

PUCL REPORT ON THE CONDITIONS IN THE SPECIAL CAMP FOR REFUGEES AT TIPPU MAHAL, VELLORE

The Indian sub continent has been a host to many refugees for several decades now. One of the countries from which there is a major influx of refugees is Sri Lanka, which is caught up, in ethnic conflict. Fearing persecution by the Sinhalese chauvinists and the Sri Lankan government, several thousands of Tamils have fled to South India especially Tamil Nadu. Though India has not ratified the International Convention on Refugees, 1951 and the Protocol thereto of 1967, it has been accommodating the Sri Lankan Tamil Refugees.

The Sri Lankan Tamil Refugees fall into three categories.

- (1) Those in the Refugee Camps which number 133 as on date. There are about 65,000 refugees in them.
- (2) Refugees who maintain themselves outside the Camps. Obviously they belong to the well to do sections. Following the assassination of Rajiv Gandhi in May 1991, these refugees were directed by the State Government to register themselves in the nearest police stations.
- (3) Refugees who have been identified as belonging to militant groups. They are at present kept in three Special Camps: (a) Tippu Mahal, Vellore Fort, Vellore, (b) Chingleput and (c) Melur.

After the assassination of Rajiv Gandhi the Sri Lankan Refugees in India had to undergo severe ordeals. While the second category of the refugees escaped with mandatory registration in the police station with occasional enquiries and harassments by the police, the other two categories of refugees fared the worst. The plight of these refugees especially those in the Special Camps has been a source of

deep concern for PUCL since the detainees in the Special Camps do not enjoy even the rights of the convict prisoners lodged in ordinary prisons. In order to gain a first hand knowledge of the conditions in the Special Camps the PUCL-Tamil Nadu & Pondicherry constituted a Fact Finding Team comprised of:

1. K. Manoharan, Vice President, National Unit, PUCL.
2. Sudha Ramalingam, Advocate & President, PUCL-TN & Pondy
3. Dr.V.Suresh, Advocate & General Secretary, PUCL-TN & Pondy
4. D.Nagasaila, Advocate & Member, PUCL- TN & Pondy
5. R.Venkatesh, Member, PUCL-TN & Pondy.

While the three members of the Team viz. K. Manoharan, Sudha Ramalingam and R.Venkatesh visited the Special Camp for Refugees at Tippu Mahal, Vellore, on 7.7.99 the other two members went about collecting documentary evidence relating to these Camps and summarising the information obtained from the interviews they conducted at various occasions with some of the former inmates of the Special Camps.

HISTORICAL BACKGROUND OF THE VELLORE SPECIAL CAMP:

Two separate buildings, viz., Tippu Mahal and Hyder Mahal inside Vellore Fort were used as Special Camps. These Special Camps were set-up on 14-12-1990. In the beginning 163 Sri Lankan Tamils were detained in Tippu Mahal and 120 families consisting of 491 persons were accommodated at Hyder Mahal. The Hyder Mahal inmates included males, females and children. But now the Hyder Mahal Camp has been closed and only the Tippu Mahal Camp exists. There are 56 detainees in this Camp.

PHYSICAL FEATURES & TOPOGRAPHY OF THE VELLORE SPECIAL CAMP:

Given below is a brief description of the two camps at Vellore as provided in the report of Justice T.N. Singaravelu, One Man Commission of Inquiry set up to probe the incidents

of escape of 43 inmates from the Special Camp, Tippu Mahal at Vellore' in August, 1995. (herein after referred to as the Commission Report)

Both the Special camps namely Tippu Mahal & Hyder Mahal are located inside the Vellore Fort. The entire Vellore Fort is a Central Government protected monument under the Archaeological Survey of India Act and vested with the Archaeological Survey of India. The walls of the fort run for about 3 kms and it has a moat which has a width of 67 metres. The total carpet area of the Fort including the moat is 126 acres. The entire fort was built with granite, lime and mortar. Tippu Mahal and Hyder Mahal are situated in the South Western Corner of the Fort very close to the inner wall of the fort. The two mahals are situated adjacent to each other but separated by an old common wall. Tippu Mahal has 45 rooms in the ground floor and 67 rooms in the first floor. Hyder Mahal has got 65 rooms in the ground floor and 86 rooms in the first floor. None of these rooms have doors and hence the inmates can move freely from one room to another.

