e., dispossession of adequate housing, land<sup>22</sup> leading to homelessness, migration and lack of social security for workers.
- Denial of right to development and resources due to destructive industrial and infrastructure projects both onshore and offshore, resulting in *ecological externalities* such as loss of biodiversity resulting in the climate crisis and the making of development-induced disasters like unseasonal cyclones<sup>23</sup>, flooding, erosion, landslides towards forced displacement/eviction of coastal communities from the habitats and access to resources, including denial of the right to food.

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Tamils of Indian origin. It is an international legal obligation for the Government of India to grant citizenship to such repatriates, which must be done without further delay.

<sup>20</sup>41,412 sq.km of continental shelf area with an Exclusive Economic Zone (EEZ) of 1.9 Lakh sq. km, contributing to 5.21 Lakh tons of marine fish production which were benefited by 10.48 Lakh marine fishers and allied fish workers as a primary livelihood for survival. Further, there are 5,806 mechanized and 41,652 traditional fishing crafts which are actively engaged in fishing and facilitated with the fisheries-related infrastructures such as 12 fishing harbours, 43 Fish Landing sites and 243 beach landing sites, from Animal Husbandry, Dairying and Fisheries Department. (2019) POLICY NOTE 2019 - 2020 (Demand No. 7), Government of Tamil Nadu at <https://www.tn.gov.in/documents/category/2/2019-2020>

<sup>21</sup>Such as Port-led growth (Sagarmala), Shrimp industries, Coastal Industrial Zones, Nuclear and Coal-based Power plants, Hydrocarbon exploration, Road expansion (Expressways), Tourism (Blue Flag) and Cruise, Desalination, Sand mining

<sup>22</sup> Reclassification of No Development Zones, CRZ 1 and 3, and rural areas to urban bodies to suit commercial interests.

<sup>23</sup>Okhi, Thane, Gaja, Vardah, are just some of the cyclonic storms to hit the Tamil Nadu coasts in the last 5 years. Cyclone Ockhi was formed along the Gulf of Thailand on November 21, 2017, which brought the death toll to 222 as of December 31, 2017. Some of the major failures of the government in handling the natural disaster were not using the traditional knowledge of the fishermen in their rescue and relief operations and very limited support by the state government for the rehabilitation of victims. The state government announced that the family who lost their family members would be supported with Rs 5,000/- and the rest of the families would be assisted with Rs 2,500/-, for their livelihood support. People organized various protests adopting various strategies against this very low amount of financial support to the victims of natural disasters. The police filed cases on 9000 fishermen including 5 MLAs for their immediate agitation to claiming their rights. Available at: <https://www.peopleswatch.org/reports/fact-finding/cyclonic-apartheid>

- Coastal governance to protect maritime investments of global corporates through *maritime security and militarisation of EEZs*<sup>24</sup> and coasts resulting in arbitrary detention and killing of fishermen by neighbouring states like Sri Lanka<sup>25</sup>, and Union Government's deployment of Coast Guard, Navy and Marine Police to prevent customary access to fishing grounds within the territorial waters and EEZ by traditional fishers and thus, disempowering coastal communities right to survival and negation of political, cultural, the occupational identity of coastal communities, as citizens of a Nation-State.
- Due to the rapid expansion of export-based intensive aquaculture and mega-development projects along shorelands, women<sup>26</sup> have lost their access to coastal and ocean commons including space for drying fish and habitats and thus, their livelihood rights.

## Recommendations

- To address the displacement of communities, dispossession of resources, degradation of ecology, and denial of representation in governance<sup>27</sup>:

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<sup>24</sup>The exclusive economic zone is an area beyond and adjacent to the territorial sea, subject to the specific legal regime established in this Part, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of this Convention.

<sup>25</sup>[https://www.peopleswatch.org/sites/default/files/reports/full\\_report/Status%20of%20Coastal%20Communities%20in%20Tamil%20Nadu\\_0.pdf](https://www.peopleswatch.org/sites/default/files/reports/full_report/Status%20of%20Coastal%20Communities%20in%20Tamil%20Nadu_0.pdf) and [https://mea.gov.in/rajya\\_sabha.htm?dtl/33508/QUESTION\\_NO1201\\_INDIAN\\_FISHERMEN\\_KILLED\\_BY\\_SRI\\_LANKAN\\_NAVY](https://mea.gov.in/rajya_sabha.htm?dtl/33508/QUESTION_NO1201_INDIAN_FISHERMEN_KILLED_BY_SRI_LANKAN_NAVY)

<sup>26</sup>They are forced to become wage labourers as they were increasingly being removed from the value and supply chain. Due to the migration of male members, they are bearing the brunt of poverty. Nearly 40% of households are headed by women.

<sup>27</sup> Recommendations that emerged at the State Level Stakeholders meet held on 04-02-2022 by Coastal Action Network are:

- i. Implementation of Forest Rights Act in coastal forest areas.
- ii. Local panchayats should be empowered to protect commons on the seaward and landward sides.
- iii. Customary rights should be endorsed as a legal entitlement by the state.
- iv. Redrafting and implementation of people-centric Disaster Management Plan through coastal resilience approach.
- v. Rollback and revising of Environment Impact Assessment to safeguard ecological integrity.
- vi. Enumeration of data on migrant labour and missing persons in the fisheries sector.
- vii. Fish to be lifted from a commodity under NAMA in WTO agreements.
- viii. Re-articulation, re-distribution of resources and representation in governance and access rights, including withdrawal of Indian Marine Fisheries Bill, 2021 and Tamil Nadu MFRA Amendments, 2020.
- ix. Diversion of SC-ST subcomponent funds towards culture fisheries to be stopped.

- Declaring traditional fishing communities as Sea Tribes by union and state governments, through constitutional amendments.
- Delimitation of coastal constituencies and reservation for representation in governance at union, state and local levels.
- Ensuring customary governance and rights by the coastal communities over coastal and marine commons through the Comprehensive Coastal and Marine Rights Act.
- All the women fish workers should enroll in Welfare Board and Cooperatives, access to credit support and participation in formal markets, commuting facilities and infrastructure facilities including health care facilities.
- Pension must be extended to both men and women aged 60 years.
- Moratorium on reopening of nuclear plants, shrimp industries, Sterlite Cooper, thermal plants, sand mining, hydrocarbon and land conversion of surface waters for culture fisheries and expansion of urban areas and other destructive development projects.

