

Paramakudi: a police engineered violence and firing

[An interim report from People's Watch since police and District Magistrates have not been personally met, circulated in public interest by Henri Tiphagne, Executive Director, People's Watch]

September 11th, the 54th death anniversary of the dalit leader Immanuel Sekaran has not only been a day observed to pay homage to the one who initiated the challenge against caste oppression in the then undivided Ramnad district but also has served as a 'cultural expression' of the Dalit communities' aspirations to pay respect to their leader 'on par with' what the dominant castes of the region do to their revered leader, Muthuramalinga Thevar. It is precisely this that has been the 'trigger off' to what has resulted today in the demise of 6 dalits in Paramakudi town as a result of a police firing on Sunday the 11th.

The fact that a series of police firings take place when the Tamilnadu Assembly is in session – not only in Paramakudi but also in Madurai [Chinthamani] and Ilayankudi makes anyone interested in peace and tranquility and the rule of law wonder where did these direction to handle the law and order situation emanate from? Normally it is the District Collector of these regions who is primarily responsible for law and order and in such situations it is he as the District Magistrate or the Sub Divisional Executive Magistrate who has to formally approve that it is time to use fire arms. The police are governed by a Code of Conduct that the Government has come out with of which Art 4 reads as follows: 'In securing the observance of law or in maintaining order, the police should, as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum amount of force required under the circumstances should be used.' The Tamilnadu Police have also a citizens charter which insists on their adherence to facilitate the peaceful resolution of conflicts and to professional ethics and personal integrity. In addition to all this is the UN Basic Principle on the use of force and firearms by Law Enforcement Officials of 1990 which also outlines the duties of law enforcement officials at such occasions. This is a series of police firings when the Tamil Nadu Assembly is in session!!

What takes place every year on September 11th has been a dalit civil society initiated exercise of paying homage to their leader Immanuel Sekaran, while it is not to be forgotten that a similar ceremony of paying homage to a leader of the Thevar community, Muthuramalinga Thevar on 30th October is a government function. It is in this background that last year [2010] when the ceremony was taking place, Mr. Nainar Nagendran, a Former Minister in the AIADMK Ministry stated in public that if the AIADMK was brought to power, this function would be observed as a Government function. It is also in October of 2010 that the Government of India had issued a postal stamp in his name, honouring him as a freedom fighter, political leader and a civil rights activist. Following this, several dalit leaders also met the Chief Minister of Tamil Nadu after her assuming position in May 2011 requesting her to declare the function to pay homage to Immanuel Sekaran as a government function. That is what did not take place.

What usually happens on this day is that all major political parties formally pay homage at the site in the morning and the dalit leaders do so in the evening and they are followed by entire dalit villages

who come there to also pay homage – the total crowd usually running into several hundred thousands. The run up to the preparation for the ‘paying of homage ‘ this year was a flex board that had been put up within the limits of the Parmakudi Police station, by the SC/ST workers union of the Tamilnadu Transport Corporation which read in Tamil as follows : ‘Desiya Thalaivar, Deiva Thirumaganar Immanuel Sekaran’ – which is translated in English as, ‘ National Leader, Divine Descendent Immanuel Sekaran. This was objected to by the dominant caste and one Prabakaran, from the ‘ Mara Tamilar Senai’ preferred a complaint to the Paramakudi police on 7th September. The members of the ‘Homage Committee’ were summoned to the police station for talks by the police. The version that had been presented had been that this title ‘Deiva Thirumaganar’ is only to be used for Muthuramalinga Thevar and it is not to be used for anyone else. This was objected to by the Dalit leaders and the talks failed and it was then mentioned by the police present - DSP Ganesan and Inspector Sivakumar - that they would also not co- operate this year since the Dalit leaders had failed to accept a compromise on this.

This was followed by the murder of a dalit plus-one student, Palanikumar, at Pacheri village in Ramanathapuram district of Tamil Nadu on the night of September 9 when he was returning home after witnessing a stage play at Muthuramalingapuram when he was waylaid by the gang and attacked, leading to his death. The Dalits of Pacheri village were raged by this incident and had requested their caste leader Mr. John Pandian [President of the Thamizhaga Munnetra Kazhagam] to visit their village. Mr. John Pandian had also assured them that he would come and console the family when he would come to Parmakudi for paying respects to Thiyagi Immanuel Sekaran on 11th September.

It is this decision of John Pandian to go to Ramanathapuram that was fought by the District Collector of Tuticorin [where John Pandian normally resides] by issuing orders that he must not enter Ramanathapuram. Pandian was later arrested in Vallanad village and detained there till his release on the 13th after a habeas corpus petition was filed in this regard before the Madurai Bench of the Madras High Court.

