



the day
Tuticorin
burned



PART - I

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(only available on <https://peoplesinquest.wordpress.com>)

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4.	22.05.2018 16:05	The News Minute Manasa Rao Priyanka Thirumurthy	Sterlite Protest: Eleven dead in Thoothukudi as police, protesters clash	07
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52.	W.P. (MD) No. 9283 of 2018 , filed by Vaiko, General Secretary, Marumalarchi Dravida Munetra Kalagam (MDMK), No. 12, Rukmani Lakshmipathisalai, Egmore, Chennai 600 008, dated 23 rd April 2018, before the Madurai Bench of the Madras High Court	235
53.	W.P. (MD) No. 11391 of 2018 , filed by K. Kathiresan, M/48/2018, S/o Karrupiah, 101, Cholan Cross Street, Pulithevan Street, Maruthupandiar Street, Meenambalpuram, Madurai-625 002, received 23 rd May 2018, before the Madurai Bench of the Madras High Court	250
54.	W.P. (MD) No. 11396 of 2018 , filed by A. Syed Abdul Kader (M-34/18), S/o. Abdul Rasheedh, No.23A, Sungam Pallivasal Street, Madurai-01, received 24 th May 2018, before the Madurai Bench of the Madras High Court	264
55.	W.P. (MD) No. 11397 of 2018 , filed by S. Muthukumar, Advocate, S/o (Late) K. Sankaran, Plot No. 430, S.L.C.5, L.I.G. Colony, Anna Nagar, Madurai-625 020, received 24 th May 2018, before the Madurai Bench of the Madras High Court	275
56.	W.P. (MD) No. 11398 of 2018 , filed by M. Alagarsamy, S/o. K.Manohar, No. 96/4, Sethu Palace, 1 st Floor, Main Road, Kovilpatti, Thoothukudi District, received 24 th May 2018, before the Madurai Bench of the Madras High Court	286
57.	W.P. (MD) No. 11399 of 2018 , filed by C. Ezhilarasu, S/o. A. Chandrasekaran, Deva Padmavathi Illam, Mass Line, Melur Main Road, Y. Othakadai, Madurai District, received 24 th May 2018, before the Madurai Bench of the Madras High Court	302
58.	W.P. (MD) No. 11400 of 2018 , filed by K. Rajkumar, S/o Kumariah, No. 12/5 Ezhil Street, Indu Nagar, S. Kodikulam, Madurai-7, received 24 th May, before the Madurai Bench of the Madras High Court	308
59.	W.P. No. 11401 of 2018 , filed by Kavin Malar, D/o. Jareen Kanthan, Aged 20, 14/1, Navarath Colony, Second Street, Kalakshethra Colony, Besant Nagar, Chennai-19, received 25 th May 2018, before the Madras High Court	321

60.	W.P. (MD) No. 11502 of 2018 , filed by Kanthakumar, S/o of Mr. Ramakrishnan, Door No.4/316, Main Road, Pudukottai, Pin – 628103, Tuticorin District, received 28 th May 2018, before the Madurai Bench of the Madras High Court	334
61.	W.P. (MD) No. 11661 of 2018 , filed by N. Muthu Amuthanathan, General Secretary, All India Lawyers Union, Tamil Nadu State Committee, 4/412, College Street, Tahsildar Nagar, Madurai – 625 020, received 5 th June 2018, before the Madurai Bench of the Madras High Court	349
62.	W. P. (MD) No. 12297 of 2018 , filed by Henry Thomas, (M/A – 54 years), S/o. E.R.Rajaiah, Door No. 13/1, Vathiyar Street, Thoothukudi – 682 001, received 7 th June 2018, before the Madurai Bench of the Madras High Court	357
63.	W.P. (MD) No. 13417 of 2018 , filed by AWD Tilak, S/o Late V.Antony samy Pillai, 52, S.M.Puram 2 nd Street, Thoothukudi-628003, dated 21 st June 2018, before the Madurai Bench of the Madras High Court	370

THE SUMMER THAT SHOOK THOOTHUKUDI

The Anti-Sterlite Demonstrations and Police Firings

Findings, observations and demands of the 'Coordinating Committee
for People's Inquest into Thoothukudi Police Firing'

1. Introduction

On May 22, 2018, around noon, media reports started coming in from Thoothukudi (also referred to as Tuticorin), about police firings on those who had gathered at the Thoothukudi District Collectorate to mark the 100th day of peaceful demonstrations against the proposed expansion of Vedanta's Sterlite Copper.

Over the previous 99 days people across Thoothukudi, including residents of villages situated close to the plant, had staged protests against expansion and had submitted petitions on the issue to the DC, Mr N. Venkatesh, IAS. In the absence of any response from the district administration, they had planned to march towards the Collectorate on the 100th day.

According to the Government of Tamil Nadu, by the evening of May 22, eleven people were killed in police firings. The government claimed that the firings were in response to the marchers resorting to violence. Those who were associated with the demonstrations of May 22, comprising local residents, political parties and activists, denied this allegation.

The evidence gathered from eye-witness accounts, images and videos caught on cameras and contemporaneous reports in both national media and social media about the manner in which the police were said to have attacked the demonstrators and resorted to firing live ammunition into the crowds, raise several disturbing questions about the modus operandi of the district administration and police, prior to May 22, on May 22 and in the days that followed. The internet shutdown until May 25 and the imposition of Section 144 until May 27, were also questionable decisions since they restricted the gathering and flow of information from Thoothukudi.

To date, the administration has not made clear the decision-making process behind the order to fire into the crowds, and there is still no clarity on the authority, person/persons responsible for arriving at that fatal decision.

Evidence that came up before the fact-finding team¹, between May 28 – June 1, in Thoothukudi, also revealed a slew of extremely important issues that went much beyond questions restricted to the firing on May 22 which were also duly monitored with prior intimation².

Given the important ramifications that these findings had for Indian democracy and the functioning of the Indian state, a coalition of civil society organisations and individuals, under the banner of 'Coordinating Committee for People's Inquest into Thoothukudi Police Firing', was set up. It organised an independent People's Inquest (PI) on June 2-3, 2018, at Thoothukudi³. The mandate of the PI was specifically to look at the events that led to the 100 days of peaceful protests in Thoothukudi; the rally to the Collectorate on May 22; and killings, arbitrary detentions, cases of torture and police intimidation on May 22 and thereafter.

¹ A team of 69 members comprising of lawyers, academics, researchers and activists visited Thoothukudi between May 28 – June 1. This team gathered close to 217 statements relating to the deaths in police firings, deaths due to police torture, illegal detentions and arrests, midnight knocks by police, detention in hospitals, gaps in post-mortem etc. This team also gathered First Information Reports, medical reports and other relevant documents. The composition of the team is detailed in Annexure 1 of Part I on Pg A-1.

² Intimation sent to District officials by e-mail about the human rights monitoring team of People's Watch dated 21.05.2018. Annexure 3 of Part I on Pg A-9.

³ Intimation sent to District and State officials by e-mail about the People's Inquest team visit dated 31.05.2018. Annexure 4 of Part I on Pg A-11.

The objectives of the PI were:

- To ascertain the facts that led to the continuing protests by residents of Thoothukudi and surroundings over the years and particularly in the last 100 days.
- To ascertain from eye witness accounts the immediate facts and circumstances preceding the rally in which police actions, including lathi charge and firing on the rallyists, took place.
- To meet with officials in the police, administration and the health sector, as well as local organisations.
- To ascertain the lead up to the police firing through the gathering of statements from eye-witnesses; families of the deceased; officials from district administration; the district police department; representatives of the anti-Sterlite protest committee.
- To ascertain the circumstances in which police firing was authorised to take place and the person or persons who authorised the same.
- To ascertain details of the police actions in Thoothukudi immediately after the police firing on May 22.
- To ascertain and gather information about the actions taken on May 22 by the state government, district administration and police department, in preparing for the response to the people's rally, including whether measures if any were taken to ensure the safety and security of the demonstrators, many of whom were expected to be women and children.
- To analyse the available documents, evidences from various government departments, the Tamil Nadu Pollution Control Board, petitions, affidavits, evidences, and judgments of the High Court and Supreme Court vis-a-vis the firing incident and the Sterlite Copper plant in Tuticorin, and the compilation of the same.
- To suggest ways for legal intervention in all the courts, national and state; human rights institutions; and other relevant national and international forums.

The PI team was composed of:

1. Justice (Retd.) B.G. Kolse Patil, Former Judge, Bombay High Court
2. Justice (Retd.) Hariparanthaman, Former Judge, Madras High Court
3. Mr. M.G. Devasahayam IAS (Retd.) Former Chief Secretary Haryana
4. Dr. Christodoss Gandhi IAS (Retd.), Former Additional Chief Secretary, Tamil Nadu
5. Mr. Kamal Kumar IPS (Retd.), Former Director, National Police Academy, Hyderabad
6. Mr. R.B.S. Sreekumar IPS (Retd.), Former Director General of Police, Gujarat
7. Mr. Jacob Punnose IPS (Retd.), Former Director General of Police, Kerala & Former Special Rapporteur, NHRC
8. Prof. Dr. K. Mathiharan, Forensic medicine expert & formerly with University of Malaya, Malaysia
9. Ms. Geetha Ramaseshan, Advocate, Madras High Court

10. Dr. Usha Ramanathan, Legal Researcher, New Delhi
11. Ms Maja Daruwala, Senior Advisor – Commonwealth Human Rights Initiative, New Delhi
12. Prof. Kalpana Kannabiran, Director – Council for Social Development, Hyderabad
13. Prof. Shiv Visvanathan, Professor, O.P. Jindal Global University, Sonapat, Haryana
14. Ms. Pamela Philipose, Senior Journalist, New Delhi
15. Mr. Amit Sengupta, Senior Journalist, New Delhi
16. Ms. Kavitha Muralidharan, Journalist, Chennai
17. Dr. Savior Suresh, Forensic Medicine Expert, Chennai
18. Dr. V.A. Ramesh Nathan, Advocate & General Secretary, National Dalit Movement for Justice, New Delhi
19. Mr. Tom Thomas, Convenor, Corporate Responsibility Watch
20. Ms. Kavitha Gajendran, Social Activist, Chennai
21. Dr. T.M.N. Deepak Nathan, President, December 3 Movement
22. Mr. T. Peter, National Fishworkers Forum, Trivandrum
23. Mr. Jasaiah Joseph, National Fishworkers Forum, Kanyakumari

This is the final report of the PI team. It follows the interim report which was released to the public on June 3, 2018, in Thoothukudi.

2. Conclusions

Based on people's testimonies, eyewitness accounts, documents and records available in the public domain to date, the People's Inquest finds that the following circumstances deserve the fullest administrative and criminal investigation in order that responsibility can be fixed at the earliest possible time and recompense provided to those who have suffered death injury or rights violation.