#### **E. Women in Tamil Nadu**

- The report focuses on the issues faced by women based on gender namely sexual and gender-based violence (SGBVS) and the recommendations to tackle it. SGBVs violate women's fundamental right namely the "right to live without violence".
- The incident in Pollachi of the sexual assault case of a 19-year-old girl<sup>28</sup> and the incident in Sriperumbudur of the rape of a disabled woman<sup>29</sup> caused uproar in the state. The incidents show the lack of sex education and how brutal SGBVs have taken place in the state in the recent past as well.

#### **Recommendations**

- In the light of the United Nations (UN) Declaration of Principles of Justice for Victims of Crime and Abuse of Power 1989, the "Victim Rights Act" to be enacted consisting

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- x. Leasing policy of land and water bodies for industrial aquaculture to be completely scrapped.
  - xi. Shooting of fishers by Sri Lankan Navy must be stopped. Judicial intervention should be initiated
  - xii. Right to fishing in historical waters must be restored.
  - xiii. Halting usage of destructive gears, and Halt to auctioning of captured crafts
  - xiv. Parliamentary discussion to be initiated
  - xv. United Nations or International Court of Justice (ICJ) intervention for atrocities by the Sri Lankan Navy is needed.

<sup>28</sup><https://www.thehindu.com/news/cities/chennai/pollachi-sexual-assault-case-of-rape-lies-and-video-leaks/article33647285.ece>

<sup>29</sup><https://timesofindia.indiatimes.com/city/chennai/tamil-nadu-disabled-woman-raped-near-sriperumbudur-1-held/articleshow/85675000.cms>

of access to justice and fair treatment, restitution, compensation and assistance.<sup>30</sup>

- The right of the civil society organizations (CSOs) to appear on behalf of victims of GBV has to be statutorily ensured.
- Cyber-crime cells have to be given proper training to deal with cyber-crimes against women. Separate Investigating Team (SIT) in the police has to be formed in the state consisting of not only police but also experts in the field of criminology.
- Separate legislation has to be brought in to deal with “honor killings” based on caste, class and gender.
- Legal frame work for acknowledgment and redressal of marital rape has to be evolved<sup>31</sup>.
- Vulnerable Witness Deposition Center has to be commissioned for the trial of sexual assault cases.
- Periodical gender-responsive training for stakeholders has to be organized.
- The Government of Tamil Nadu has formulated a draft on gender policy. Other states that have not drafted a policy for women yet could implement the same.<sup>32</sup>
- Women’s domestic work has to be quantified<sup>33</sup>.
- It must be ensured that the women IT workers’ employment rights are protected with appropriate labour laws. They must be deployed in night shifts with their consent and with proper protection<sup>34</sup>.
- The process of gender budgeting has to be strengthened .

#### **F. Dalits, Adivasis and De-notified Tribes**

- The Scheduled Castes/ Dalits<sup>35</sup> and Scheduled Tribes/Adivasis comprises 16.6 %

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<sup>30</sup> Report of “Nameless, Faceless - Foundation for Victim Rights (2022), [https://www.peopleswatch.org/sites/default/files/reports/full\\_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf](https://www.peopleswatch.org/sites/default/files/reports/full_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf)

<sup>31</sup>Recommendation of PCVC.

<sup>32</sup>Tamil Nadu State New policy for Women, 2021 by Government of Tamil Nadu.

[https://www.peopleswatch.org/sites/default/files/reports/full\\_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf](https://www.peopleswatch.org/sites/default/files/reports/full_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf)

<sup>33</sup>Recommendation given by All India Democratic Women Association.

<sup>34</sup>Report of Forum for IT employees – Tamil Nadu

(F.I.T.E),[https://www.peopleswatch.org/sites/default/files/reports/full\\_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf](https://www.peopleswatch.org/sites/default/files/reports/full_report/UPR-IV-Tamil%20Nadu%20Consulation%20-%20Women%27s%20Rights.pdf)

<sup>35</sup> - Dalits called as the ‘Scheduled Castes’ and Adivasis called as the ‘Scheduled Tribes’ were subjected to the so-called social practice of untouchability in both public and private spheres. In Tamil Nadu, we have 36 tribal communities out of 705 Adivasi groups across the country. Due to such exclusion, they had been historically deprived of access to resources, services and development,

(201 million) and 8.6% (104 million) of Indian population and 1,44,38,445<sup>36</sup> Dalits (20.01%) and 7,94,697 Adivasis (1.10%) in Tamil Nadu population.

- SCs and STs are economically deprived, socially marginalized and they lack resources, access to education, employment and other income-generating opportunities.<sup>37</sup> There is a significant difference between SC/ST and Non-Scheduled Castes (Non-SCs) on socio-economic indicators of education, gender, poverty, housing, land, employment and other amenities. 50% of the Dalit population lives in the villages, 20% in urban areas of the entire Dalit population 51 % are unemployed and no other caste with such a huge unemployment ratio is seen to exist<sup>38</sup>. Despite the presence of social welfare schemes aimed at alleviating

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leaving most of them in abject poverty. Despite subsequent constitutional safeguards and special legislation for their protection, violations of their fundamental human rights continue on a large scale even today with the deeply entrenched discriminatory social attitude. Key issues include access to justice and rising violence against them, the intersecting discrimination against Dalit women, slavery and child labor, discrimination in education, untouchability, access to basic services, and economic and social rights.

<sup>36</sup> - <https://socialjustice.nic.in/UserView/index?mid=76663>

<sup>37</sup> **Crime in India 2020 VOLUME 1**

<https://ncrb.gov.in/sites/default/files/CII%202020%20Volume%201.pdf> -

According to NCRB Report 53,531 crimes committed against SCs/STs in 2019 & 58,563 in 2020. The crime rate registered showed an increase from 22.8% in 2019 to 25.0% in 2020; Despite the Constitutional guarantees, fundamental rights and legislatures like the Schedule Caste and Schedule Tribe (Prevention of Atrocity) Act, 1989, atrocities against Dalit and Adivasi communities persist. As a whole, even after attaining 70 years of independence, there is a mismatch between the existence of good laws and their actual implementation is a commentary on state capacity in India.

Minister of State for Social Justice and Empowerment -

<https://pib.gov.in/Pressreleaseshare.aspx?PRID=1781362> - The SCRB Data, Tamil Nadu recorded 1116

crimes in 2019 and 1273 in 2020. In Tamil Nadu the increase in crimes against SC/STs rose by 11.7% between 2019-2020; 95 cases were convicted under SC/ST PoA Act in 2019 and 129 cases in 2020.