This arrest took place on the 11th September morning the day when Paramakudi town usually has its shops closed and the public do not come anywhere in the public allowing those going to pay homage a free road, whileso, at around 12.45 AM a group of about 30 persons largely led by women, totally unarmed and owing allegiance to Mr. John Pandian sat on the 5 road junction demanding the release of their leader. It was thereafter that the ugly, pre-planned scenes unfurled as follows :

I] there was no negotiations or persuasion that took place as required under their code of conduct by the police or revenue officials – as now being claimed in the media through reports – asking the protestors to disburse. The revenue officials were on one side of the road while the police, led by the Deputy Commissioner of Police Adayar, Chennai, Mr. Senthil Velan IPS [who had been deputed for the special bandaboust at this occasion for his expertise in handling such situations !!!] immediately started the lathi charge on this crowd that was so small compared to the police force that was available a short while thereafter. The police were in such large numbers that they could have

even physically lifted the protesting persons if they so desired without causing any physical harm to anyone;

ii] the lathi charge was not limited to those who were protesting but also to those who were passers-by and by standers - who largely were people from other places who had come to pay homage to their leader. The lathi charge was immediately, within a few minutes, followed by police firing led by Mr. Senthil Velan IPS and Inspector Sivakumar of Paramakudi PS. This resulted in three persons falling dead to the bullets. No mandatory recourse to tear gas as required under law or use of the water to disperse the crowds was ever used in this case.

iii] this was followed by a gang of persons going scot free immediately after the firing on the Ilayangudi road where the police vehicles were parked attacking the ambulance, the vajra vehicle etc. in total ease, almost making it amply clear to the public that they were not members of the public but owing allegiance and support from the larger police family;

iv] this was further followed by the police picking up people who had run away from the scene – for what the police firing is about – if it had been truly used for that purpose – and then bringing them to the 5 roads junction and beating them -- each person being beaten by over 20 police with their lathis and riffle butts. This was simply police torture as defined under Art 1 of the UN Convention on Torture. It is this brutal attack that has left several hundreds of young dalit youth injured and many of them have not resorted to any formal medical treatment at hospitals because all of them know the consequences of the same – they will be falsely implicated in criminal cases if they are found taking treatment in hospitals. What was worse were eye witness accounts as well as video images [whose names we do not want to disclose now due to the Judicial enquiry that has been ordered] indicating that at least two other persons who were brutally beaten with lathis and rifle butts were then shot dead by firing on them. This is plain murder by the police using the occasion. Democratic India has yet to see an occasion of this sort.

v] this police firing was followed within minutes in the neighboring districts – Sivagangai and Madurai – signaling that there were ‘orders from’ above, giving the police a free hand to deal with the situation – there was a police firing in Ilayankudi of Sivagangai district and Chinthamani of Madurai district leading to more injured. The IG of Police Madurai Range Mr. Rajesh Das has a track record of such ‘trigger happy’ career that People’s watch has record since he was an ASP in Tuticorin in the year 1996. One way in which this occurs is the use of excessive force by law enforcement officers, prompted by the belief that it is expected of them, in curbing political demonstrations.

The most distressing part of the incident is the fact that no dalit leader of state repute had this year been allowed to pay homage to Immanuel Sekaran due to this incident.

It is pertinent to also observe that the Report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Christof Heyns in his first report that focuses on the preservation of life in the context of demonstrations. The Special Rapporteur suggests that a set of norms, such as the following, could provide a foundation for managing demonstrations in a way that protects the lives of all concerned:

- 1) The State has a duty to facilitate public protest by providing protesters

with access to public space, and protecting them, where necessary, against outside threats.

2) The proper management of demonstrations depends on communication and collaboration among protesters, local authorities and police – the so-called “safety triangle.” Dialogue, and not draconian legislation, is the key.

3) There should be a presumption against limitations on assemblies (including prohibition and conditions). Limitations should be prescribed by law and be necessary, in a democratic society, to achieve a legitimate purpose, such as protecting the rights of others, and should, in principle, be content neutral. The possibility of appeal against limitations before an independent judicial organ should be available.

4) During the actual protest, the normal preoccupation about law and order by State agents should, as far as possible, give way to the narrower focus of preserving the peace, and protecting people and property against harm.

5) International standards in respect of the use of force by the police centres around necessity and proportionality. Firearms should be used only to prevent grievous bodily harm and death. Lethal force may be used intentionally only if the objective is to protect life, and less harmful measures are inadequate.

6) The standards applicable to the right to assembly and the use of force should be accessible to the public, e.g., through readily available legislation, to enable adequate planning and rational decision-making on how to protect one’s own interests.