We find that:

- Well before the May 22 rally, the administration had full knowledge of the year - long preparations being made for it, its scale and intention, as well as full knowledge that there would be a large number of families, ordinary men, women, children and older people present, but deliberately neglected to arrange for the safety of the rallyists.
- The administration did little or nothing to ensure that people were made aware of any last-minute Section 144 orders.
- By deliberately absenting themselves from the vicinity on May 22 the entire administration abnegated its duties in a cowardly manner and ceded all civilian authority and power to the police. This in our view amounts to dereliction of duty of public servants and was strongly contributory for the violence of May 22 and for the deaths that occurred.
- The police, in its turn did not reach out to the rallyists nor make arrangements to accompany the peaceful march so that rallyists could exercise their fundamental right to peaceful protest in an orderly manner without fear of harm or disruption.
- The police did not follow standard operating procedures to disperse the crowd.
- The police used excess force in many separate places and at many different times against the marchers often without provocation. Eye-witness accounts strongly suggest police violence was not with the intention of dispersing the crowd but intended to intimidate, hurt and panic them.
- The presence of sharpshooters/snipers placed strategically on rooftops and able to target the crowd who are widely believed to be policemen in plain clothes, is either evidence of unprecedented pre-meditated police planning with a view to maim and kill or it is a grave dereliction of duty on the part of the police and administration to allow the crowd to be prey to such 'disruptors'. Either way given the video footage and police movement and communications the truth is easily investigated and established. Consequently, there is sufficient cause to ground investigations into murder which must be initiated forthwith.
- There is sufficient preliminary information and eye-witness accounts to merit investigating the allegation that stone-pelters and arsonists may have been from within the police itself. Even if untrue and exaggerated, in order to re-establish the communities' trust the government and the police establishment must hold independent publicly accessible inquiries into these allegations.

- Given that it is widely believed to have been the handiwork of the police, there is sufficient cause to initiate a murder investigation into the killing of Ms. Jansy, a well-known anti-Sterlite organiser at Therespuram which is several miles away from the site of the rally as well as those of many others.

Police on the ground do not act without sanction from seniors. In the wake of 14 deaths and multiple injuries and assaults on women and children, an administrative inquiry must be initiated into the role of superior officers in relation to the many negligent or illegal actions of the police in the run up to the rally, during the rally and after it.

There is unequivocal evidence that immediately after May 22 in the aftermath of the rally police powers apparently unsupported by valid authority are being abused to conduct searches, make unjustified spot arrests, and hold people in custody in denial of their rights to be arrested for valid reason, be provided with representation and be brought before a judicial magistrate at the earliest. Widespread accusations of such repeated illegalities we believe amount to abuse of power and serious crimes under the IPC and amount to obstruction of justice as they prevent victims from accessing justice without fear or favour.

The use of 'open FIRs' lends itself to being used as a device to threaten, intimidate and entrap people at will and prevent victims, eyewitnesses and concerned citizens from filing complaints against the police in relation to the same and related incidents.

In the absence of any law and order problem in the area there is no need for continuing an enhanced police presence at Thoothukudi. Its continuation affirms public fears that the police and the administration are motivated in their actions by an intention to break the movement against polluting industries wherein Sterlite is a prime contributor.

3. Observations

- The last 99 days of the Anti-Sterlite Protest in and around Thoothukudi, commencing on February 11, 2018, with the traders' association and other bodies taking the initiative, including the one-day dharna of March 24, 2018, ending with a candlelight ceremony and spontaneous and continuous sit-in struggles in several villages as well as different parts of the city had been totally peaceful. Neither the public nor the district administration has maintained that they were not peaceful.
- The PI team observes from testimonies that *pandals* came up in different neighbourhoods in the city like, Millerpuram, Third Mile, Fathima Nagar, where people took turns to stage sit-ins. Simultaneously, protests took place in several villages near the Sterlite plant. People testified that they have gathered under trees, pasted posters on their walls and that family members would even have school children participating after classes. It became obvious to the PI team that this was a very organized, peaceful, well thought-out protest covering the urban and rural populations, which had sustained itself over the years and had grown out of the personal pain, suffering, loss of life and loss of livelihood of the local people. They were convinced that it was only a peaceful struggle that will realise their dreams of living in a clean and toxin-free environment.
- The PI team further observes that after a number of failed attempts to try and meet the DC to submit a memorandum demanding the permanent closure of Sterlite, people from close to 18 villages, wards and about 15 unions held a meeting at Pandarampatti where it was decided that on May 22 -- the 100th day of the protest -- they would stage a march to the Collectorate demanding that the Sterlite Copper Smelter Plant be permanently shut down.
- The PI team notes that the present campaign was a grassroots one and arguably the first of its kind in post-independence India on the issue of corporate control and environmental safety. Four aspects were striking about the mobilisation. One, that public enthusiasm for resistance to the growing presence of Sterlite never waned during this period that spanned a little over three months, in fact it only grew. Two, it emerged as a broad coalition of people from varying backgrounds that included different religions, castes, classes and location. Interestingly, many otherwise marginalized groups like dalits and transgenders came to play important leadership roles in these protests. Three, it was completely peaceful. Everybody resolved to go ahead and drive Sterlite out, but in a totally non-violent way. Four, it was the women – often women with young children – who took the lead in several pockets and occasionally led the charge fearlessly, confronting policemen and public functionaries. They saw this as having a crucial bearing on their health, livelihoods and the future of their children.
- The PI team observes that on May 20 'peace talks' were called for by the District Administration and that this meeting was chaired by the District Superintendent of Police (SP), while the District Magistrate (DM), who is responsible for the law and order and who should have led the meeting and reached out to people, was absent. The PI team observes his absence seems to indicate that he was willingly leaving the handling of a large civilian gathering to the police and treating it as a 'disruption' that needed 'police action' rather than as a 'citizen's movement reflecting concern for the future of the land and its people'.

- The invitations for the 'peace meeting', the PI team observes, have been sent to "23 selected organisations". Leaders of some selected organisations, which are now being named by the State and District Administration, police authorities and some political leaders as being responsible for organising the rally to the Collectorate, such as Makkal Athikaram, Puthiya Jananayagam, Revolutionary Student and Youth Federation and the Human Rights Protection Center, were conspicuous by their absence at the 'peace meeting' because they were not officially invited. The PI team observes that not extending an invitation to the leaders of the said organisations and others -- who were in constant communication with the police and District Administration on earlier occasions in Thoothukudi -- was intentional and done by design.
- The PI team observes that District Administration's suggestion to hold the 100th day rally in a small school ground suggests that it had not grasped the level of people's concern for protecting their environment and health, nor indeed the depth of their long-standing sense of grievance against Sterlite. This indicates a deliberate refusal to comprehend the degree of public support or to 'manage' it by framing it as an event of short duration in a contained area, for the convenience of the administration.
- The PI team observes that allowing an assembly in one place and prohibiting it in another area close by, despite knowing that the rally participants wanted to march towards the Collectorate, appears to have been a strategic blunder which made Section 144 practically unenforceable. The PI team further observes that, if the District Administration was serious about imposing Section 144, it would have prevented even small groups from forming in the entire city of Thoothukudi. Waiting for a crowd to gather before thinking of dispersing it was a gross error on the part of the District Administration and led to an avoidable loss of lives.
- The PI team observes that the police made claims about extremists having infiltrated the anti-Sterlite movement. Had this been so, they had 99 days to isolate them, expose them or to take them into preventive custody. It is to be specially observed that there were no preventive arrests made by the administration in spite of the fact that they now speak of extremists having infiltrated the peaceful movement. This further leads to questions of intelligence failure.
- The PI team observes several gaps in the imposition of Section 144. The District Administration was fully aware of the rally, its route and its proportions as well as its participants well in advance. Nevertheless, they moved to discuss the potentially massive rally only the day before and this in a selective fashion as mentioned above. It was not until Sterlite had moved the Madras High Court did the District Administration seek to impose Section 144. It waited till the eve of the rally to impose Section 144.
- The PI team observes that the imposition of Section 144 at 8 pm on May 21, 2018 was not made known to the public in most areas of Thoothukudi and its suburbs. The channels of communication were therefore only the late-night television news on the May 21 and the newspapers the following day. People therefore had no way of knowing that there was any restriction being imposed. Given that Section 144 was imposed in only two police station jurisdictions, there was also no legal restriction on the protesters to walk for as many as 14 to 15 kilometres to enable them to reach and assemble at the Collectorate. There were also

no semi-permanent barricades posted along the entire route leading to the Collectorate. It is further observed that the gates of the Collectorate were not only opened but that there were no heavy, effective barricades at the gates or a larger contingent of policemen/women to effectively prevent the entry of people into the Collectorate campus.

- The PI team notes the deliberate absence of the senior administrative officers in the District Head Quarters when the DC had declared Section 144, who should have been in Thoothukudi to oversee its enforcement. This seems to indicate that they were of the view that it should be left to the police to deal with the rally participants. This also indicates that they had no intention to ensure the safety of the townspeople against anything untoward that may take place. This was a complete abrogation of duty which led to death, injury and destruction of property. Clearly the individuals who left their positions at the headquarters in a time of extraordinary risk to the population must be held liable for the consequences of their actions.
- The PI team further observes that the DM's order declaring Section 144 has till date not been made public, although under law the said order needs to be in writing, needs to be specific and definite in terms containing material facts. The prohibition has to be clearly stated and the said order has to be served under Section 144, is a matter known to law. It is further observed that two RTI petitions, one of May 31 and the other of June 6 under Section 7 (1) of the RTI Act of 2005, are yet to be responded to. The PI team therefore prefers to observe that the formal order under Section 144 had not been proclaimed as expected under the law of this country and everything else that follows from an improper promulgation of Section 144 is illegal and "non est" in law. The PI team further observes that the whole Executive Magisterial structure of Thoothukudi has manoeuvred to abdicate the duties vested in them by remaining absent from their headquarters which is a very serious dereliction of duty on their part. The DM was not in Thoothukudi but was away in a *jamabandhi* at Kovilpatti in the morning and Ottapidaram in the afternoon of May 22.
- The PI team is concerned that the magistracy in the state over the years has become a puppet in the hands of the police who sent officers in the rank of Additional Director General of Police and Inspector General of Police to overawe and subdue the DC who after all has sovereign authority and responsibility over law and order under the Criminal Procedure Code 1973 (CrPC). The police are bound to follow his directions only as the DM. The DM could at best be counselled by the police of whatever rank up to the Director General of Police. This statutory position has been upturned in Tamil Nadu mainly due to the cordial relationship that ruling regimes develop with the police for their own ends, as well as the recusing by DMs of the ultimate magisterial powers vested in them.
- The PI team observes from a variety of testimonies collected from the people that on the morning of the May 22, most of the participants in the rally were not aware of the imposition of an order under Section 144 and its limited imposition allowing people to march and gather at the Collectorate. Further, the District Administration had also not publicised the decision taken at the end of the 'peace talks' of May 20 to permit a demonstration in the SAV School grounds. The PI team observes that the main road from the city to the Collectorate and the lanes leading to the same were "traffic-blocked". Consequently there was free almost

unhindered movement of protesters marching towards the Collectorate. Though the PI team did hear testimonies of some people who were lathi-charged, it was also informed that the people were not prevented thereafter from moving forward to reach the Collectorate. The walk to the “Destination: Collectorate” was an almost peaceful yet long walk for most people who were determined to reach there.