On average A Scheduled Caste (SC) person faces crime every 10 minutes in India, At least two Dalits are assaulted every hour, and every day, three Dalit women are raped, two Dalits are murdered and two Dalit homes are torched on average. Over 200 million Dalits, who comprise nearly 17% of India's population, face the threat of such violence daily. <https://thewire.in/caste/tamil-nadu-dalit-tribal-violence-atrocities-covid-19-lockdown-silence>

<sup>38</sup> - **Justice Denied & People Betrayed - Pg No: 39-**

<file:///C:/Users/Admin/Downloads/Justice%20Denied%20&%20People%20Betrayed%20-%20BOOK.pdf> - For more than a hundred years the casteist society created work divisions and set

aside some as work that Dalits should do. Those are tilling the lands of oppressor caste landlords, as an entire family to be farmhands, palanquin bearers, to do allied work in Fishing as aides to Fisher Folk, Barber, Manual scavenging, Gravedigging, building and maintaining roads, cleaning the house of a dead person, clearing gutters, burning dead bodies, washing clothes, slaughtering cows, to clear dead cows, beating the Parai drum and other drums. Most of these are still being forced upon the Dalit people. It is an open truth that the self-respect and sense of equal citizenship of the Dalits are being

poverty and facilitating access to resources, however, due to systematic caste-based discrimination, they face difficulties in accessing state and centrally sponsored welfare schemes.

### ***Recommendations***

- Effective Implementation of protective laws – SC/ST PoA Act And Tamil Nadu Contingencies Plan 2017.
- Establishment of Exclusive Special Courts under the POA Act in every district in Tamil Nadu and appointment of Exclusive SPPs for speedy Justice.
- The Prohibition of Manual Scavenging & and their Rehabilitation Act 2013 and Introduce Robotic Technology in all the Municipal Corporation.
- Accessing Justice to the Dalit & Adivasis of Targeted State Violence/Torture-Police Reform.
- Bringing Protective laws for Inter - Caste and Inter-Religious Married Couples and their welfare –To prevent “Honor Killings/Honour Crimes” state legislation should be enacted.
- Exclusive Fast Track Courts under POCSO in all the Districts.
- Take immediate measures through special legislation to Ensure Zero Discrimination in School-Based on identity (Caste, Class, Gender, Ethnicity & Ability).
- Enactment of SCP/TSP Legislation with a new set of priority Schemes for Dalit, Adivasis, Women and Children for Socio, Economic and Development.
- Increase in the annual budgetary allocation for the protection of SC/ST women particularly the intersectionality of the Dalit which includes the differently-abled, trans-SC/STs & elderly.
- Implementation of the FRA Act to ensure agricultural and housing land to the SCs and STs.
- State should pass a resolution in the Assembly in support of reservation for converted Dalits.
- Social Inclusiveness in Disaster Response for Dalits and Adivasi, Women, Children and other vulnerable groups and fullest implementation of Disaster Management Act 2005.
- Adequate representation from Dalit and Adivasis at State Human Rights Institution.
- Reservation for SCs/STs/Women in the post of Vice presidents /Mayors/Chairperson in the Local Government & Salary for the SCs/STs Panchayat Presidents.
- Inclusion of Narikuravars and DNT/NT into ST.

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broken down by such practices of the Casteist society. As a result, even today 76 percent of Dalit people are still working as land-based day wage laborers.

## **G. Farmer's Issues in Tamil Nadu**

- Low-income elasticity in agriculture is a major concern. Only 6% of farmers get MSP<sup>39</sup>; making it a Maximum Securable Price (MSP). It is also noted that while the MSP is fixed for 23 crops; but is mostly rolled out for 4. The MSP cost estimates are also stated to be wrong and leave out multiple parameters that should be considered; as stated in the Ramesh Chand Committee report.<sup>40</sup>
- NCRB<sup>41</sup> data underlines that the farmer suicides<sup>42</sup> are the extreme outcome of the country's agrarian crisis.
- While over 70% of all agriculture & allied activities are undertaken by women and 73% of rural women are dependent on agriculture, only 13.8% of the operational landholdings are owned by women. The average landholding of women is around 50 cents lower than the man.<sup>43</sup>
- Tamil Nadu has been facing issues of habitat destruction, overexploitation, pollution, and invasive species. There is overexploitation of natural resources and land use.<sup>44</sup>
- Tamil Nadu's rural population is migrating to urban centers due to a lack of remunerative or productive work. The urban centers are not able to absorb the able-bodied population and provide enough work while leaving the villages under-utilized.<sup>45</sup>

### **Recommendations**

- Make MSP a legal right for farmers.
- PDPS<sup>46</sup> - especially for perishable goods.
- Define C2+50%.
- Adequate market intervention to be factored in.
- Institute taluk level compensational mechanism.

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<sup>39</sup><https://farmer.gov.in/mspstatements.aspx>

<sup>40</sup><https://agricoop.gov.in/sites/default/files/DFI%20Volume%201.pdf>

<sup>41</sup>National Crime Records Bureau (NCRB) was set up in 1986 to function as a repository of information on crime and criminals to assist the investigators in linking crime to the perpetrators based on the recommendations of the Tandon Committee, National Police Commission (1977-1981) and the MHA's Taskforce (1985).

<sup>42</sup> Farmers are still struggling to get institutional credit and are debt-trapped.

<https://ncrb.gov.in/sites/default/files/chapter-2A%20farmer%20suicides.pdf>

<sup>43</sup> Women still face statistical invisibility, primarily due to the definitions of productive work.

<https://skillsip.nsdcindia.org/sites/default/files/kps-document/Insights%20from%20PLFS%202019-2020.pdf>

<sup>44</sup><https://www.ipbes.net/>

<sup>45</sup> <https://unemploymentinindia.cmie.com/>

<sup>46</sup>Price Deficient Payment System

- Establish State Debt Relief Commission with the mandate to obtain an injunction on further proceedings against herself/himself by creditors until the adjudication is complete.
- Registration of women as farmers.<sup>47</sup>
- Gender dis-aggregated data systems – land records, agri-credit, schemes access, etc.
- Land rights – inheritance and control over commons.
- Equal wages.
- Credit support, capacity building, social security & compensation.
- Stop exploitation of living natural resources & habitat destruction.
- Invest in conservation/adoption of sustainable practices.
- Incentivize farmers that grow traditional crops.
- Ban genetically modified crops.
- Rural start-ups/ incubation center.
- Focus on circular economy.
- Revive Uzhavar Sandhi in all districts, special local markets for women SHGs & small farmers.

