

**Some random reflections from the diary of a human rights defender who visited  
Dharmapuri district on 11<sup>th</sup> and 12<sup>th</sup> Nov 2012.**

[It is proposed that each section shall not be more than 2000 words for making it easy to read and shall be divided into several distinct portions so that they are easily readable]

By; Henri Tiphagne, Honorary National Working Secretary of AiNNi and HRDA and Executive Director of People's Watch

**Part I :**

I had recently visited Dharmapuri district on the 31st October in my capacity as the NCPCR's State Representative on RTE in Tamilnadu. It was meeting that involved the district administration concerned with the field of school education where the report of the social audit of the RTE in three blocks of the district, namely, Harur, Pennagaram and Pappireddipatti, covering 5 panchayats in each was placed and reviewed publicly. The meeting that was conducted block by block was attended by the Panchayat Presidents of each of the Panchayats, the Heads of all schools in these Panchayats, selected members of the SMCs from these schools , the CEO, the DEEO, the AEOs, the CEO [SSA] the PA Noon Meal Scheme, the District ADW Officer, the Assistant Director Panchayats of the district, the BDOs etc. In addition the district representative of the UNICEF was present along with the social audit functionaries of the UNICEF sponsored project and myself as the NCPCR's SR on RTE in Tamilnadu. The review meetings that started in the morning by 10.30 AM concluded only by 8.30 PM in the night and that too because the participants from Harur needed to leave the place so that they do not miss their last bus. The social audit questionnaire which did not cater to this region of where the present caste riot has occurred gave us a slight indication of what was the level of caste discrimination in this district where in the question whether there was any form of discrimination, the response to the question was positive and we had to 'explain it off' stating that this is not only caste discrimination but also includes gender based discrimination and any other form of discrimination. We did not have any idea that something like this was brewing.

On the night of the 12<sup>th</sup> just before leaving Dharmapuri, both the District Collector Ms. Lilly IAS and Mr. Asra Garg IPS the District SP had provided me an exclusive timing in spite of all their engagements to listen to what we had to state after our visit of two days and the survey that we had undertaken the three affected villages. T this meeting also the District Collector mentioned that she also had not been briefed by anyone before – not even her intelligence officers about the possibility of something as serious as this brewing.

### **Disappointments:**

The list of senior persons in office who are yet to visit the affected villages - the Chief Minister who is also the Chairperson of the State Vigilance and Monitoring Committee under the SC ST POA; the State Minister for SC/ST Welfare who is also a Member of the State Vigilance and Monitoring Committee under the SC ST POA ; the State Secretary for SC /ST Welfare who is also the Convenor of the State Vigilance and Monitoring Committee under the SC ST POA and the Nodal Officer under Sec 9 the said rules to the Act to perform the following functions;

#### ***'9. Nomination of Nodal Officer.-***

***The State Government shall nominate a nodal officer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorized by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every***

***quarter, the nodal officer shall review,-***

***(i) the reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Cl. (xi) of rule 8.***

***(ii) the position of cases registered under the Act;***

***(iii) law and order situation in the identified area;***

*(iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;*

*(v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity of his/her dependents;*

*(vi) performance of non-Governmental organizations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.'*

In addition Tamilnadu Police has a ' **Social Justice and Human Rights unit**' which is headed by an officer of the rank of ADGP and presently it is Mr. T. Radhakrishnan IPS. He has also not chosen to come and visit the affected villages. How will the SC ST POA then ever be implemented with satisfaction in this state if these mandatory tasks of even visiting the affected villages by senior functionaries responsible for the implementing of the 1989 Act and protecting the lives of members of the SC and ST community in the state.

The Acting Chair or Members of the State Human Rights Commission, the Chairperson of the State Commission for Women, the senior leaders of major political parties other than the two Communist parties and the Viduthali Chiruthaigal Katchi. It is however appreciable that not only did the State Directorate of the National Commission for SC/STs visit but they were soon followed by the Hon'ble Chairperson of the Commission visiting all the three villages.

It is further disappointing that while the Sec 12 of the National Legal Services Authorities Act 1987 reads as follows :

**12. Criteria for giving legal services. -Every person who has to file or defend a case shall be entitled to legal services under this Act if that person, is-**

**(a) A member of a Scheduled Caste or Scheduled Tribe;**

*(b) A victim of trafficking in human beings or beggar as referred to in Article 23 of the Constitution;*

*(c) A women or a child;*

*(d) A mentally ill or otherwise disabled person;*

*(e) A person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or*

*(f) An industrial workman; or*

*(g) In custody, including custody in a protective home within the meaning of clause (g) of section 2 of the Immoral Traffic (Prevention) Act,*

*1956 (104 of 1956), or in a juvenile home within the meaning of clause (j) of section 2 of the Juvenile Justice Act, 1986 (53 of 1986), or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of section 2 of the Mental Health Act, 1987 (14 of 1987); or*

*[(h) in receipt of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.]*

It is thus clear that the Legal Services Authority [LSA] constituted at the national, state, district and taluk levels and which at the national level which till recently had the present Chief Justice of India as its Executive Chairman mandates under Sec 12 of the NALSA Act 1987 that ' a member of a scheduled caste or scheduled tribe' [ Sec 12 (a)] ... or ' a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster' [ Sec 12 ( e ) ] are both entitled to legal services. But it is really surprising that though such a major incident has taken place and while the entire district administration is in the

village doing its bit and even while the Madras High Court is seized of the matter through a PIL that it entertained, it is a pity that till the 12<sup>th</sup> Nov no functionaries of the LSA either at the district or taluk level even visit the three villages. It is to be mentioned that of the victims of violence are also two advocates – one in Nathan village and another in Kothampatti village.

It is pertinent to reflect at times like this one how different authorities who have jurisdiction over such 'atrocities' against dalits perform. At times when people enjoy stating without any ground knowledge that there is misuse of the SC ST POA 1989, here is a clear case of 'no proper use' of the Act and Rules by functionaries at different levels. It is also time for defenders to appreciate the petitioner and lawyer behind the PIL in the Madras High Court filed so early and the response of the First Bench to the same. What has to be seen is whether the investigation in to the cases registered are really only being handled by the DIG as directed or by DSPs as always.

Whoever came or did not come the District Collector and the Superintendent of Police have so far post riots done a good job and need to continue the same since after all whoever comes or goes, they are ground level functionaries mandated under the SC ST POA Act and Rules to perform crucial functions.

Henri Tipahgne