- People’s testimonies consistently stated that women and children participated in large numbers in the rally and even carried food and bedding with them, indicating that the rally was supposed to be peaceful and carried out with an intention to petition the DC and nothing else. It was also revealed that in spite of the presence of such large numbers of women and children, a commensurate number of women police were not deployed.
- The PI team was told that the total police strength on the morning of May 22, prior to the firing, was 1,900 personnel and our assessment from all versions that we heard is that the crowd around the vicinity of the Collectorate was definitely over 50,000 persons. The PI team observes that since most police stations’ jurisdictions were not covered under Section 144, protestors could freely and legitimately march forward to their destination, ie, the Collectorate.
- The PI team categorically observes from testimonies both from villages and the town that in the march towards the Collectorate, there were limited, mild lathi-charges, no permanent barricades. While there was limited use of tear gas, there was no use of water cannons at all anywhere in the city on that day. There were also no testimonies of public announcements or bugle calls asking protestors to either disperse, not to proceed to the Collectorate, or instead to move to “the assigned protest area” by the District Administration.
- The PI team, after a lot of verification, cross-verification and very clear testimonies obtained from the police as well as the firemen, observes that when the protestors reached the Collectorate, the gates of the Collectorate were open, there were no preventive barricades placed to prevent the entry of people into the Collectorate and, as the crowd trickled in, they observed that the vehicles parked in the compound were already set on fire. Witnesses said that they observed some persons wearing white shirts with khaki pants carrying stones who posed as protestors and pelted stones. Later, when identified by the protestors, they ran away.
- The PI team observes with deep concern the accusations of targeted killing. Several eye witnesses at the rally individually testified to seeing snipers climbing on to rooftop level vantage points, and on a police vehicle, to take aim at rally participants. As confirmed by organisers of the rally and the general public, there were attempts to target individuals who had organised the rally and the 100th day of protest. The weapon used in firing was 7.62 Self Loading Rifle (SLR), which should never advisably be used against unarmed people and should not have been used in crowd management. It is further reported that even the people who used the SLR were plain clothed men and hence cannot be said to be policemen. Plain clothed policemen should never have been used to maintain law and order. Only uniformed personnel should have been deployed so as to distinguish policemen from miscreants.

- The PI team observes that the Madras Police Standing Orders 692-703 (Volume I, 1999) that deal with the preservation of peace were completely ignored and not followed. The PI team observes that the non-implementation of processes such as the issuing of prior warnings, etc., was the main reason for the heavy death toll of May 22.
- The PI team also observes the need for closely examining all the intelligence reports about the planning, preparation and conduct of the May 22 protest action against the Sterlite Copper smelter plant by the organisers to find out the actionable prognostic condense of the report and examine the quality, prudence and efficiency of follow-up action by the law enforcement agencies and the Executive Magistracy in the affected region.
- The PI team observes that individual Executive Magistrates employed in the area of the clashes did not pass the orders as alleged. The first information reports filed in the cases of police firing reveal they had been filed by different Deputy Tahsildars who had no jurisdiction over the area. Mr. Sekar, Executive Magistrate in Fathima Nagar, Lions Town, was the complainant at SIPCOT Police Station in FIR bearing Crime No. 191/2018, stating he was on duty near the Collectorate complex and ordered the police to open fire. However, the team observes that it was Mr. Rajkumar, Executive Magistrate, who was actually appointed to monitor the law and order situation at that location. Similarly, Mr. Kannan, appointed as Executive Magistrate in the areas of the TNPCB Office was the complainant in FIR bearing Crime No. 219/2018 in Thoothukudi North Police Station, stating he was on duty in Teresapuram (12 kilometres away from where he was actually supposed to be, officially deployed). In FIR bearing Crime No. 302/2018 of Thoothukudi South Police Station, the order to open fire was given by the Police Inspector present there, since he claimed that the Executive Magistrate was not present here.
- The PI team observes that there are no indications in any official record available to the public, including the FIRs of the Executive Magistrates, that the Deputy Tahsildars had briefed their DM over the phone and sought his stand on the situation, or having sent him a dispatch immediately after the firing.
- The PI team observes that if Section 144 was not imposed as expected under law or imposed without valid grounds, the police excesses and atrocities on May 22, May 23 and the subsequent days, are all reduced to being grossly illegal, making the policemen who indulged in the firings, the authorities including the Executive Magistrate and the police higher-ups who ordered them, liable for prosecution and punishment under Section 300, 302 Indian Penal Code (IPC) and other relevant sections under the law. In addition, since the trigger for this was provided by either a non-existing or defective order promulgating Section 144, the plot and conspiracy behind the Sterlite Company obtaining an order on this from Madurai High Court and the subsequent behaviour of the DM and the police indulging in wanton killing and terror, needs to be investigated and punished severely.
- The PI team also observes that after the gruesome incidents of May 22, there is a proven case of illegal detention of 97 persons, one of whom was also a lawyer, 32 of whom were juveniles. The District and Sessions Judge of Thoothukudi has in her bail order, dated May 24, categorically held that the provisions of arrest contemplated under Section 41A, 41B, 41C, 41D, 50, 54, 55 and 60A of CrPC have not been followed, and they were found to be

kept in illegal detention in the premises of the Valanadu police firing range. In addition, a meticulous reading of the remand order by the Judicial Magistrate in the same case indicates that almost all the 65 accused were arrested on May 22 and not on May 23 as claimed by the police. They also had injuries on their bodies proving a clear case of not only illegal detention, but torture after the incidents of May 22. These categorically prove allegations of illegal detention and torture therefore lending credence to what the PI team heard over and over again about the incidents post-May 22, of midnight knocks, abuse of women in the household and arrest of young men without any respect for the provisions of arrest as contemplated under Sections 41A, 41B, 41C, 41D, 50, 54, 54A, 55, 55A, 56, 57 and 60A of the CrPC

- The PI team further observes that the Thoothukudi police had registered over 240 FIRs as follows: all over the district from May 22 to 28, all of them related to the incidents of May 22 and thereafter. The PI team further observes that at the time of the registration of a large number of FIRs, the city police was directed by an Additional Director General of Police, four Inspector Generals of Police, two Deputy Inspector Generals of Police and 15 Superintendents of Police. Almost all these FIRs are under provisions of IPC with offences punishable with less than seven years imprisonment. The above facts, read with the judgment of the Supreme Court of India in Arnesh Kumar vs. State of Bihar, makes it mandatory that special reasons and materials which necessitated the arrest are put forth by the police to ensure that persons are not automatically remanded in judicial custody. However, the PI team was told while we were there and repeatedly thereafter, particularly after June 6, that hundreds of people were taken into custody at midnight from their homes, tortured on the way, their family members abused, and kept in illegal detention. This time, not in police stations, not in the police firing range, but in the Armed Reserve police buildings at Millerpuram in Thoothukudi. Our conclusions are proved by the petitions that have been filed to this effect before the Madurai Bench of the Madras High Court in this regard.
- The PI team would like to believe that torture was prevalent in yet another case of Mr. Bharath and Selva Soundher who were taken into custody from their house at Annanagar, 12th Street Thoothukudi on May 23 and assaulted by the police officials at Thoothukudi South Police Station. However, on the same day, the inspection of the Judicial Magistrate at the police station led them to be transferred to the Thoothukudi Central Police Station and produced before the Magistrate on May 24 at 6:30 pm. This remand report of the Judicial Magistrate in No. 170/2018 indicates that all the 13 accused who were produced before him, including the said Bharath, were seen to have injuries caused by police assault with lathis and wooden rods. The above documented evidence, once again of illegal detention and torture taken place in Thoothukudi between May 23 and 24, brings much more credence for the team believing every complaint of illegal detention that were alleged to it. This case of the ultimate death of Bharth in the Palayamkottai Central jail, the team observes, is not a case of suicide as being alleged but arising out of the torture sustained in the police and subsequently in judicial custody just before his death.
- The PI team also observes that the categorical assurance of the SP made to the PI team members led by Justice (Retd.) Hariiparanthaman and comprising Mr. Kamal Kumar IPS (Retd.) and Dr. Christodoss Gandhi IAS (Retd.), that there will be no further complaints of

illegal detentions and torture henceforth and that the procedures of the law would be strictly adhered to, was not observed. The PI team is pained to note that the denial of such allegations by the SP in the first place has now been proven to be wrong with evidence forthcoming from the Judiciary. Further, while it is true that from the June 2 there was a total lull in such activities of arrests, 'midnight knocks', illegal detention and torture, the PI team concludes that this was only due to the presence of the National Human Rights Commission's (NHRC's) investigation team, the State Human Rights Commission (SHRC) and the one-person Judicial Commission headed by Justice Aruna Jagadeesan, who were all crisscrossing the city of Thoothukudi and its environs with their visits/investigations. However, immediately thereafter, from almost June 6 onwards, these illegal activities of the police continued till almost June 18, when they were challenged through continuous presentations made, public meetings and legal challenges before the Madurai Bench of Madras High Court by Mr. A W D Tilak.

- The PI team observed further that, though the hospital authorities conducted all their postmortem and re-postmortem autopsies adhering to the NHRC guidelines and textbooks of forensic medicine, which were videographed and photographed, there was no evidence to conclude that the initial autopsies were performed unscientifically and inaptly. The team also observed that the autopsies in every case were performed in the presence of a Judicial Magistrate who conducted the inquest as provided for under Section 176 (1) CrPC. The PI team further observes that while the abovementioned standards were observed, the autopsy reports, videos and photos of the autopsy were not made available to the relatives, the families or the representatives of the deceased persons as late as July 9, 2018, 48 days after the 'killings.'
- The PI team strongly observes that a re-postmortem/second postmortem should have been preferably avoided when there was no evidence to show that the first autopsy was not done properly. Further, such re-postmortem should not be done just to satisfy the whims and fancies of public interest litigants who have no relation to the deceased. In this case, the team observes that the expert called to perform the re postmortem on the orders of the Madras High Court was actually much junior in experience compared to the two forensic medicine experts who actually performed the first autopsy.
- The team further observed, and was struck to notice, the influx of VIPs to the Thoothukudi Medical College Hospital, to the wards where the injured were undergoing treatment. They ranged from his Excellency, the Governor of Tamil Nadu, the Hon'ble Deputy Chief Minister of the Government of Tamil Nadu and Hon'ble Ministers, to the Hon'ble Opposition leader and the leaders of almost every political party in the state. They came, not alone, but with their complete paraphernalia, accompanied sometimes by the district officials with media persons, photographers and videographers. Not only do such continuous visits result in the spread of infections, the subsequent questioning, photographing and videographing of ailing patients in the hospital caused them trauma and grave disturbance. The PI team observes that these visits also serve as a convenient opportunity for these VIPs to avoid meeting the public and the families of the injured. Patients who in their pain asked unpleasant questions to those in governance were scorned, side-lined and ignored over subsequent visits. Patients and their families need their privacy and hospitals cannot be converted into a playground for

political leaders who refuse to interact with the public at large or with representatives of people's organisations and movements, but take refuge in the protected and secure environs of a hospital only for their public relations purposes.