#### ***H. Status of Human Rights Defenders (HRDs) in Tamil Nadu***

- On March 22, 2018, thousands of people peacefully protested against the Sterlite Copper Plant at Thoothukudi in Tamil Nadu. Police opened fire on unarmed civilians without adhering to the procedure established by law where 13 HRDs were killed and many were injured.<sup>48</sup> False cases were foisted against hundreds and were imprisoned.
- The project depletes agriculture activity and causes environmental degradation in the districts of Thanjavur, Mayiladuthurai, Nagapattinam and Cuddalore in Tamil Nadu. To dismantle the peaceful initiatives taken against the project, HRDs were intimidated by the lodging of several cases. The illegal arrest and imprisonment of Prof. Jeyaraman are among them.<sup>49</sup>
- The preventive detention act is used against HRDs who politically criticize the state and are termed as anti-nationals and booked under the Unlawful Activities

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<sup>47</sup>Unified registry across departments and ministries - so that they will have an identity as farmers.

<sup>48</sup><https://indianexpress.com/article/india/tuticorin-sterlite-protests-protesters-killed-by-shots-to-head-chest-half-from-behind-reveal-autopsies-5505282/>

<sup>49</sup><https://www.dtnext.in/News/TamilNadu/2019/02/02020451/1105078/Methane-project-Jayaraman-held-on-charges-of-instigating-vpf>

(Prevention) Act (UAPA), 1967. The case against Thirumurugan Gandhi<sup>50</sup> and Mr. Balan, Mr. Srinivasan and Mr. Selvaraj who paid homage to their comrade were booked under UAPA without the permission of the state government by NIA. The investigation is still going on and these are examples of the misuse of this anti-terror law in Tamil Nadu.

- In the case of anti-Kudankulam nuclear project protests, thousands of HRDs are booked in many numbers of cases and the Supreme Court intervened in the matter and ordered the state to withdraw all the cases foisted against them. Even then they were not withdrawn and the DMK government, once it got elected to power in Tamil Nadu in 2021, has announced to withdraw those cases and it is yet to happen.<sup>51</sup>
- Attacks on Right to Information (RTI) activists are on the rise. Veeramalai and his son Nallathambi, from Karur district, who made a legal intervention in the High Court to protect a state-owned 197-acre lake were killed on 27.7.2019 is one such example.<sup>52</sup>

### **Recommendations**

- Draft a new policy to protect HRDs based on the rights enshrined in the UN Declaration of Human Rights Defenders-1998.
- Priority should be given to the complaints on cases of attacks against HRDs and NHRCI<sup>53</sup> should ensure speedy intervention in cases related to HRDs. State-specific focal points should be established to address the issue immediately and this may be adhered to in SHRC.
- The state should arrange training for its officials working in various departments, directly or through NGOs to understand the rights and protections guaranteed in UN Declaration for HRDs, 1998.

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<sup>50</sup> <https://scroll.in/latest/894742/chennai-court-rules-against-remanding-activist-thirumurugan-gandhi-under-uapa>

<sup>51</sup> <https://www.newindianexpress.com/states/tamil-nadu/2021/sep/20/withdraw-all-cases-against-kudankulam-protesters-activist-udayakumaran-urges-tamil-nadu-government-2361142.html>

<sup>52</sup> [Gang murders father-son duo who fought against encroachment of lake in Tamil Nadu village | Chennai News - Times of India \(indiatimes.com\) , Father, son who opposed lake encroachment murdered in Tamil Nadu's Karur- The New Indian Express and https://m.timesofindia.com/city/chennai/tamil-nadu-paying-with-their-lives-to-protect-natural-resources/articleshow/70543816.cms?fmapp=yes](https://m.timesofindia.com/city/chennai/tamil-nadu-paying-with-their-lives-to-protect-natural-resources/articleshow/70543816.cms?fmapp=yes)

<sup>53</sup>The National Human Rights Commission of India (NHRCI) was established on 12 October, 1993. The statute under which it is established is the Protection of Human Rights Act (PHRA), 1993 as amended by the Protection of Human Rights (Amendment) Act, 2006. It is in conformity with the Paris Principles, adopted at the first international workshop on national institutions for the promotion and protection of human rights held in Paris in October 1991, and endorsed by the General Assembly of the United Nations by its Regulations 48/134 of 20 December, 1993. The NHRC is an embodiment of India's concern for the promotion and protection of human rights.

- A protest place should be allocated in each District Collector's office so that journalists and revenue officials could observe and get to know the demand and aim of each protest.
- The government should take steps to withdraw all cases against HRDs who were charged for participating in peaceful protests in Tamil Nadu.

### ***I. Children in Tamil Nadu***

- The accessible public health system in Tamil Nadu has ensured that almost every birth is institutionalized and registered, even in the remotest villages and hamlets. The ability to ensure nutrition<sup>54</sup> for children despite having robust ICDS under implementation is a grave concern.
- Tamil Nadu's maternal mortality ratio (MMR) has dipped from 63 in 2015-17 to 57 per one lakh live births in 2019 according to the State Health Management Information System (HMIS) data.
- Out of 59,152 schools (all management) in Tamil Nadu, 2,631 schools have just one teacher.<sup>55</sup>
- Tamil Nadu has one of the highest gross enrolment rates for higher education in the country. But the NEET has become a great tragedy that is keeping the first-generation learners and students from marginalized families out of its ambit.<sup>56</sup>
- The COVID 19 pandemic and the ensuing lockdown have triggered an increase in child labour statistics in Tamil Nadu. A standard operating procedure (SOP) and a state plan of action for the elimination of child labour were issued in 2019 by the Government of Tamil Nadu but have yet to take their intended course of action.
- The NFHS 5 has manifested the reduction of child marriage from 16.3% in 2015 – 16 to 12.8 % in 2020 – 21. Data received through RTI showed 3,208 child marriages were

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<sup>54</sup>Over the last 2 decades more than half the child population under 60 months (5 years) was anaemic. Though the children under 5 years who are stunted (Height for age) is reduced from 27.1 percent to 22.2 percent from 2015 – 16 to 2020 – 21, one out of five children being stunted is still a big number. Similarly, over the last 2 decades children who were wasted (weight-for-height) is reduced almost 40% but still having almost 14 % children not having the required weight for the height is still a violation of the survival rights of the child.

<sup>55</sup>Though the figure is only four per cent, it has raised concern among academicians since almost 87 per cent of these single-teacher schools are in rural areas. This was revealed by UNESCO in its 'No Teacher, No Class: State of Education Report for India-2021'.

<sup>56</sup>This is because of the inability to pay exorbitant fees collected by coaching centres. In 2019, at least 1.4 lakh applicants applied for NEET in Tamil Nadu, and the figure dropped to 1,21,617 in 2020, and further to 1,12,889 in 2021.

prevented in Tamil Nadu in 2020 compared to 2,209 cases in 2019. Urban poverty is one of the major reasons for the tendency of child marriage.