7) Procedures should exist, as a matter of course, for the investigation of any use of deadly force or discharge of firearms during demonstrations and adequate disciplinary action should be taken where appropriate

People’s Watch, disturbed by what it saw as a flagrant violation of human rights and total disrespect for several legal procedures that are to be mandatorily followed before any use of fire arms, immediately dispatched a fact finding team to Paramakudi as well as to visit the injured in the various hospitals. The teams carried with their tasks under great difficulty the first day on the 12th and we issued a press release which is also attached along with this interim report. A team of lawyers and activists continue to be on the ground visiting the different villages for more tearful versions of dalit victims that are yet to be made public. The fact finding team was led by Mr. C J Rajan, the Director of PW’s Tamil Nadu Program on Human Rights and Democracy [TNPHR&D]. Accompanying him were Ms. Palaniammal, TNPHR&D’s State Monitoring Officer; Mr. Pandiarajan, TNPHR&D’s Headquarter’s lawyer; Mr. Anandakuamr, TNPHR&D’s Regional Human Rights Co-ordinator for Sivagangai, Ramnad and Virudunagar districts. Mr. Ayyapann, TNPHR&D’s Headquarters Human Rights Monitoring Associate and Mr. Kuppusamy, CHRM’s district representative from Erode district.

It is also pertinent to note that it has been strongly observed by the team that there are

roles played in this incident by members who are located in Chennai – in government and out side Government. Several statements of senior police officials when under pressure as well as other officials refer to ‘ engaluku melidathil irundu utharavu’ . [*we have order from highest places to do so*]. It is important to even state that the names of persons as high as Sasikala have been uttered by common people with knowledge that it is her hand that has been responsible for many an action on the ground – with or without the formal approval of the Chief Minister. The presence and role of Dr. Paneerselvam IAS [Retd] in the Department of Special Program Implementation is being questioned by persons with adequate knowledge of governance in Tamilnadu of what his role is in these incidents when he was the District Collector of Tirunelveli district at the time of the historic ‘Kodiangulam incidents’ of 1995.

It is also important to note that the statement of the Chief Minister on the reasons behind the killing of the young Dalit boy on 9th September was due to the fact that in Muthuramalingapuram village [Thevar inhabited] neighboring Pacheri village [inhabited by Dalits] a wall writing was alleged to have been found referring vulgarly to Muthuramlinga Thevar. This seems to have led to the murder of the boy !!! This is a village where Dalits cannot even today walk in with their foot wear and imagine the CMs statement reflecting the unintelligent version of her police intelligence that the dalits walked up to the ration shop in the middle of the village with the ease to make a wall writing !!!

People’s Watch therefore urgently recommends the following :

- 1] that the Government of Tamilnadu provides each of the 6 persons killed in the police firing an immediate compensation of Rs ten lakhs ;
- 2] the Chief Minister of Tamil Nadu, Dr. Jayalalitha should take up the moral responsibility for the loss of 6 dalit lives and apologize to the dalit community. This will inevitably lead to the existing tensions between the two communities being brought to a close and pave the way for normalcy to prevail in the district. The Chief Minister should also provide assurance to the people of Tamilnadu that she will ensure that she will allow the police to function without any interference from any authority outside the government or interference from any sources close to the CM’s family members.
- 3] the law and order functions are not taken up by the police, including senior police officers of the IPS rank, without the actual concurrence of the District Magistrate who is responsible for the law and order functions;
- 4) any Judicial enquiry, headed by a sitting or retired High Court Judge, will have to function in a system where all the documentation is in the custody of the police and have already been tampered, new documents authorizing the firing from the Executive Magistrates have now been obtained and the foregone conclusion is that there was no other go but to order firing. Let us not forget the most recent of police firings in Tambaraparani and the Justice Mohan Commission of Enquiry. Hence, what is required is that the ‘hand behind the scene’ from Chennai that has emboldened the IG South who has in turn bypassed the District Collector and given the green signal for this high handedness has to be investigated and found out. This needs an independent human rights investigation as opposed to a

criminal investigation that can only be undertaken by the National Human Rights Commission of India. However, with the Tamilnadu Government ordering a Judicial Enquiry the jurisdiction of the NHRC has been ousted. We therefore call upon the Government of Tamilnadu to hand over this enquiry to the NHRC rather than a judicial enquiry by a sitting or retired Judge of the High Court.

5] the District Collectors of Ramanathapuram and Sivagangai have to ensure the very strict implementation of the SC/ST POA in their districts with immediate effect so that the rule of law prevails rather than a 'caste discrimination directed administration' led by invisible hands from Chennai close to the CM.

6] The National Commission for Scheduled Castes has to immediately undertake an enquiry into the incidents by personally visiting the area and then ensure that proper recommendations are made to the Government of Tamilnadu for the required prosecution of people who are found culpable and compensations to victims are made.

7] The Collectors of Madurai, Ramanathapuram and Sivagangai are required to personally ensure that all victims who have been injured due to the lathi charge and firing wherever they are, are provided quality medical attention in Government hospitals to rushed to private hospitals at state cost where required.

8) We also call for the immediate steps in the present Legislature to present a new Police Bill for the State in consonance with the directions of the Supreme Court of India and circulate the same for public discussion and approval thereafter. It is such a new police bill that will ensure independence to the police to function on their own without any instructions from forces external to the government.