- The PI team wishes to observe that many people have become persons with disabilities after the May 22 police firing and excesses. However, what was particularly reprehensible was the brutality shown by the police towards even persons living with disability who took part in the protest. They were subjected to police force, despite having revealed their disabilities. The team would like to bring into consideration the case of Arokia Pradeep who was beaten by the police -- after hearing his declaration of his disability -- on his left lower limb, causing him to be completely immobile, and the case of Mr. Prabhu, who was already amputated and was shot on his amputated upper limb and was subjected to lathi blows on his upper chest. These patients, the PI team observes, definitely have a higher probability of developing a further disability in the future if they are not given treatment under trained physiotherapists and occupational therapists. The PI team observed that at the Thoothukudi Medical College Hospital level, the team of doctors was not sure about prospective residual functioning disability and there was an absolute lack of awareness on their part of the prognosis and the implications of functioning disability. The onus of dealing with this, the PI team felt, was left on the patients themselves due to the lack of standard operational procedures based on medical and rehabilitation protocols.
- The PI team observes through a visit to the Collectorate campus during the preliminary fact-finding, which was assisted by two very senior lawyers who provided us the following detailed observations: a) though thousands of persons are reported to have entered the Collectorate with an intention to set vehicles on fire, damage the Collectorate and commit other acts of vandalism, our observations were that even as on June 2, in the large campus comprising the Collectorate where there are barbed wire fences protecting small parks/gardens, none of the barbed wire fencing seems to have been damaged, plants were not damaged and the team was unable to observe footprints in the garden; b) none of the flex or signboards on the Collectorate campus were damaged; c) the silver hand grills were seen to have been removed and kept safe within the Collectorate, and the team observed that the cement around the points where the grills were removed were also not damaged; d) some of the glass panes in front of the office of the Collectorate were however found to be broken; e) there were four CCTV cameras fixed in the Collectorate and all of them were found to be intact and in place. The above observations lead us to believe that not as large a crowd as claimed by the police in the FIRs had actually entered the Collectorate and even if they had, they were not as violent as they are now projected to have been. While vehicles may have been set on fire and glass panes damaged, the entire campus was not by any stretch of the imagination in such bad repair that it could have provoked the police to shoot dead almost six persons.
- The PI team also, after the visit to the Sterlite residential quarters, found that the car parks in the front section of the building were burned and the vehicles parked in the ground floor, torched. The team observed that the CCTV cameras were destroyed in the entire campus and were told that "petrol bombs" were hurled at vehicles parked in the front section of the campus. Nobody could confirm to us that on-duty private guards of the apartments and police

personnel were injured. The PI team also observes, after a careful visit to the District Fire Service office, that four self-sufficient firefighting units were stationed on May 22 at the Collectorate, the Madathur Junction, Sterlite Copper premises and Therespuram. Testimonies of the fire service team revealed that the first distress call for assistance was from the Sterlite residential quarters, enabling effective intervention on their behalf to prevent greater damage to property and injury to people. However, the call from the Collectorate was received after the government vehicles parked inside the Collectorate were completely gutted. The PI team is perplexed as to why senior police officers deployed inside the Collectorate did not summon the fire service. This leads us to view with credence the several testimonies received by the team that the vehicles parked in the Collectorate were set on fire and were burning even while the protesting crowd had reached the Collectorate in order to justify the brutal police action that followed. A close perusal of the 15 fire accident reports lends credence to the said observation.

- The PI team is pleased to note the commendable role of the Thoothukudi District Legal Services Authority (DLSA). The testimonies, recorded both inside the district court buildings and heard by team members outside, revealed the speed, patience, prudence of documentation and actions undertaken by the DLSA in responding to the pleas for legal assistance from the members of the family of those in illegal detention. The DLSA, the PI team observes, possesses evidence of people rescued by the panel lawyers of the authorities from illegal police custody during the early days after the firing. The DLSA, the team observed, had also set up a special emergency counter to render legal assistance to the poor, in the government hospital (GH) as well as in the office of the DLSA itself, with panel lawyers, dedicatedly providing around the clock service, a model for the LSAs in the country to follow assisting people from the poorer sections of society at the time of their illegal detention in police stations.
- The PI team observes that many young men have been forced to leave their homes, as they fear arrest and torture at the hands of the police, even though they were not part of anti-Sterlite rally on May 22 or even before that. Those who took part in the protests apprehend arrest as police have filed open FIRs against thousands of unnamed persons. There have even been instances where all the members of a family have fled their home, fearing false cases by the police. The PI team witnessed a huge presence of police personnel and observed people living in terror even ten days after the rally. Testimonies also stated that the CCTV cameras in Thoothukudi South Police Station were covered with cloth when persons illegally detained were taken to its precincts.
- The PI team observes that from May 23 onwards, internet connectivity was cut off for 3 days in Tuticorin and in the adjoining districts of Kanyakumari and Tirunelveli and restored only after High Court order. This was an arbitrary restriction imposed by the Tamil Nadu Government which led to severe curtailment of the flow of information by the media and barring communication access by the people in most distressed time. Any restriction on fundamental rights must be proportionate to the threat posed, provided for by law, and strictly necessary to achieve a proper public purpose, such as public safety. It is up to the State to demonstrate that a network shutdown is proportionate to the threat proposed. In the case of internet shutdowns in Tuticorin, Kanyakumari and Tirunelveli, the 'threats

posed' is uncertain. internet shutdowns in critical situations tend to make people more vulnerable and they then unable to exercise any communication in cases of emergency. It also restricts the work of human rights defenders who are engaged in interventions, communication with families and providing relief in cases.

- The PI team observes that the response of the Thoothukudi Bar Association on the incidents from May 22 till date has been extremely encouraging for the pro bono services of the entire bar to anyone arrested and remanded as a result of the events of May 22, including paying of all costs. In addition, the Bar association generously came forward to bear the cost of court fee stamps, advocate fee stamps, etc. We understand, through testimonies of lawyers, of the long hours they worked on several days past midnight, moving bail applications for those remanded and waiting for the remand of many till as late as 4 am in the morning in the court premises. The team was shocked to receive testimonies from lawyers who were abused, who were detained illegally and who were tortured.
- The PI team wishes to appreciate every Judicial Officer in Thoothukudi and its environs who rose up to the occasion in their qualitative protection of persons in illegal custody at the time of their arrest, at the time of their remand, and their willingness to stand on the side of the law and not on the side of the police working long hours into the day and sometimes even into the night. If the DLSA succeeded and the bar association succeeded, it is only because the subordinate judiciary in Thoothukudi was willing to walk the extra mile.
- The PI team also observes the subsequent use of the preventive detention law against certain persons owing allegiance to certain specific organizations such as the Naam Tamilar Party, Makkal Athigaram etc. using provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 and the National Security Act, 1980. It has to be noted that these laws are mostly used to curb the movements and activities of human rights defenders and grossly violates the fundamental rights enshrined in the Indian Constitution and the same appears prima facie in the arrests made in Tamil Nadu.

4. Events from May 20 to May 23 and the aftermath

Events leading to the May 22 rally

Unable to get any relief from the dangers to their health, well-being and habitat posed by the Sterlite plant, the residents of Thoothukudi planned a large demonstration on May 22 to mark the 100th day of their on-going protests against the expansion of the plant. The plan included a massive public march to the Collectorate in order to hand over a petition demanding the closure of Sterlite.

Peace Meeting

On May 20, just two days prior to the 100th day rally on May 22, the Thoothukudi Administration called for a 'peace meeting'⁴, to which some of the participating organisations and village representatives were invited. The meeting was led by the Thoothukudi SP along with the Sub Collector. The DC was not present.

The PI team observes with concern that as the head of the district administration, it was the DC who should have led the meeting and reached out to the people. It is he who has the duty to ensure public safety. This is all the more strange, if, as he alleges, he had advance information about infiltrators causing trouble or the local people themselves causing trouble. It was his duty then to inform the people of this danger to them and their families if indeed there was any. From his own absence it would appear that neither he, nor the police, anticipated any serious danger or problem. Only this can explain the DC's willingness to leave the handling of a large civilian gathering to the police and his juniors to handle. The willingness of the civilian administration to abdicate its role to the police is also indicative that right from its inception, the rally of townspeople was being looked upon as a law and order issue that demanded police action rather than as a citizen's movement reflecting widespread concern over the threat that the expansion of the Sterlite plant posed to the land and people.

The PI team also noted that the local authorities should have estimated that a large crowd would turn up for the rally given that the 100th day demonstration was announced during the protests of March 24. Furthermore, it had left discussions over arrangements for the rally to the very last minute, and neglected to inform the populace of these arrangements in time. In a little over 24 hours, it would have been practically impossible to reach out to, and hold discussions with, lakhs of protestors across the district. Despite Section 144 being imposed at the behest of Sterlite, consequent to a High Court direction, the local administration failed to come out with an independent assessment of the ground situation.

People's versions point out that the administration used a selective approach in inviting the organisations and village representatives for the said meeting. People with whom the PI team interacted allege this to be a deliberate attempt on the part of the administration to divide the anti-Sterlite movement. They have also brought to the notice of the PI team that an invitation sent to one such organisation (Makkal Adhikaram) was given to an individual who had no association with that organisation, conveniently avoiding invitations to advocates Mr. Vanchinathan and K. Hariraghavan

⁴Peace Committee meeting called for by Deputy Collector 20.05.2018. Annexure 13 of Part I on Pg A-39.

who are now portrayed by the police and administration in the media and courts as being the brain behind the events of May 22.

The PI team believes that by not involving all organisations and reaching out to people in a timely manner in order to ensure nothing untoward would happen, the district administration failed in its duty to protect and secure the lives of the people of Thoothukudi. These multiple failures, including the failure to assess the number of demonstrators who would turn up, was reflected in the decision to assign the SAV School ground, which is of a modest size, for the May 22 rally while imposing 17 conditions. Further, this school ground is near the old bus stand situated within the town, which would have made managing any disruption extremely difficult for the district administration. To add to a potentially chaotic situation, no effective public announcements informing people about the assigned venue were made by the district administration which had actually negotiated this alternate venue through its peace meeting.

The PI team is of the opinion that allowing an assembly in a site that was clearly inadequate and prohibiting it in a larger and more suitable one near the collectorate, the district administration had made what appears to have been a major error of judgement which contributed to the tragic events that followed and made Section 144 practically unenforceable.