There are three iron gates each in the two mahals and these iron gates are situated one after the other. In other words, to enter into either of the mahals one has to go through all the three gates and there is no other way or passage other than these gates for ingress and egress. There is a 6 feet high barbed wire fencing over the outer walls and beyond that there is a six feet compound wall. Beyond the wall, is a moat which is normally full of water and there is thick growth of elephant grass on the southern and the eastern sides.

ADMINISTRATION OF THE CAMPS:

The General Administration of the camp is the responsibility of the Revenue Department. The Police Department is responsible for the Security. The Revenue Department takes care of the food, clothing, health and sanitation of the inmates. The expenses incurred under various heads are borne by the Revenue Department. The Principal, Police Recruit School is in charge of the Tippu Mahal, who is also known as the Camp Commandant. He is in overall charge of the special camp. He is assisted by a Chief Drill Instructor and a Chief Law Instructor who were formerly serving in the Police Recruit Schools.

SPECIAL CAMP – A HIGH SECURITY PRISON:

According to the Government of Tamil Nadu, legally a Special Camp is not a jail or a prison and the provisions of the jail manual are not applicable to these camps. The persons in the special camps are not prisoners or convicts or under-trials or accused of any specific offence under Indian Penal Code.

However, the security arrangements in these special camps are unprecedented and surpass the security arrangements in any of the central prisons in the state of Tamil Nadu. As per the version of the witnesses in the Commission Report (Page 17, Para 34) there is a 24 hour sentry posted at the main entry gate and the entrance to the Tippu Mahal is guarded by two police personnel armed with light machine guns (LMGs). These two persons are in the cadre of Head Constable and Constable of Special Police. There are 3 gates, which have to be crossed before reaching the main gate, and all the three gates are guarded and locked. There are 5 watchtowers manned by the sentries around the clock, armed with machine guns. Additionally police constables are posted around the entire camp. Apart from these, focus lights have been installed directed towards the Tippu Mahal, alongwith sirens. There are moving sentries doing guard duty for a period of 3 hours by rotation. Superior officers like the Inspectors, Deputy Superintendent of Police and Superintendent of Police make surprise visits to check the security arrangements.

RESTRICTION OF MOVEMENTS OF INMATES:

As per the Commission Report, the inmates of the Tippu Mahal are not permitted to go out of the camp. In the words of the Commission, the inmates are in RIGOROUS CONFINEMENT in the Special camp and the long detention has made the inmates desperate. Ironically, though the persons are not prisoners or convicts or under-trials or accused of any offence they are not permitted to leave the camp. All the three gates of the camp are kept locked, guarded by the Tamil Nadu Special Police Guard with whom the key is deposited. There are armed sentries posted at the gates all the 24 hours. The main gate is opened only for supplying food, taking Roll call, conducting search and for

taking the inmates to the hospital whenever required. Even on these occasions, Police escorts accompany the inmates.

In fact, even facilities of parole which are generally available to convicts, and provision of coming out on bail available to under-trials are not available to the inmates, as they are neither convicts nor under-trials. Their status is peculiar and is worse off for their peculiarity.

PROVISION FOR FOOD:

At present the government allots Rs.20 /- per day per adult and Rs.14/- per day per child for every refugee housed in the Camps including the Special Camps. Whereas the prescribed allowance is paid directly to the inmates in all other Camps, in the Special Camps of Vellore and Melur the administrative authorities have entrusted cooking and distribution of food to contractors to whom the said amount is paid. The detenues in these two Camps are not allowed to cook their own food. In Chingleput Special Camp however the detenues are allowed to do their own cooking as the authorities were unable to find suitable contractors. In this Camp women refugees are living with their husbands. There are two children below the age of 5 years in this Camp.