- Tamil Nadu stands top<sup>57</sup> with the highest number of children living in Child Care Institutions (CCIs) in the country and the number of children residing in it.<sup>58</sup>
- As per the sex ratio of Tamil Nadu, boys are outnumbering girls. But if one looks at the numbers of boys and girls who appear for 10th and 12th standard exams, boys are fewer than girls.<sup>59</sup>
- The recently released Tamil Nadu State Policy for Children 2021, expresses intent to create Balar Sabai.<sup>60</sup> The education department is also mulling on creating a school students' council in all its 37500 odd government schools in the state.

### **Recommendations**

- The state should formulate a policy to form *Bala Sabhas* at the village and ward level in urban areas.
- Standing committee on child rights should be formed at the village panchayat, municipality, corporation level and an annual report on the status of Child rights should be placed.
- The Medical Termination of Pregnancy Act should be understood and read together with the pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994.

### **J. The Rights of the Disabled in Tamil Nadu**

- Disability rights in the state of Tamil Nadu are still in the charity model and not from the rights perspective.<sup>61</sup>

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<sup>57</sup><https://www.edexlive.com/news/2020/sep/27/tamil-nadu-has-the-most-number-of-children-living-in-child-care-institutions-ncpcr-data-14842.html>

<sup>58</sup>Though the principles of Juvenile Justice (Care and Protection of Children) manifest the commitment of the state to “institutionalization as the last resort” the financial implication is high with almost 85% of the budget spent on institutional care and less importance is given to non-institutional care such as Foster Care and Sponsorship.

<sup>59</sup>The boys' absence results in either resorting to child labour or being used by someone as a juvenile to do a crime. An analysis into the educational background of children resorting to crime as per NCRB 2020 manifests that 81 percent of the juveniles are children who did not complete the studies below the 10<sup>th</sup> standard. Numbers suggest that children resorting to crime is on the rise as 2304 cases, 2686 cases and 3394 cases were reported in 2018, 2019 and 2020 respectively.

<sup>60</sup>A platform for children to express their views on village development and the formation of Neighborhood Child Protection Committees with the participation of children.

<sup>61</sup>The recent incident of Mr. Prabhakaran, an accused person with a disability, who was tortured and found dead in police custody for a theft case is a testimony to the state of affairs on the rights of

- 5% allocation for women with disabilities in poverty alleviation schemes according to RPwD Act, 2016 has never been implemented.<sup>62</sup> No allocation of funds in poverty alleviation schemes.
- Tamil Nadu government has passed a statute giving 50% reservation for women in local panchayat elections excluding women with disabilities.
- State has created a child rights policy for the state of Tamil Nadu with cursory for children with disabilities. Exclusion is very much seen in all the programs of the state, the latest being "home-based education" which has got no room for socialization.
- Accessibility is still a distant dream for PwDs in Tamil Nadu.
- Access to justice for people with disabilities is very remote.<sup>63</sup>
- Social protection of PwDs in Tamil Nadu is very minimal.<sup>64</sup>

### ***Recommendations***

- Government of India must ensure amendment of Indian constitution articles 15 and 16.
- Government of India must anti-discrimination act against the atrocities against persons with disabilities.
- Union government must and sure as a separate committee at the State level and Central level to oversee implementation of section 92 of the rights of persons with disabilities act.
- Government of India must form a committee to ensure better participation of persons with disabilities in decision-making bodies.
- Government of India must appoint a Chief Commissioner for persons with disabilities and other commissioners for persons with disabilities stated in RPwD Act immediately.

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persons with disabilities in Tamil Nadu.

<http://disabilityaffairs.gov.in/content/page/acts.php>

<sup>63</sup>Courts do not have proper toilets for persons with disabilities and the case of Mr. Vijaykumar who had to pee in a bottle while his visit to the Madras High Court is an example of the deplorable condition. <https://timesofindia.indiatimes.com/city/chennai/unfriendly-toilets-force-disabled-man-to-pee-in-bottle/articleshow/65878700.cms>

<sup>64</sup>It is only rupees thousand the sector has been demanding 3000 rupees for persons with disabilities and for persons with disabilities with high support requires 5000 per month. There are schematic design problems with the scheme wherein children are not allowed to have social protection underage.

## **K. Tamil Nadu Migrant Workers**

- During the pandemic period from March 2020 to the end of 2021, it is estimated that between 3 to 5 migrants would have returned from Tamil Nadu.<sup>65</sup>
- One of the most important issues that the migrant workers face is regarding their passports that are taken/confiscated by the employers and they are left with no other ID cards. When they get arrested by the police, they are sent to detention centers.
- Most of the migrant workers are working in the informal sector as domestic workers and as unskilled labour employed in construction companies, municipalities, agricultural farms and fishing.<sup>66</sup>
- Information collected through RTI<sup>67</sup> replies and responses to questions raised in the Parliament reveal that more than 24,570 Indian workers died<sup>68</sup> between 2012 and mid-2018 in the six Gulf countries<sup>69</sup>.
- According to the TMS, the number of women migrants is estimated to be 3.3 lakhs or 15 percent of the total emigrants.<sup>70</sup>

### **Recommendations**

- Tamil Nadu needs<sup>71</sup> a full-time department and a minister to look after the interest of 2.2 million non-resident Tamils who are working with the Indian Passport in various countries of the world as workers and labourers.<sup>72</sup>

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<sup>65</sup>They returned without wages (wage theft in the destination countries by the employers) losing their jobs, their possessions and several years of working experience. There was no compensation given to such returned emigrants in Tamil Nadu.

<sup>66</sup>These jobs do not have any job protection for the workers. Keeping the blue-collar workers and their problems mainly non-payment of wages, the government should urge the consulates to take such cases in the labour court and get the money due for them. The migrant workers need accommodation and food during the time when the case is fought in the courts.

<sup>67</sup>Source: Venkatesh Nayak from the (CHRI) through RTI from the Ministry of External Affairs.

<sup>68</sup>This comes to an average of more than ten deaths every day. Saudi Arabia recorded the most deaths at 10,416 while Bahrain, at 1,317, had the least. According to data shared by Qatar, more than 80% of the deaths have been attributed to natural causes, 14% occurred in accidents and almost 6% were due to suicides. As more than 80% are termed as a natural cause of death the families are denied any insurance money from the employer. This issue needs investigation.

<sup>69</sup>Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates (UAE).