It is also not clear to the PI team as to how, if undesirable elements were believed to be active among the agitators, allowing them to be present in one place and prohibiting them at the other would enhance public safety. If the district administration was serious about imposing Section 144, it would have prevented even small groups from forming in the district. Waiting for a crowd to gather before thinking of dispersing it was a gross error and led to an avoidable loss of life.

Section 144 was imposed only on May 21 in two police station (PS) jurisdictions, i.e. South and SIPCOT police stations, covering the Collectorate premises, the road leading up to it and the area around the Sterlite complex⁵.

On May 16, Sterlite had moved the Madurai Bench of the Madras High Court in W.P. (M.D) No 11190 of 2018 seeking imposition of Section 144. The petitioner prayed for orders 'to declare the area to the radius upto one kilometre from the periphery around the petitioner's factory premises (Copper Smelter Complex and Thermal Power Plant) and residential quarters premises (Thamira-I and Thamira-II) and warehouse as "Protest Free Zone"/"No Protest Zone".' The anti-Sterlite committee was not a party to this case. The High Court on May 18, passed a directive to the district authorities to pass appropriate orders regarding imposition of Section 144⁶.

According to the documents available, Sterlite states that they gave a representation to the DC and the SP, Thoothukudi District, to declare the area to the radius up to one kilometre from the periphery around their plant and residential quarters, and warehouse as a "No Protest Zone". As the officials

⁵ Press release by the District Collector of Tuticorin dated 22.05.2018 of the deployment of Sec.144 of CrPC Annexure 14 of Part I on Pg A-41.

⁶ Order dated 18.5.2018 passed by Madurai Bench of the Madras HC in the Vedanta Writ on Section 144. Annexure 8 of Part III on Pg 278.

did not respond to the same, they filed a writ of mandamus before the Madurai Bench of the High Court seeking for the necessary directions and sought for a time stipulation by the Court.

It is seen from the order that Sterlite had given the representation on April 9 and April 16. The company relied upon some pamphlets and messages in the social media issued by an organisation, 'Makkal Athikaram', which, they claimed, was calling for a protest and closure of the factory.

It was the company which first claimed the perceived threat on the basis of which state action followed. The company, instead of seeking protection for itself if it really apprehended danger, had instead sought the banning of the democratic right of people to protest in a public space. The PI team notes that strangely, none in the administration had pointed to the huge impropriety of a private company seeking a ban of any activity in the public space, so that its private interests are safeguarded.

Section 144 Cr.P.C

Section 144 provides wide powers to the executive to issue an order in urgent cases of nuisance or apprehended danger. It can at best be temporary with the Executive deciding on the need for it on the basis of facts. It is evident that until the representation was given on April 9 and April 16, the Executive had not considered the protests as coming under the purview of Section 144.

The Government in its arguments reportedly stated that no one from the public had approached the police on seeking permission for any protest and that if there is any illegal protest, stringent action would be taken against such violators in order to safeguard the general public. This argument ignores the fact that protests were going on from February 2018 and that the protests had throughout been peaceful and the Executive, on its own, did not think it fit to act against the protestors on the representation of Sterlite.

Powers under Section 144 are wide, as they affect the rights of movement and also personal liberty. Private persons generally approach the Executive Magistrate in cases of personal disputes for action and it is left completely to the discretion of the Executive Magistrate to decide on the course of action. The question whether a private company can seek the promulgation under Section 144 against the general public is unprecedented. The company moved the Court under Article 226 of the Constitution of India.

The High Court in its judgment conceded this by observing that ***“Nevertheless, this Court is also conscious of the fact that such a decision is within the scope and ambit of the first respondent herein. (The DC, Tuticorin)”. But the Court went on to observe, “However, when a representation has already been made to the first respondent seeking for invoking Section 144 CrPC such a representation cannot be kept pending indefinitely, particularly, when there are sufficient materials to show that there is a possibility of a protest on 22.05.2018. Non-consideration of the representation would amount to a dereliction of the ordinary duties of the first respondent and in such circumstances, this Court would be justified in invoking its powers under Article 226 of the Constitution of India and direct the first respondent to consider the representation.”*** The Court orders thus caused the Executive to reconsider their earlier reluctance, on their own initiative, to impose Section 144.

The rally was scheduled on May 22. The PI team found that after having promulgated Section 144 on May 21 no steps for service were taken as contemplated under law. Section 144 was known to be imposed only at 8 pm on May 21, 2018. As the PI team gathered from people's testimonies, after the imposition of Section 144, announcements about this were not made by the administration in most areas. People got to know about it only through the late evening television bulletins on May 21 and through newspapers the next day

The PI team found that in villages situated near the Sterlite complex like Therku Veerapandiyapuram and Kumarettiyapuram, women left for the protest taking their children, baskets of food, refreshments and jamakalams (bedsheets), with the idea that they may have to stay for a long time. They told the PI team that they would not have risked their children's lives if they thought that there was going to be violence. They were unaware of the imposition of Section 144. No steps were taken under section 134, with not even a notice put up. The local people therefore had clearly no idea of what was going to happen.

Executive magistrates were appointed to monitor the law and order situation on May 21. Nine revenue department officials were appointed at the last minute as executive magistrates to work with the police, monitor the law and order situation and keep higher officials informed⁷.

The PI team took note of the fact that the order imposing Section 144 was not made available to the public. It has not been shared with the PI team to date (July 4), despite several efforts to procure it, including through RTI requests⁸.

The PI team points out that it is inherent in the nature of Section 144 that the public know about it. In the absence of knowledge there can be no disobedience to the order. However, as mentioned above, no attempt was made to make it widely known and no notices were put up. In the wake of what followed on May 22 not informing about the prohibitory order smacks of entrapment. Section 144 is declared when there is grave and imminent danger. If violence was anticipated so strongly as to warrant prior promulgation of Section 144, it is surprising that not even tahsildars were deployed as executive magistrates.

There are unsubstantiated media reports which quote the district police claiming the presence of extremists in the rally. ***The PI team observes that the police made claims about extremists having infiltrated the anti-Sterlite movement. Had this been so, they had 99 days to isolate them, expose them or to take them into preventive custody. This points to intelligence failure or was an afterthought. The PI team observes several gaps in Section 144 imposition. The administration was fully aware about the rally, its route as well as its potentially huge size well in advance, yet it imposed the section only on the eve of the rally and failed to publicize it adequately. News reports on tv channels and morning newspapers would have been far too late for any impact. It is important to note, given that Section 144 was imposed in only two police station jurisdictions and that there was no legal restriction on the protesters***

⁷ Executive Magistrate's Deployment Order by the Sub-Collector Mr. M.S.Prasanth IAS dated 21.05.2018 (Translation) Annexure 15 of Part I on Pg 42.

⁸ Application sent to the PIO, Collectorate filed under RTI Act seeking "Imposition of Sec 144 CrPC on 21.05.2018" by Adv. AWD Tilak, dt June 06, 2018, an appeal sent to the First Appellate Authority by Adv. AWD Tilak dt June 20, 2018 & application filed under RTI Act seeking Imposition of Sec 144 CrPC on May 21, 2018 by Saptarshi Bhattacharjee, Journalist, The Hindu, Chennai dt May 31, 2018 (Annexures 18 (a), (b) & (c) of Part I on Pgs 51- 56.)

walking for as many as 15 kilometres within the city. It is also to be noted that there were no restrictions on assembly at other places for purposes of protest.

Some questions that have emerged before the PI team raise concern over the conduct of the police and district administration before, during and after the imposition of S 144. While Section 144 was imposed at such a late stage, it is also important to point that no persons were taken in preventive custody by the police.

The PI team observes that there has been clear irregularity in the process through which Section 144 was imposed and implemented. The DC has abdicated all his responsibilities. The PI team observes that the Madras Police Standing Orders - Volume I (1999), the Orders 698-703 that deal with the preservation of the peace were not followed.

Some specific aspects from the Standing Orders that the PI team observed are given below -

- 2(j) of Order 703 states that the officer in-charge of the police is responsible for deciding the amount of force to be used, the manner of using it, and for setting the operation of use of force, bearing in mind that *no force more than necessary should be used*. 2(k) of Order 703 states that if any or all methods fail and the Executive Magistrate is of the opinion that nothing short of firing can disperse the crowd, he will order fire to be opened. The manner, type of ammunition used and method of firing are the individual responsibilities of the senior most police officer. In the case of the Thoothukudi incident, as recorded in the FIR, three Deputy Tahsildars had given the shooting orders (who clearly were not officer incharge or the Executive Magistrates, as can be interpreted from the order of the DC dated as on May 21, 2018).
- 2(l) of Order 703 states that the police used to disperse mobs must wear uniform including boots, putties, and helmets and riot shields. In the case of the Thoothukudi incident, as seen in media footage and testified by people, at least some of the policemen involved in firing were plain clothed and not in uniform.
- 2(i) of Order 703 states that if the crowd refuses to follow instructions, riot flag is to be raised. Bugle call should be used to give warning through microphone. None of the people spoke about any of these procedural warnings used by the police in the case of the Thoothukudi incident.
- 4(a) of Order 703 lays down the guideline on the use of tear-gas. In the case of the Thoothukudi incidents, as mentioned in the above section, the people said that tear gas was used sparsely. It appears that the police abstained from effectively using the tear-gas to control the protestors.
- 4(b) of Order 703 states that water jets can be used in cases where the mob is not armed and is not very violent, either before or after the use of tear gas. It further lays down the guidelines for the use of water jets. In the case of the Thoothukudi incident, water jets were not used at all as confirmed from people's versions and media sources.
- 4(e) of Order 703 states that if water jet or tear gas fails to disperse the crowd, lathi cane charge should be ordered (only if police force is adequate to create an effect on the crowd and crowd is not likely to overwhelm the police party easily). In the case of the Thoothukudi

incident, this was violated and lathi charge was the first response the police resorted to. Further, as mentioned in the above section, the number of protestors clearly outnumbered the police and in no way would this have an adequate effect on the crowd.

The Day of the Rally

Absent administration

The PI team found it incomprehensible how the entire senior administration chose to be absent from the area on May 22. This against the overarching obligation on the part of the senior officials to be present in the area.

The DC, the Tahsildar and the Deputy Tahsildar had left the area to participate in the *Jamabandhini* a programme where the DC visits various places in the district and collects petitions of grievances from the public. The revenue officer and sub-divisional officer were also not available. Yet, this was the day on which the High Court had directed them to consider imposition of Section 144, and on which Section 144 was indeed promulgated as they know well. This was the day on which it was the administration's paramount duty to ensure the safety of the public at large, whether they were rallyists or ordinary people in the vicinity. It was the day on which the administration had to be in command of the situation and prevent any potential threats to public peace, all the more so since it was claimed that violent elements had infiltrated the agitation.

