

## **Thoothukudis will happen as long as Delhi-NCR remains the focus of environmental violations in India**

The national capital region is a priority area for the government, judiciary and even some civil society groups so far as abatement of pollution is concerned.

The death of 13 people in police firing in Tamil Nadu's Thoothukudi on May 22 has generated a considerable amount of public attention. The people were protesting against the operation and proposed expansion of a Sterlite Copper smelter plant in the area. It will, however, not be long before this tragic incident will be forgotten as just one more instance of state brutality – an aberration, and a tragedy that can be addressed by conducting a judicial inquiry and compensating the families of those who have died.

The public debate, however, misses the fact that other than the killing of innocent people, there is nothing unusual about the manner in which the smelter was operating. Local residents and activists have complained for years that the Thoothukudi plant has been contaminating the air and water in the area, and has [violated environmental laws](#).

Across India, mines, dams, industries and other activities operate in blatant violation of the law, specially environmental laws. Compliance is an exception, violation is the norm. Those rare individuals in the government who try to implement laws are either punished or shunted out. Even the judiciary is not spared. In fact, there is no difference in either government or private corporate entities when it comes to violation of environmental laws. Both entities justify these violation as “development”. Taking a leaf out of Amartya Sen's seminal work *Development as Freedom*, India's environmental violators may well have a new term to justify their illegal action: “Violations as Development”.

Why did Thoothukudi (formerly known as Tuticorin) reach a flashpoint? The struggle against the copper smelter is around two decades old – as old as the plant itself. Yet, it did not get national attention till people died. The reason is not difficult to locate: an environmental struggle like that in Thoothukudi does not have any of the basic ingredients that usually make for national and international attention: no pristine forest, wildlife or biodiversity; no vulnerable tribal or forest-dwelling communities; no sacred rivers, forest and landscapes. Most importantly, Thoothukudi is not the National Capital Region of Delhi, which is a priority area for the government, judiciary and even some civil society groups so far as abatement of pollution is concerned.

## **Two sets of standards**

This brings us to the larger issue of environmental justice and equity.

Today, India follows two sets of norms for environmental regulations: a fairly strict standard for the Delhi-National Capital Region as well as metropolitan cities; and a significantly lower standard for areas outside these regions. Nothing exemplifies this more than the functioning of the Environmental Pollution (Prevention and Control) Authority. This Authority was constituted by the Union government on the orders of the Supreme Court in 1998, specifically to deal with environmental pollution-related issues in the National Capital Region. The body has been empowered to issue directions and file complaints before courts if the norms with respect to pollution are not followed. But the fact is that the National Capital Region is not the most polluted area in the country. It is surprising that despite much higher levels of pollution in states such as Chhattisgarh, Tamil Nadu, Orissa, Gujarat, no such body exists for these states, as well as others.

Across India, industrial projects continue to violate environmental laws and curtail the fundamental rights of the people. Yet, the courts have let off the violators with a simple warning or notional fines. It is worth citing few of them.

In 2015, the National Green Tribunal found that the Telangana State Power Generation Corporation had illegally commenced construction work for its Bhadradi power plant at Manuguru without obtaining environmental clearances or approval under the Air (Prevention and Control of Pollution) Act, 1981. Yet,

despite coming to the conclusion that the company has violated the law, it failed to apply the “Polluter Pay Principle” and did not initiate any punitive action. In Orissa, the High Court in 2011, concluded that Vedanta – one of the world’s largest mining and metals conglomerates, of which Sterlite Copper is a subsidiary – had illegally expanded its alumina refinery and power plant in Lanjigarh in Kalahandi district of Odisha without obtaining prior environmental clearance. Yet, despite these illegalities, the Ministry of Environment, Forest and Climate Change granted environmental clearance to both of them. In 2013, when in a rare executive action, the Tamil Nadu Pollution Control Board directed for the closure of the copper smelter plant in Thoothukudi, Sterlite challenged the order before the national green tribunal. The tribunal’s bench comprising Justice Swatanter Kumar overturned the order on the following disturbing reasoning:

*“Shutting down an industry amounts to ‘Civil Death’ of the Company. A direction of closure in relation to a running unit only results in stoppage of production but has far reaching economic, social and labour consequences. Before directing the civil death of a company, the decision making authority is expected to have before it some reliable and cogent evidence.”*

The Supreme Court upheld the judgment and the reasoning of the National Green Tribunal. Thus the civil death of an industry was regarded as a far more serious concern than the health of the community or compliance with laws.

## Turning a blind eye

Similarly, in 2014, the Ministry of Environment, Forest and Climate Change granted environmental clearance to the 3,600 MW thermal power plant of Infrastructure Leasing and Financial Services Ltd in Cuddalore, Tamil Nadu. The National Green Tribunal quashed the plant’s environmental clearance on the ground that the company has based its assessment on an imaginary National Ambient Air Quality Standards of 2005 (the Ambient Air Quality Standards are of 2009) and without assessment of key parameters such as ground level ozone and volatile organic compounds – both of which have severe health impacts. The Supreme Court swiftly stayed the tribunal’s order and allowed the company to operate. In Karnataka, the National Green Tribunal in 2014, concluded that the National Thermal Power Corporation Limited’s Kudgi thermal power plant was granted environmental clearance based on wrong air quality modelling studies; the likely impact due to the project was never ascertained. However, the Supreme Court bench, headed by Justice TS Thakur, stayed the tribunal’s judgment and allowed the project to commence its activities.

Thoothukudi happened because every agency and authority, including the judiciary, has turned a blind eye to the blatant violation of environmental laws and the public health crisis that faces those parts of India that do not belong to the National Capital Region. Nothing exemplifies this more than the manner in which air quality data is monitored in the country. For instance, there are a total of 119 continuous ambient air quality monitoring stations in India as per Central Pollution Control Board data. In terms of distribution, none of the seven north eastern states has even a single monitoring station. Gujarat has only one and Tamil Nadu three. Contrast this with the National Capital Region of Delhi, which has a total of 41 continuous air monitoring stations. The quality of the environment and public health beyond the National Capital Region simply does not matter.

Thoothukudi is clearly not the first instance of environmental injustice. It will sadly also not be the last.

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