<sup>70</sup>Most of them leave for Gulf countries, Singapore and Malaysia to work as domestic helpers, cleaners, and do odd jobs. The higher proportion of women emigrants is found in Qatar (11.8 percent), Oman (11.2 percent), United Arab Emirates (10.4 percent), Kuwait (9.2 percent), Singapore (8.8 percent) and Malaysia (8.7 percent). The age limit for women (30 years) in India has resulted in the trafficking and smuggling of these women as domestics to these countries without a standard labour contract. Long hours, fewer wages, physical, sexual and psychological abuse are some of the other problems faced by them.

These women are the most exploited as they are not counted in the regular workforce.

- There are many undocumented workers (whose visa period ended both for the tourist and work visa) from Tamil Nadu working in the Gulf countries. Such undocumented workers need regularization.<sup>73</sup>
- The number of workers in the Gulf prisons and detention centers is not known. Those who are arrested and kept in detention centers must be made known to the Government of India and the Tamil Nadu Government authorities (NRT Tamil Nadu). Workers with minor violations could be released immediately and for others appropriate action could be taken by both Gulf countries and India.
- By signing MoU's with the destination countries, women labour should be sent to foreign countries legally.<sup>74</sup>

#### **L. Unorganized Sectors in Tamil Nadu**

- Unorganised sector employs 93 % of the workforce in the country of whom 40 % are women and children.<sup>75</sup>
- There is no constant employee employment relationship, no security of employment, wages and social security in these sectors.
- Due to the struggles of construction workers since 1979, the Tamil Nadu Manual Workers Act was passed in 1982 and due to continuing struggle Tamil Nadu Construction Workers Welfare Board was formed in 1995. Other groups of unorganized workers struggled to get Welfare Boards formed for various categories.
- During the COVID 19 lockdown, without any notice, many unorganized workers lost their jobs and thus their source of livelihood.<sup>76</sup>

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<sup>71</sup>Like Kerala's NORKA (Non-Resident Keralite Affairs)

<sup>72</sup>Cases of abuse, the death of the migrant workers were all that could be taken up by the new ministry. Regular studies will help to understand the condition of migrant workers and their families. Migrant workers return with money and savings. With the help of the Tamil Nadu government, it could be invested in the priority areas in which the government is looking for investment.

<sup>73</sup>Either they should be given the opportunity to come to Tamil Nadu or with the proper extension of work visa/contract they should be allowed to work. Their status has to be regularized.

<sup>74</sup>Like nurses (with ECR category)

<sup>75</sup> Construction, agriculture, handlooms and power looms, fisheries, loading and unloading, auto and rickshaws, domestic work, potteries and home-based occupations leather and tailoring, street vending, services such as hairdressers and washermen are the important sectors employing a large number of workers.

<sup>76</sup> The GoI did not allocate relief money for unorganized workers. The state government gave small amounts and free rations which were inadequate to meet the basic needs. For the first time in Tamil Nadu, there were suicides of labourers in domestic work, construction work weaves and drivers due to indebtedness. Inability to pay rent also resulted in evictions. There were cases of deaths of migrant workers who neither got rations nor employment nor wages for work done and walked back to their

## **Recommendations**

- The four Labour Codes must be withdrawn to protect labour rights and for restoration of sectoral labour laws<sup>77</sup>.
- State labour laws<sup>78</sup> need to be saved.
- A comprehensive law<sup>79</sup> for unorganized workers must be enacted.
- Migrant workers must be compulsorily registered and provided with certain necessary facilities<sup>80</sup>.
- House site pattas must be provided for slum areas while house sites of 5 cents in rural areas and 2 cents in urban areas must be provided for unorganized workers.
- State & District Vigilance committees must be strengthened.<sup>81</sup>
- Adequate rehabilitation measures<sup>82</sup> must be adopted.

## **M. Freedom of Association and Assembly**

- After Mr. M.K. Stalin was sworn in as the Chief Minister of Tamil Nadu in 2021, he announced to withdraw 5,570 cases that were foisted against the democratic activist by the former regime.<sup>83</sup>

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home states and died on the way. In certain brick kilns in the Thiruvallur district, the migrant workers from Odisha were locked up to stop them from going back. After the protests from organizations, they were released and a special train was arranged to take them to their homestate.

<sup>77</sup> Such as Building and other Construction Workers Act 1996, Salt Cess Act, Beedi workers welfare Fund Act etc.

<sup>78</sup> Such as Tamil Nadu Manual Workers Act 1982, Tamil Nadu Agricultural Workers Act 2007, Tamil Nadu Fishers Welfare Act 2007, and 36 Sectoral Welfare Boards in Tamil Nadu.

<sup>79</sup> With provisions for Sectoral Welfare Boards and Sectoral Levy apart from compulsory registration, regulating employment, wages, safety, occupational health, social security to cover pension, ESI or health insurance, non-employment relief, maternity benefit, education assistance for children, etc.

<sup>80</sup> Like shelters, health care, dry rations, child care, children's education while ensuring minimum wages and overtime wages.

<sup>81</sup> With representatives of trade unions and tribal organisations working for the release of bonded labourers and child labourers. Survey, identification and release of bonded labour & child labour must take place every 6 months in all the districts.

<sup>82</sup> Such as housing, agricultural land, livelihood assistance apart from PDS, education of children must be undertaken apart from cash relief so that released bonded labourers do not get into second bondage.

<sup>83</sup> Among said cases, 2831 cases were related protest against agricultural amendment, 2282 cases filed against participating citizenship amendment act, 405 cases filed protest against eight-way lane road project. In Tamil Nadu the police permission for all peaceful demonstration is must, otherwise police will fill criminal cases under 143 IPC and other section as whole group of participated people termed as unlawful assembly, the police even went to extent to file non bailable sections.

- On May 18, 2018 on Vedanta limited vs The District collector Thoothukudi and others case, the High court directed officials to consider the demonstration against Sterlite company as unlawful assembly under Section 144 CrPC.<sup>84</sup>
- In Tamil Nadu, one of the most misused anti-terror laws is the UAPA. In 2019, left political activists were arrested under UAPA at Salem for their participation in the funeral of a victim of a fake police encounter in 2017.
- In 2019, residents of Kathiramangalam staged a series of agitations opposing the ONGC operations to extract methane at a site near their village.<sup>85</sup>
- During the pandemic period, Epidemic Disease Act was widely misused in the state.<sup>86</sup>

### **Recommendations**

- Clear legislative guidelines on time, place, manner restrictions on conducting peaceful assemblies should be enacted.
- The misuse of Section 144 CrPC and other special legislation that provide for the restriction of assemblies should be avoided.
- The existing 'permit regime' should be replaced by a 'notification regime' for the holding of peaceful assemblies.