The PI team found it hard to believe that, with advance communications, senior executives such as the DC and the tahsildar were not aware of the Section 144 proclamation. In the absence of senior magisterial officials, it seems the stage was set for a free-for-all. There was also failure of duty on their part to come to the city immediately after the shooting and not leave it in the hands of lesser officials. All four senior officials were not present in the city. Their absence is equivalent to abdicating their responsibility as a civilian administration left in the hands of the police unsupervised by civilian oversight. The FIR version⁹ of deputy tahsildars ordering firing is highly unnatural in a much anticipated, planned deployment for handling a probable law and order situation.

The PI team notes the wilful absence of the senior administrative officers and indicates that they had no intention to ensure the safety of the townspeople against anything untoward that may take place due to the involvement of possibly violent elements that they themselves now suggest, after the fact, might have been present. There was a complete abdication of the duty of supervision, protection and avoidance of precipitate actions.

The PI team firmly believes that the individuals who had left their posts at this crucial time must be made accountable for the loss of life that took place as a consequence of their desertion of duty.

On the morning of the rally several thousand people came out of their homes and walked through the small streets toward the broader arterial roads leading to the Collectorate. Right opposite the Collectorate, on the other side of the main road, the lanes going towards the villages witnessed free movement and were not barricaded or controlled by police. People who came across occasional

⁹ Police firing order given according to the Cr.No.191 of 2018 of SIPCOT PS, Cr.No.219 of 2018 of North PS, Cr.No. 298 & 299 of 2018 of South PS, Cr.No.302 of 2018 of South PS and Cr.No.312 of 2018 of South PS. (Annexures 6 to 10 of Part I on Pgs 17-36.)

barricades at certain spots could easily use other lanes to reach the Collectorate without hindrance. Even those who were moving towards the SAV School ground were stopped from getting there, thereby diverting them to move towards the Collectorate. People's testimonies consistently affirmed that women and children participated in large numbers and some came as families with their elders and children. Many carried food packets and beddings indicating that the rally was intended to be peaceful, with the sole intention of presenting a joint petition to the DC. Right opposite the Collectorate, on the other side of the main road, the lanes going towards the villages witnessed free movement and were not barricaded or controlled by the police. These lanes connecting the main road to the villages served as arteries for the protesters to march on towards the Collectorate. A large number of the demonstrators were women – something that must have been known to the District Administration, yet a commensurate number of women police were not deployed.

Police actions at Collectorate

The District Administration claims that ten persons were killed due to police firing in the course of the May 22 rally¹⁰. Persons whom the PI team met categorically averred that the firing took place without any provocation. There was universal agreement that no warnings were issued to disperse the crowd and neither were water cannons used. On the other hand, Government officials whom PI team members met insisted that firing started only after the crowd turned violent.

The PI team did find evidence of vehicles having been burnt in the Collectorate. There was also evidence of vehicles having been set on fire in the parking area of the residential quarters of the Sterlite management. But this does not explain how in many places where firing took place, there were no signs of any destruction.

Given below are some witness statements, with names withheld:

- “In Facebook Live, I saw two jallikattu bulls being brought into the crowd to disperse it. They were not brought in by the protestors.” “There are generally no Jalikattu bulls in Thoothukudi, only in Madurai. The bulls were brought in especially from Madurai by the police. We have never seen something like this” (several voices concurring with the first speaker). “One of the bulls attacked me and I got thrown off and fainted.” “Police were violent from VVD bridge, and then they released two Jalikattu bulls to injure the crowd. I saw two persons being beaten very badly. At Three Mile Bridge they also started using teargas”
- “Stone pelters were not protestors. Policemen wearing white shirts and khaki pants, who were not from our group from Madikeli, were carrying big stones in their hands. There are no stones on the road there, so where did the stones come from? I feel that the entire attack was pre-planned and pre-meditated” (Name Withheld).
- “At 12 noon there were no officials in the Collectorate.” (Name withheld).
- “Most of the policemen who stopped us and were beating us were not from Tuticorin. They were also wearing a different kind of uniform and did not speak Tamil but were more comfortable speaking in Hindi. They were not Tamil Nadu Police” (Name withheld)

¹⁰ Details of 15 persons died in Thoothukudi police firing and action. (Annexures 17 of Part I on Pgs A-47)

As gathered by the PI team, the total police strength was around 1900 personnel and rallyists around the vicinity of the Collectorate were over 50,000. Most of the PS jurisdictions were not covered under Section 144 and this enabled rallyists to march forward legitimately and freely from all directions across the town. Some persons from villages near the Collectorate did mention the limited use of tear gas without any warning around 11 am, but no one confirms the use of water cannons as a means to restrict the protestors. No version confirmed any public announcement or bugle call asking the protestors to disperse or move to the assigned rally area, i.e. SAV School ground.

- Different versions state that when the protestors reached the Collectorate, there were vehicles in the compound already on fire. Other versions also reveal that some policemen wearing white shirts with khaki pants carrying stones posed as protestors and pelted stones and when they were identified by some of the rallyists, they quickly ran away. “The police did not barricade us at VVD or the GH. They allowed us to go further. And at one place, while we were marching further, the police came from one side and shot us... I was hit by two bullets. One went through my leg. Another one is still in my chest. I have been asked to wait since it is at a critical location; I have been advised not to undergo a surgery unless there is a problem” (Name withheld).
- “During the protest on May 22, I saw a policeman lifting and throwing a large stone on the chest of an old person. It appeared to be a fatal attack. I even saw a young boy being shot down by police in the neck; he might have died. He was quickly packed into a small ambulance by the police and driven away. However, I did not see the photograph of that boy or the old man in the list of the 13 dead persons released nor could I find them at the GH when we went to check for him among the injured and dead persons. I have heard such stories from others also and feel there may have been more people who died and got injured than are being reported” (Name withheld).
- “On May 22 morning, people from 16 locations across the town merged and went together. Until VVD Signal, there was no problem. We started from our area at 10 am. The police stopped us for the first time at VVD signal. Transgender persons protested asking why they were being blocked. When we were getting down from 3 Mile Bridge, the police fired the first tear gas/water guns. There was no Section 144 in the areas from where we came marching. Near the four-way track bridge, just 100 metres from the DC’s office, 6 of us moved ahead. Along with me, there were 3 women and 2 transgender persons. Under the bridge we saw some vehicles and bikes burning...[there was a] lot of smoke around a few vehicles. As we entered the Collectorate, a few policemen came from inside and started to lathi charge us; we tried to escape, other people tried to enter inside. This time the police started shooting at them. In the first attack itself, my wife, was badly injured and bleeding from her stomach. She was hit with the butt of the rifle by the police. In the shooting by the police, I saw at least one person shot dead. Many people were seriously injured. We went to help them. We could not recognise the police. Some of them were wearing helmets. At least two of them were not in uniform” (Bhagyaraj, 43 years).

People’s accounts confirmed the use of lathi charge on protestors in certain parts of Thoothukudi. Medical records, fatalities and injuries tend to show that the attacks were far in excess of the standards of minimal and proportionate force laid down as principles relating to mob dispersals.

Injuries on women, children and elderly people as well as on the disabled that were shown to the PI team, including medical records in some cases, indicate excessive use of force. By way of illustration, a woman victim, whose house the PI team visited, testified that she was badly assaulted with the butt of the rifle on her stomach, resulting in serious injury. Several witnesses deposed on being beaten ruthlessly by the police. A polio-affected man, who was beaten, testified that he had even informed the police of his disability, but was beaten on his legs. (A detailed assessment of his case is made in the Disability section). Versions were also received which revealed that children who were part of the rally were attacked by the police and several children were detained. Further, versions also show several instances of brutalities towards children and youth in the aftermath of the firing, during the searches being conducted by the police.

Police brutality on the disabled

The PI team observed that excessive police force has led to serious injuries to multiple persons in the crowd. Of special concern is the uncalled-for brutality meted out to the disabled. It is important to note that our concern should not be limited to those who have become persons with disabilities after the Tuticorin firings, but also about the police excesses on persons living with disability who all took part in the protest in a democratic manner. A person by the name of Arokia Pradeep, with 60% disability due to polio paralysis, was beaten with lathis by police on his lower limbs despite his clearly visible disability. He was left completely immobile and in tremendous pain. When he tried to tell the police that he was a disabled person, the police got even more infuriated and yelled, "Should a person who is disabled come to protest? Is protest a dire need for you?"

The PI team took note of the verbal and physical assaults by police on this victim, and many other persons with disabilities, who had been part of the protest. It showed the callous and indifferent attitude of the police towards persons with disabilities, so much so that "by the very virtue of being persons with disabilities, they are not recognised as members of human community with inherent dignity". The police action is also against the principle of full and effective participation of persons with disabilities in society. Section 7 of Rights of Persons with Disabilities Act 2016 (RPWD act), clearly mandates the revenue administration of any given state to protect the persons with disabilities from violence. Clearly, here the state failed to do so. No special measures were taken to secure the protection of persons with disabilities from the use of force. The measures espoused in the general law cannot suffice in dealing with situations such as violence, as these measures such as announcements made over the microphone are inaccessible to the speech- and hearing-disabled.

It is also alleged that police from the intelligence department had set out Jallikattu bulls around VVD signal, which had the potential and very high probability of killing locomotor disabled people who could not have been able to run and therefore would succumb to injuries leading to death.

The PI team was also acquainted with the case of another victim of police firing, Mr. Prabhu, who is already an amputate and suffered disabilities. He was shot on his amputated upper limb, an action which actually had a higher probability of taking away his life. He also bore lathi blows on his upper chest.

The PI team also visited the GH and observed a young man, Mr Princeton, who was amputated above the knee in his right lower limb. He had not taken part in the protest and had originally set out

to go to his duty station at Tuticorin. When he came near the government polytechnic at the 3rd mile bus stop, he witnessed a large posse of police personnel and had tried to avoid the unrest. But he was shot nevertheless – more evidence that the police were firing at random. He was given some relief at the GH, but in no way was helped in terms of coping with the trauma along with difficulties due to the loss of a limb and residual disability.

The PI team observes that since Mr. Princeton, having accrued residual disability has an increased probability of undergoing psychological stress, he should be provided with psychotherapeutic support in particular grief or supportive psychological counselling. None of which has been done. A psycho-social rehabilitation program has not been planned or put in place by a medical or psychiatric social worker from the hospital administration.

It is again to be noted that despite the news having been published in the print and visual media, the differently able welfare department officer present in the Collectorate, has not taken cognisance of this case and provided the requisite psychological, physical or any other rehabilitation action, such as Princeton is entitled to.

Standard operating procedure in dealing with the incidence of new residual disabilities from tertiary/secondary or primary care centres to rehabilitation departments of any given government tertiary care hospital, is absent. This clearly came out when the PI team had a detailed discussion with the Director of Medical Education, who was present at the GH.

Most of the patients in the hospital admitted and those victims who have not approached the hospital due to fear of a police case are certainly going to develop some amount of inability in functioning, if not properly treated by a multidisciplinary approach adopted team. These disabilities could be a specified disability or otherwise, anywhere ranging between 0-40 percent, which could come under the category of “persons with disabilities” in the RPWD act, as against “persons with bench mark disabilities”, which is any specified disabilities having percentile of 40% or more.