VISITORS:

Visitors to the camp are restricted. There are no specific provisions or guidelines which streamlines the procedure for visiting persons detained in the camps. By contrast, the prisoners in India enjoy a Constitutional guarantee of enjoying all fundamental rights within the prison walls. The Supreme Court of India has recognised the rights of prisoners to meet and communicate with members of their families and friends. In fact, the Supreme Court of India, in several judgements has advocated that prisoners should be permitted to meet their families and be in touch with them so that their transition to normal life after the period of incarceration is made easier and smoother. However, in the camps, visiting is bogged down by bureaucratic red-tapism. The exaggerated security arrangements is itself a deterrent for ordinary visitors. Further, the procedures for visiting are cumbersome. A person desirous of meeting the detenues in the camp has to

make an application to the Special Tahsildar. The Special Tahsildar sits in the Collectorate several kms away from the Camp. The Special Tahsildar seeks the comments of the Superintendent of Police on the application and only thereafter permission is granted. Generally for the papers to move it takes several days. It is all the more difficult for Sri Lankans who are in other refugee camps to meet those in the Special Camps as they have to seek permission first to leave their camp and also to visit the Special Camp detainees.

The experiences of the members of the Fact-Finding Team itself is quite illustrative. The FFT after obtaining the clearance from the Superintendent of Police, Vellore was asked to meet the Q Branch Police (Intelligence Wing of the Police) at the camp gate. After the Q Branch Police checked their identities the Security persons frisked all the FFT members. This process took about 2 hours and during this time the members had to wait outside the camp gate. Women visitors should necessarily be frisked by women constables. Invariably no women constables are present at the campsite and they have to be called from Vellore. Most times this results in women visitors having to spend the whole day in waiting for the arrival of the woman constable to carry out the frisking.

INDEFINITE INCARCERATION:

It is pertinent to point out that though the inmates are technically and legally not prisoners their plight is worse than those prisoners who are convicted and sentenced to specific terms of imprisonment. The so-called inmates have been in detention for several years now and there is no time limit specified for their release. This can have psychologically a very traumatising and demoralising influence on the detainees. Even according to the Commission, which enquired into the escape of the 43 inmates “*admittedly these inmates or most of them are in rigorous confinement in the special camp for five or six years continuously*. Not much of action was taken by the Centre to repatriate them to Sri Lanka. Obviously this long detention made the inmates desperate and they were working out ways and means of getting out of the camp somehow or other from time to time”.

Till date the Government of India has not evolved a policy as to how to deal with persons who have been detained in the camp. There are several persons who have not come out side the camp for more than ten years now. They are not sure as to when they are likely to be released and as to when they can lead a normal life, by pursuing a profession or employment and living with their families. The uncertainty of their incarceration by itself is agonising and inhuman, and by itself constitutes a serious violation of their right to life.

DETENTION OR RESIDENCE?

The reality of the persons detained in the camp is that they are under 24 hours detention in conditions which are worse then those prevalent in any of the Central Prisons in India. The detenues do not enjoy any of the rights and privileges enjoyed by convict and other undertrial prisoners lodged in the various prisons because their status is neither that of convicts or undertrials. Tragically, the grimness and hopelessness of their reality is negated by legality.

As per the law, all persons are detained in the camp pursuant to orders passed under Sec.3 (2) (e) of the Foreigners Act 1946. As per this provision the Central Government or the State Government may by order, among other things, require a foreigner to reside in a particular place and impose any restrictions on his movements. According to the government the detention of all the persons detained in the camps is only a requirement to make the persons reside in a particular place and the total denial of liberty is a mere restrictions on their movements.

The challenge to the detention orders under the Foreigners Act, 1946, has been negated by the Madras High Court (Raju @ Kalapathy Vs State of Tamil Nadu, 1995 (2) Law Weekly Criminal 690). The High Court held that detaining persons in the camps is not detention but a requirement to make a person reside in a particular place. The absence of a fixed period of detention has also been held to be not arbitrary because staying in special camps is not detention but merely a reasonable restriction on the freedom of movement.

Thus this duality between reality and legality has resulted in scores of persons being kept in detention for several years without any recourse or redress.

In fact in Chingleput camp where a few families live, there are two children, who are growing up without knowing the world out side, without any education or any other kind of interaction with society.

It is pertinent to point out that despite the decision of the High Court that the persons in camps are not detained many of the Trial Courts who have tried these persons have set off the period spent in the camps against their terms of sentence in several cases. This is the first judicial acknowledgment of the fact that persons in camps are indeed under detention, akin to imprisonment.