### **N. Arbitrary detention of prisoners for more than 25 years in Tamil Nadu**

- In Tamil Nadu prisons some prisoners are arbitrarily detained for 20 to 34 years. A classic example of this is the case of the assassins of Mr. Rajiv Gandhi, ex-prime minister of India.<sup>87</sup>

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<sup>84</sup>This one side judgement led to shoot and kill 14 people more than thousand sustained injuries by police violence. The lower judiciary judges mechanically remanding all arrested person at request of police. Despite apex court judgment Arnash Kumar vs State of Bihar case against said mechanical remand, in reality rarely the said judgment follows up.

<sup>85</sup><https://www.dtnext.in/News/TamilNadu/2019/02/02020451/1105078/Methane-project-Jayaraman-held-on-charges-of-instigating-vpf>

<sup>86</sup><https://cpj.org/2020/04/police-in-indias-tamil-nadu-state-arrest-journalis/>

<sup>87</sup>Seven people, three from India and four from Sri Lanka, were punished for this crime and they are incarcerated for the last 30 years. Life sentence in India is maximum 14 years but these seven convicts have already completed double life sentence. In spite of unblemished and unsoiled jail life, these offenders are suffering inexplicably even now. Though several attempts were made for their release, all the ventures proved to be in vain. Several Supreme Court judgments like Maru Ram vs. Union of India (1981) and Rajesh Kumar vs. Union of India (2021) are in favour of the release of long-term prisoners. Article 161 allows the Governor the power to "grant pardons, reprieves, respites or remissions." In spite of these probabilities, the seven Tamils are condemned to suffer endlessly.

- 38 Muslim prisoners are in jail for 22 to 25 years in Tamil Nadu. Among them, only 17 people are involved in the Coimbatore bomb blast case of 1998 and the remaining 21 people are convicted under 302 IPC.<sup>88</sup>
- Another pitiable case is the case of Madaiyan who is the elder brother of Sandalwood bandit Veerappan. Along with him, Andiyappan and Perumal are also in prison. The trio are incarcerated for more than 34 years.<sup>89</sup>

### **Recommendations**

- The fixed norm of 14 years of life sentence should adhere strictly.

### **O. State Human Rights Institutions (SHRIs) in Tamil Nadu**

- At present, Tamil Nadu has seven SHRIs.<sup>90</sup> Of the seven SHRIs, four SHRIs - TN SHRC<sup>91</sup>, TN SCPCR<sup>92</sup>, TN SCPwD<sup>93</sup>, TN SIC<sup>94</sup> - are constituted under independent central legislations,<sup>95</sup> while the remaining three SHRIs - TN SCW<sup>96</sup>, TN SCM<sup>97</sup>, TN SC SC/STs<sup>98</sup> - are constituted under very specific state legislations.
- The SHRC in Tamil Nadu is presently observing its 25<sup>th</sup> year of being constituted from 17.04.2021 to 17.04.2022.

<sup>88</sup>Hence, they may be released without any legal hindrance. By applying article 161 or Section 432 of the CrPC, remission may be accorded in a phased manner to the bomb blast convicts.

<sup>89</sup>Madaiyan (75) is the longest prisoner in the Indian subcontinent. All three offenders were given life imprisonment in 1987 and still, they are travelling in various jails

<sup>90</sup> The Tamil Nadu State Human Rights Commission (TN SHRC), the Tamil Nadu State Commission for Women (TN SCW), the Tamil Nadu State Commission for Minorities (TN SCM), the Tamil Nadu State Commission for Protection of Child Rights (TN SCPCR), the Tamil Nadu State Commission for Scheduled Castes and Scheduled Tribes (TN SC/ST), the Tamil Nadu State Commissioner for Persons with Disabilities (TN SCPwD) and the Tamil Nadu State Information Commission (TN SIC).

<sup>91</sup> TN SHRC - <http://www.shrc.tn.gov.in/top.htm>

<sup>92</sup> TN SCPCR - <https://www.tncpcr.tn.gov.in/>

<sup>93</sup> TN SCPwD - <https://www.scd.tn.gov.in/>

<sup>94</sup> TN SIC - <http://www.tnsic.gov.in/>

<sup>95</sup> The Protection of Human Rights Act (PHRA), 1993 provides for the constitution of the National Human rights Commission under Sec. 3 and the constitution of State Human Rights Commissions under Sec. 21. Similarly, the Commissions for the Protection of Child Rights Act 2005, provides for the constitution of a National Commission for Protection of Child Rights under Sec. 3 and the constitution of State Commissions for the Protection of Child Rights under Sec. 17. The Rights of Persons with the Disabilities Act 2016, provides for the appointment of a Chief Commissioner and Commissioners at the National level under Sec. 74 and the appointment of State commissioners in states assisted by an Advisory Committee under Sec. 79. RTI 2005 provides for the constitution of a Central Information Commission under Sec. 12 and a State Information Commission under Sec. 15.

<sup>96</sup> TN SCW - <https://www.tnsocialwelfare.org/pages/view/tamil-nadu-state-commission-for-women>

<sup>97</sup> TN SMC - <https://bcmbcmw.tn.gov.in/mincomm.htm>

<sup>98</sup> TN SC SC/STs -

[https://prsindia.org/files/bills\\_acts/acts\\_states/tamilnadu/2021/Act%20No.%2017%20of%202021%20Tamilnadu.pdf](https://prsindia.org/files/bills_acts/acts_states/tamilnadu/2021/Act%20No.%2017%20of%202021%20Tamilnadu.pdf)

- While almost all SHRIs in the state were duly constituted not necessarily independently not following Paris Principles<sup>99</sup>, they were nevertheless statutorily constituted. While so the newly elected government in Tamil Nadu under the leadership of Mr. MK Stalin commenced its process of reconstituting already statutorily constituted SHRIs like TN SCM, TN SCW and TN SCPCR.
- Interfering with the independence and autonomy of institutions by reconstituting an SHRI with a new Chairperson and Members while the remaining part of their tenure existed, deem to be an act contrary to the Paris Principles. On the contrary, the government needs to attend to certain measures urgently.<sup>100</sup>

### **Recommendations**

- Each of the SHRIs urgently requires clear rules to govern their selection and appointment processes.<sup>101</sup>
- Each of these SHRIs should be staffed with a full-time Member Secretary, who functions as the Chief Executive of the institution.<sup>102</sup>
- Training program for all the staff getting appointed in the SHRIs on human rights must be made mandatory before officially taking the post. No Chairperson, no Member, no Member Secretary, no staff member of any of the SHRIs in Tamil Nadu has ever

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<sup>99</sup>The Paris Principles set out six main criteria that NHRIs require to meet. These are: **Mandate and competence, Autonomy from Government, Independence guaranteed by a Statute or Constitution, Pluralism, Adequate resources;and adequate powers of investigation.**<https://www.ohchr.org/en/professionalinterest/pages/statusofnationalinstitutions.aspx>

<sup>100</sup> Ensure their autonomy and independence in the appointment and removal process; in their organizational structure; in the allotment and management of finances; in the selection and appointments of personnel and ensuring that principles of pluralism diversity in their membership and staff composition were adhered to.