(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

Lathi charge on such individuals, along with gun shots on many, have left them with different kinds of fractures in knees, limb bones and ankles. These patients definitely have a higher or at least one fold probability to develop some kind of disability in the future, if they are not given treatment under trained physiotherapists and occupational therapists. These disabilities will have a painful bearing on their functioning at a day to day level.

The PI team strongly recommends that a multidisciplinary biopsychosocial model approach be adopted in addressing the situation of those who have been left with serious, possibly life-long disabilities, as a result of police action. This requires the urgent and concerted attention of the Commissioner for the Welfare of Differently Abled in Chennai.

Use of fire arms

State Police Regulations categorically delineate the course of sequential action to prevent and contain crowd violence. These directives assert that police response to normalise the situation should be directly proportionate to the extent, intensity and ferocity of law breakers.

The PI team concluded after speaking to victims, eye witnesses and the police, that Standard Operating Procedures (SOPs) regarding use of fire arms by police for crowd disposal were not followed. The non-implementation of processes like issuing prior warnings, use of tear gas, water cannons, lathi charge, before lethal fire was resorted to, seems to be the reason for the heavy death toll of May 22.

The PI recommends that a team of senior officers from police and Executive Magistracy to be set up in order to investigate to what extent SOP was violated by the relevant government functionaries in the Thoothukudi firing and the subsequent human rights violations that took place, in order to fix liability of those responsible for specific delinquent acts. This should also include both acts omission and commission.

Killings

Testimonies that the PI team heard:

“On May 22 Morning, we started from Madha Kovil at 10 am. We were approximately 10,000 people from Madha Kovil when procession started. There was no disturbance until VVD signal. At VVD signal, we were stopped but we coaxed the policemen to let us go ahead and they obliged so we started proceeding ahead. It is only people behind us who were lathi-charged at VVD signal...Police were not moving forward but actually receding with arms, encouraging us to get into the enclosure around the Collectorate. It appears they wanted us to reach the Collectorate in order to attack us there with lathis and fire arms... There were 3 vans with approximately 10 police men each, who were firing the shots”

“My brother’s son....., who is disabled, was beaten badly by police. We ran away because of the physical attack. Halfway home, we came to know that my brother Gladson was shot by the police at the Collectorate. So we went back. My brother was lying on the ground in a pool of blood. When we burst out crying, they police ordered us to leave. They pulled a gun on us and threatened to shoot if we cried near the dead body. They even beat us, so we left, but we hid behind the mortuary.”

The PI team could confirm 14 deaths since May 22 directly resulting from police firings and violence. Post-mortem reports indicate that each of these has occurred because of gunshot wounds and lathi charge. It is important that the circumstances of each of these deaths be individually investigated and accountability fixed.

People’s versions alleged targeted firing at them outside the Collectorate. Several eye witness accounts and videos, some of which were shown on national television, testify to the presence of gunmen firing with assault rifles having climbed on top of police vehicles and also from the upper floors of the Collectorate, in order to shoot at the rally participants. The images in the media also confirm the same. Some of the testimonies allege that those wearing black clothes were particularly targeted since they were identified as rally leaders. ***The PI team is deeply disturbed by credible eye-witness accounts of targeted killing that are borne out by TV and videos. Several eye witnesses at the rally individually spoke about seeing snipers climbing on to high-level vantage points and taking aim at the rally participants. As confirmed by organisers of the rally and the general public, there were attempts to target individuals who had organised the rally and the 100 day protests. The weapon used in firing was 7.62 Self Loading Rifle (SLR),***

which should never advisably be used against unarmed people and should not have been used in crowd management. Such a weapon allows repeated firing by merely pressing the trigger repeatedly without conscious reloading. This makes fire control by the senior most officers present very difficult as there is no time gap for reloading. It is further reported that some of the people who used the SLR were plainclothes- men and hence cannot be taken to be policemen. As visible display of uniformed authority is crucial to crowd control, plainclothed policemen should not normally be employed to use force; only uniformed personnel must be deployed for use of force; otherwise it would be very difficult to distinguish policemen from miscreants. The PI team believes it is vital that there be an investigation into the placement of police sharpshooters or snipers at vantage points. The duty of the police during rallies is to disperse a violent mob with minimum and proportionate force. It has no authority to provoke panic or deliberately target certain people on a shoot to kill basis. The actions of snipers must be investigated to ensure that their actions were not indiscriminate, disproportionate or deliberately precipitate but necessary to disperse the rallyists and protect their person or property. They cannot go unquestioned.

During the visit of some members of the PI team to the North Police station, a sub-inspector, who was not on duty on May 22, characterised the protesting community as illiterate and ignorant and led astray by some people who had to be dealt with. She suggested that they posed an imminent threat to the police station and police quarters. ***This comment, the PI team believes, was offered by way of justifying police excesses post facto, because the same sub-inspector could not offer any evidence of police property or personnel coming under such attack.***

The killing of Jhansi of Therespuram : The PI listened to several testimonies from the relatives of those killed in police firing during the rally. There were also instances of police firing at other sites. There was the killing of a 40-year-old woman, Jhansi, in **Therespuram** at 2 pm on May 22 that requires particular attention and investigation. **Therespuram** is 10-13 km. from the Collectorate and comes under the jurisdiction of the North PS where Section 144 was not imposed there¹¹. The woman was a well-known leader of the movement but was not part of the rally on that particular day. She was reportedly on her way to her daughter's house in the same vicinity to deliver fish. She was shot in the head in such a manner that her face collapsed.

Jhansi's relative recounts: "We did not go to the protest on May 22. We got to know that something was happening and offered food to the protestors. Around 2 pm [after the police firing in the Collectorate], Jhansi went to her daughter's home, which was nearby, to give her some fish. Around 2.30 pm we heard a lot of noise and realised there had been shooting by the police in **Therespuram**. Immediately after the shooting the police had wrapped a dead body in a banner and taken it away. Nobody knew who had died. At around 3 pm, when Jhansi did not return from her daughter's home, her husband across and found her missing. They thought Jhansi may be hiding and her daughter cautioned her father not to go out since it was not safe. When Jhansi had still not returned by 5 pm, we started searching for her; we went to the North PS. The SP denied that there was any shooting at Therespuram and asked the family to enquire at South PS. When we enquired at South PS by 6

¹¹ 144 imposed areas and police firing areas in Thoothukudi, Sec 144 imposed areas in SIPCOT Police Station and Thoothukudi South PS jurisdiction Police Firing Area. (Annexures 23 of Part I on Pgs A- 106 - 108)

pm, we were asked to go and look at General Hospital. We found her dead body in the mortuary at hospital at 7 pm. Her name was registered as 'Unknown'. She had been shot in the head and face – her entire face had collapsed and we could only identify her through her necklace and bangles. Only one person was allowed to see her body...The body was not given to us. We were told it will be given on May 30. However, the police kept calling and forcing us to sign on various documents. They harassed us constantly for signatures and we were told that the body would not be handed over unless signatures were given. The police went to the extent of threatening us with false cases if signatures were not given. Finally, they conducted the post mortem, but the report falsely stated that Jhansi was 'stoned to death' when she was actually shot by the police."

The allegations relating to the killing of Jhansi, in isolation from events that took place at the rally, merit an individual FIR and an investigation into the culpability and the accountability for murder of a woman by, as is alleged, a policeman. If there was, as has been suggested, a necessary cordon and search operation in the area of Therespuram, the police must produce the operation order. If not, then the police must establish what they were doing in Therespuram; the transport logs and phone communications will indicate time and place of whereabouts. If necessary, the complicity of the supervisory cadre can be established. ***The PI feels duty bound to raise these questions in the public interest and asks for an internal inquiry which is public and also the filing of an FIR in relation to Jhansi's killing. The other killings that took place at the Food Corporation of India Round and Third Mile also need similar action.***

Attacks at Sterlite Residential Quarters

It was reported in the newspapers that the protestors attacked the Sterlite residential quarters. The PI team visited the quarters and could see the car parks in the front section of the building were burnt and the vehicles parked in the ground floor of the buildings, torched. The two respondents at the quarters, stated that the protestors -- around 200 in number -- barged into the quarters' campus after the firing at the Collectorate. According to them, the protestors were armed with petrol bombs and wore helmets and therefore could not be identified by CCTV cameras installed all over the premises. The Sterlite employees claimed that all the CCTV camera were destroyed before the petrol bombs were thrown in the car parking area. However, the PI team points out that it seems a strange coincidence for *all* cameras throughout the premises being destroyed or out of commission before any disruption took place in an admittedly sparsely populated area. ***The PI urges the authorities to verify the number of cameras operating in the premises in the ordinary course, their location and the timing at which the cameras stopped or became dysfunctional and call for the tapes just prior to that time, in order to understand why so secure a facility could malfunction so completely and if there was any deliberate hand behind such a sudden malfunction.***

PI team's interaction with the fire department revealed that fire control room did not get any call when the fire started during the rally. By the time they received the relevant information everything was gutted. Meanwhile during the fire at Sterlite quarters later in the day, the fire control room was provided immediate information and could arrive there and could effectively control the fire¹².

¹² Consolidation of Fire Accident Reports (Annexures 240 of Part II on Pgs 488 – 490.)

Intelligence Failure

The pattern, course and intensity of use of force against the crowd of unarmed local people by police taken together indicate that those responsible for collection, collation, analysis and dissemination of preventive, actionable, advance real time intelligence, had failed to provide specific and pinpointed information to District Police. Even in his report to the DC which is quoted in the Section 144 order, the SP does not make any reference to any external extremist or violent organisation being active in the area. No preventive infrastructural arrangements viz creation of crowd-segregating barricades; parking of govt vehicles and property in secured locations; positioning of patrolling parties with adequate women police at vantage points, etc. were done. The possibility of agent provocateurs and lumpen elements or extremist elements infiltrating demonstrating crowd, if at all, was not detected by Intelligence personnel. Consequently, police did not reportedly resort to any purposeful preventive arrests or effective pre-event vigilance. Timely intelligence tips would have prompted authorities to keep constant liaison with influential leaders, among demonstrators, from top to ground level for monitoring and moderating the degree of belligerency of those in the crowd.

PI strongly feels that the presence of disruptive elements was not anticipated because there was no real danger from them and the notion has been put about as an afterthought to justify police actions at the rally and in its aftermath which sadly continues to date. If on the other hand there was an honest apprehension of danger during the rally it was left neglected and the administration's failure to recognise it contributed to loss of life in the events that followed.

The People's Inquest (PI) recommends to authorities to closely examine intelligence reports about the planning, preparation and conduct of the May 22 protest action against Sterlite Copper by organisers of demonstrators, to find out the actionable prognostic contents of the reports and thereafter examine, the quality prudence and efficiency of follow-up action by law-enforcing wing of police and Executive Magistracy, in the whole the affected region.