VERSION OF MARAN AND KANAKASABAPATHY

The FFT members interviewed two of the Vellore camp inmates – Maran and Kanakasabapathy. Kanakasabapathy is 77 years and Maran is in his mid thirties. According to them many of the persons detained are physically maimed persons. This is borne out by the testimony given by the officials as reported in the Commission Report (Page 3 para 8). The Team Members collected the details of the following handicapped persons detained in this Camp:

1. Ansar: Right foot disabled due to gun shot injury.
2. Mukilan: Totally blind.
3. Ranga: Has lost both the hands below the wrists, lost vision in the left eye and lost hearing faculty in the left ear.
4. Moscow: Lost the right hand below the wrist and the thumb in the left hand.
5. Hitler: Lost both hands below the wrist and totally blind.
6. Jerry: Right leg paralysed.
7. Ajanthan: Has a bullet embedded in the head resulting in paralysis of right leg, right hand and has lost the hearing faculty in the right ear.
8. Yogan: Left leg damaged by gun shot injury.
9. Jeevan: Right foot severed.
10. Radha: Lost vision in the right eye.
11. Nimilan: Lost the vision in the left eye.
12. Shiva: Left foot severed.

Most of the detainees are not facing any criminal charges by the Indian Courts or if convicted, have already served their sentence. They were eager to rejoin their families. However, they were dependent on the state agencies to process their papers.

They also reported that in the recent past they have not been permitted to even receive phone calls from their family members who are living in other countries. Though the families were willing to sponsor them, and the State Government had permitted some to leave, they could not do so, for lack of travel documents. They requested the PUCL to request the UNHCR office at Chennai to intervene on their behalf.

On 10th July 1999, two of the Team Members viz. K.Manoharan and Sudha Ramalingam went to UNCHR office at Bishop Gardens, R.A.Puram, Chennai and met Mr. Narasimha Rao, Liaison Officer. He told the Team Members that since India has not signed the Convention on Refugees, 1951 and the Protocol thereto of 1967, the UNCHR has to operate with a very restricted mandate which does not give it access to the special camps such as the one at Tippu Mahal. The Team Members however requested him to explore all avenues to have an access to the Special Camp and gain a first hand knowledge about the conditions there. He was also requested to help the detainees to get their travel documents and other supporting papers to leave India. He told the Team Members that UNCHR cannot commit itself in any manner in view of the limited mandate it enjoys in India but he could intervene at the time of the receipt of proper sponsorship papers in the concerned embassies and consulates in respect of the refugees.

FINDINGS & RECOMMENDATIONS:

1. For those who have already served prison terms for their conviction and for those who have been acquitted of the charges after having undergone a long period of incarceration as undertrials, it is unjust to be kept in further detention in the form of confinement in such Special Camps. All the interns in the Special Camp at Tippu Mahal, Vellore, excepting a few, are not willing to go back to Sri Lanka. They apprehend arrest, detention and torture by the Sri Lankan authorities.

The Tamil Nadu government should therefore immediately consider issuing orders permitting them to leave for the country of their choice.

2. The Tamil Nadu Government should also consider restoring the facilities for the interns of the camp to receive the incoming calls from their relatives abroad.

3. All the physically disabled interns should immediately be released and permitted to join their family / friends / well wishers in India or abroad.

4. The interns must be granted periodical paroles to visit places and people of their choice as is provided for the prisoners in the prisons.

5. The interns admittedly being refugees and not prisoners, they should be treated like any other refugee kept in other camps and allowed to do their own cooking and also have their relatives or friends stay with them inside the camp. Keeping the interns for several years – even more than a decade in confinement in the camp is a gross violation of human rights.

6. The National and State Human Rights Commissions should visit the refugee camps in periodical intervals and ensure that human rights standards are safeguarded for the interns.

7. The interns should be allowed to communicate with the outside world freely with out subjecting their letters to censor.

8. The Tamil Nadu government should explore the avenues to work with the UNCHR in a more meaningful way especially in respect of getting travel documents for those who have sponsors abroad.

Signed:

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