<sup>101</sup>It includes an immediate audit of the minimum staff required for effective functioning of each SHRI; immediate ordering of the creation of these staff positions to each SHRI based on the audit; regular publication of vacancies in Members and assessment of applicants; maximizing the number of potential candidates from a wide range of social and professional groups and; ultimately selecting members to the SHRIs based on certain clear publicized indicators of qualifications being looked for.

<sup>102</sup>In the TN SCPCR even today, there is no full-time, independent Member Secretary of an IAS rank and instead, a joint Director of the Department of Social Defense holds charge now, for several years. The TN SCPCR which is authorized to “monitor” the functioning of the POCSO Act and oversee and “monitor” the functioning of the Right to Education (RTE) Act in 2009 does not have a functioning full-time member and is also functioning without the services of a single designated staff(s) to work on each of these two legislations, namely, POCSO and RTE.

undergone a compulsory induction program from any independent training institution<sup>103</sup>.

- The existing vacancies<sup>104</sup> of all the Tamil Nadu SHRIs should be filled with persons competent enough to occupy the respective positions as per the Paris Principles.
- It should be guaranteed that the Chairpersons and the Members of each SHRI are persons of competence who serve in their full-time capacity and are paid professional scales for the services rendered by each of them.
- Ensure that the infrastructure facilities<sup>105</sup> are provided to all the staff for the well and effective functioning of all the SHRIs.
- The payment per sitting for the Members of the TN SCPCR and TN SCW should be increased. The members of both the TN SCPCR and the TN SCW are paid Rs 1,000/- per sitting, with a maximum of 12 sittings in a year.
- None of the SHRIs makes proactive disclosures as contemplated under Sec. 4 of the RTI Act through their website. No Tamil Nadu SHRI website has any information for the public to access in Tamil.

#### ***P. Custodial Violence in Tamil Nadu***

- The collective conscience of different sections of the society within the state of Tamil Nadu and immediately thereafter across the country and the globe was shocked and outraged by the police brutality that led to the loss of lives of the father-son duo<sup>106</sup> Mr. Jeyaraj and Mr. Bennicks on 22<sup>nd</sup> June 2020 rising out of the gruesome torture they were subjected to in the Sathankulam Police Station.
- The Madurai bench of the Madras High Court took suo-moto notice of this incident and even allowed People's Watch to implead itself in the said litigation directing the Crime Branch CID of the state to undertake an investigation which was later transferred to the CBI by the government of the day.

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<sup>103</sup>Independent training institutions such as the State Judicial academy or the Anna Institute of management or the Madras Institute of Development Studies or any other reputed institute teaching social work located in Chennai or an institution competent to train them exclusively on human rights.

<sup>104</sup>The TN – SHRC, today suffers from more than 30 vacancies. The other commissions such as the TN – SCPCR, the TN – SCM, the TN – SCW and the newly constituted TN-SC SC&ST all suffer from a severe shortage of professional staff/personnel to even handle the complaints that they receive. Not even one of the Tamil Nadu SHRIs has an official law officer to advise them nor a panel of lawyers at least from the State Legal service authority to guide those who visit the commission. But every District Superintendent of Police has access to a full-time legal officer.

<sup>105</sup>The Members in the most SHRIs do not have an exclusive table and chair to sit and work from, leave alone a staff to assist them.

<sup>106</sup><https://peopleswatch.org/node/612>

- It is to be noted that perhaps for the first time ten police officers were not only arrested but not even a single officer has yet been released on bail till today, while the trial of the case is ongoing in Madurai. However, many issues remain a mystery in the Sathankulam case.
- The Sathankulam incident led to the evolution of a large platform to combat custodial torture titled JAACT.<sup>107</sup>
- Thereafter, several interventions both through street protests as well as judicial interventions were undertaken in different parts of the state even resulting in reiterating judicial guidelines to be followed while undertaking autopsy in the cases of custodial deaths, highlighting<sup>108</sup> perhaps for the first time that the kith and kin of the deceased have the right to see the body of the deceased in the mortuary before the autopsy, take photographs and legally be entitled to be provided with a copy of the post mortem report and videotape immediately thereafter.
- Custodial deaths and extrajudicial killings are still taking place in the state of Tamil Nadu. The encounter killings in Sriperumputhur<sup>109</sup>, Chengalpatt<sup>110</sup> and Thoothukudi<sup>111</sup> and the very recent custodial killing of a disabled man named Mr. Prabhakar in Salem<sup>112</sup> are the latest examples.

### **Recommendations**

- The state needs to ensure that there is no detention without lawful arrest.
- All arrests and detention have to be exercised judiciously.
- Ensure that the Supreme Court judgment<sup>113</sup> directing the establishment of CCTV cameras in all police stations is strictly followed.
- All legal services authorities at District and Taluk levels should delegate designated advocates to visit all police stations under their jurisdiction.
- Reconstitute the state and district police complaints authority following the directions of the Supreme Court in Prakash Singh v/s Union of India<sup>114</sup>.

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<sup>107</sup>Joint Action Against Custodial Torture (JAACT) comprises over 15 political parties, including the DMK which is now in power and another 75 social and people's movements, platforms, networks etc.

<sup>108</sup>Santhosh vs The District Collector on October 6, 2020. <https://indiankanoon.org/doc/23995420/>

<sup>109</sup><https://peopleswatch.org/media/peoples-watch-media/thief-shot-dead-near-chennai-tried-kill-cop-police-amid-questions>

<sup>110</sup><https://www.newindianexpress.com/states/tamil-nadu/2022/jan/08/police-shoot-2-murder-suspects-dead-in-encounter-in-tamil-nadus-chengalpattu-2404418>.

<sup>111</sup><https://peopleswatch.org/media/peoples-watch-media/human-rights-bodies-condemn-%E2%80%98encounter%E2%80%99-killings>

<sup>112</sup><https://thewire.in/government/tamil-nadu-dalit-man-with-disability-beaten-found-dead-in-police-custody>

<sup>113</sup><https://legal-wires.com/case-study/case-study-paramvir-singh-saini-v-baljit-singh-ors/>

<sup>114</sup><https://indiankanoon.org/doc/1090328//>