Fire service provisions

Some members of PI Team held discussions with Shri Kumareshan, Assistant District Fire Officer and his staff. The Fire Service Team informed the team that being apprehensive of violence and arson in the city, they had positioned four self-sufficient fire-fighting units on the forenoon of May 22 at 1. Collectorate, 2. Madathur Junction, 3. Sterlite Copper premises, 4. Therespuram. According to them the distress call for assistance for containing arson was received from residential area of Sterlite staff and the fire unit could effectively intervene and prevent greater damage to property and injury to people. But from the Collectorate the request call was received after the government vehicles were nearly completely gutted. It is a mystery as to why the police official deployed for *bandobust* duties did not summon the five units immediately after those in the crowd had reportedly thrown petrol bombs on government vehicles. This inexplicable negligence of duty by relevant officers may give credence to allegations by some activists that the government vehicles were burnt to justify excessive police action. (See Fire accident reports.¹³) ***The PI team recommends a deeper probe into the use of the fire services on May 22.***

¹³ Fire accident reports of May 22, 2018 (Annexures 241 to 256 of Part II on Pgs 491 – 548.)

Situation at the Government Hospital and Mortuary

It was reported by several witnesses that even after the firing and attacks on the people on May 22, when injured people reached the GH for treatment, the police arrived there and attacked several injured and their families. People and families going to the mortuary to identify the dead were lathi-charged by the police outside the mortuary. A testimony was also received by the PI team, alleging that payment of Rs. 500 was demanded by the GH for conducting CT scans on about 60 injured people. PI team observed that families were upset on account of the court order delaying the release of the bodies. This compromised the dignity of the dead.

Testimonies also revealed that 108 ambulance services were not made available. None of the people with whom the PI team interacted confirmed the presence of public ambulances at any point of the rally or at the Collectorate. As per the accounts of the people, the 108 ambulance services were “ordered by the police not to attend” to the people who were injured during the rally. Accordingly, people had to avail of the ambulances provided by private entities and hospitals, such as Jeyanth Nallathambi Hospital and the Tamil Nadu Muslim Munnetra Kazhagam [TMMK].

Versions received by the PI team revealed that the GH doctors provided support and treatment to the innumerable people who were injured.

The PI team observes that there can be no justification for the violence reported at the GH or the mortuary. Police personnel who allegedly assaulted patients must be identified and brought to book.

Testimonies of fearfulness attest to the situation on the ground. Several witnesses opted to go to private hospitals with their injuries because they feared being identified and harassed by police. Several of them feared arrests and false charges.

A fear of reprisal came across in many testimonies. Initially the several persons who were injured did not go to the GH for fear of arrest and many left before getting the full course of treatment in spite of going there, on account of the increased police presence. There were also cases reported of injured who did not want to be discharged fearing police reprisal after leaving the protection of the hospital. People who had been detained and had their properties taken into custody are scared to go and collect their articles for fear of arrest. People have testified credibly that the police are continuing with harassment and the threat of being implicated in open FIRs which provide space for picking up 400 to 7000 unnamed accused persons under various sections, has left them terrorised. Such omnibus FIRs are a recipe for misuse by the police.

When a PI team of medical practitioners visited the GH on June 2, there were 56 in-patients (2 were in Intensive Care Unit -ICU). According to the doctors, on May 22, 63 of the 155 patients (including 23 police) who came to the Casualty left against medical advice. All the police personnel were shifted to Tirunelveli Medical College Hospital. On May 23, 16 patients (including 2 police) attended the Casualty. On subsequent days, patients again started trickling in. The initial voluntary discharge by the patients might have been due to the fear of police harassment.

The PI team found that the standards followed in the government teaching/tertiary hospitals of India were observed by the medical professionals of Thoothukudi Medical College Hospital

while treating the victims. In fact, the clinical reports of the medical officers helped many victims to get the compensation granted by the Government of Tamil Nadu. We want to put on record the commendable role of Prof. Dr. A. Edwin Joe, Director of Medical Education (DME), Government of Tamil Nadu in coordinating the efforts of medical professionals of Thoothukudi Medical College Hospital.

Autopsies performed on the bodies

When the PI team visited Thoothukudi Medical College Hospital on the evening of June 2, there were 7 bodies of victims from the rally and the day after; 7, autopsies were completed and 6 were waiting to be autopsied (autopsies were not performed on these bodies because the families had not given their consent to be present at the time of the autopsy). We were also informed that 6 other bodies had already been released to the relatives of the deceased. This takes the total number of bodies of victims brought to the Thoothukudi Medical College Hospital mortuary to 13.

On May 22, 10 bodies were brought to the mortuary and on May 23, one body was brought. On May 24, 2 more bodies of the victims who died during treatment at the Thoothukudi Medical College Hospital were brought. Thoothukudi Medical College has two mortuaries – one at Thoothukudi Medical College and another at Thoothukudi GH. Thoothukudi Medical College Mortuary has 21 freezer chambers. On May 22 and 23, when the bodies of the victims were brought in, the freezers at Thoothukudi Medical College Mortuary were closed for maintenance which was subsequently put back to regular service. Only 12 freezer chambers of Thoothukudi GH Mortuary were available and to create more free chambers, 6 unclaimed/unknown bodies that had been brought to the mortuary earlier were shifted to Tirunelveli Medical College Hospital to accommodate the bodies of the victims. Additionally, a freezer box was also made available for the 13th victim.

This shifting of 6 unclaimed/unknown bodies might have caused misunderstanding among the general public about the number of victims.

The autopsies of the first 7 bodies were conducted in the presence of the jurisdictional Judicial Magistrate and a representative of the family of the victims by the forensic medicine experts, Department of Forensic Medicine, Thoothukudi Medical College.

The first autopsies performed by the forensic medicine experts of Thoothukudi Medical College on the bodies of 7 of 13 victims adhered to the NHRC guidelines and textbooks of forensic medicine. They were videographed and photographed. There is no evidence to conclude that the first autopsies were performed unscientifically and ineptly. Of the seven bodies, six died of firearm injuries and the remaining one died of thoracic injuries caused by blunt force.

The PI team also found that appropriate procedures were followed in preserving the bodies. The ideal temperature to preserve a dead body is 4°C. This was available in all the freezer chambers of Thoothukudi Medical College Mortuary and Thoothukudi GH Mortuary on June 2. We found the facilities at Thoothukudi adequate.

The ideal practice is to complete the autopsies at the earliest, given weather and mortuary conditions. Otherwise, the bodies may start decomposing obliterating the vital autopsy findings. For instance, interpreting the age of injury - whether it is ante mortem or postmortem - becomes more difficult. In the case of firearm injuries, loosening of tissues due to decomposition will obliterate the

path traversed by the bullet in the body. Moreover, tissues collected for histopathological examination will not give any results due to autolysis of tissues due to decomposition. Some chemicals like alcohol, insulin show altered results due to decomposition.

To avoid any misgivings of the relatives of the deceased, the autopsy reports, video and photos of the autopsy must be made available to them at the earliest. In cases where the reports may be pending due to the delay to toxicology/histopathology reports, an interim report detailing the injuries and findings of organs can be given to the relatives. Similarly, re-post-mortems/second post-mortems should be preferably avoided especially when there is no evidence to show that the first autopsy was not done properly.

During an autopsy, the organs are exposed to the resident pathogens/bacteria of the mortuary and also to the gut flora (bacteria living in the intestines) of the individual which are released during the autopsy. So, even when the autopsied bodies are kept in freezers at 4°C, the decomposition starts because of the above said bacteria. The decomposition may not be fast but significant decomposition occurs. This decomposition becomes marked as the days advance. Moreover, in deaths due to firearm injuries, displaying the path that the bullet traversed within the body is important. It is possible to have done this to a large extent (with some exceptions) in most of the cases in the first autopsy. But during re-postmortem/second postmortem tracing the pathway of the bullet may not be possible because of decomposition changes causes loosening of body tissues. So, second autopsies cannot be the solution to solve the doubts of relatives/judiciary. Only well-documented (with photographs and video) first autopsies by qualified Forensic Medicine experts can help.

The PI team recommends that copies of autopsy reports should be handed over to the legal heirs at the earliest. In order to avoid any misgivings of the relatives, videos and photos of the autopsy should also be made available to them. In cases where the reports may be pending for some reason, an interim report detailing the injuries and findings can be given to the relatives. Unfortunately, in cases of police firing and custodial and jail deaths, autopsy reports are not given to the legal heirs by the hospital. Only through judicial intervention are relatives able to access such reports, causing them great mental agony as well as raising suspicions over the nature of the autopsy conducted. In these cases even till date (July 9) the families of the deceased have not received their post mortem reports after almost 48 days of the incident.

May 23 and the aftermath

Allegations of Torture, Arbitrary Detentions and Fabricated Charges

Since the morning of May 23, there has been a sudden and massive deployment of police personnel in Thoothukudi district, consisting of an Additional Director General of Police, two Inspectors General of Police, four Deputy Inspectors General and 15 SPs. This sudden increase of police officers lends credence to allegations of continuing reprisals and actions against the local people which appear to have no sanction in law.

People's testimonies revealed that on the morning of May 23, groups of people along with the families of those who were dead and injured due to police firing and lathi-charge, gathered in front of the GH and demanded action against the police. The police resorted to lathi-charge to disperse the crowd in front of the GH. Even the family members and patients inside the GH were attacked

with lathis by police who were present on every floor. The crowd in order to escape from police brutality had to flee from that area and ran to the neighbourhood areas and sought refuge in Anna Nagar.

As soon as this happened, a large posse of police personnel were deployed in Anna Nagar. They entered houses and other properties in that area apparently on a search mission. The residents of Anna Nagar were in great shock to see this sudden commotion and locked themselves inside their houses. The police also opened fire at residents of Anna Nagar, and many of them who were just standing near their houses received bullet injuries. Mr.Kaliappan died on the spot from the police firing. Women were also beaten up when the police entered their houses and an instance was reported of a 5-year old boy being stamped on the stomach and his 2-year old sister being assaulted by the police.

The PI team found in some of the villages that many people who had nothing to do with the protests but just went to watch, or were having tea at wayside shops, were also lathi-charged. They showed their injuries to the PI team but were not willing to go the GH out of fear of arrests. Lathi charges had also taken place in villages near their homes and huts. The PI team was also informed that the police particularly targeted young people and those who wore black shirts as a mark of protest or a rosary around their neck indicating they were Roman Catholic Christians. Many young men were not going home out of fear and were living in hiding. The PI team met a very young boy of 13 years who barely looked 10, who was beaten by the police and who showed them his injuries. The injured had open wounds which required immediate treatment but they were afraid of seeking medical attention because of their deep fears. They also lost their daily earnings as they were not able to go to work. Most of the men were involved in farming.

Witnesses have confirmed that there were massive and unwarranted door-to-door searches in several areas. Police personnel forcefully entered homes, damaging property. According to people's testimonies. Many young men picked up, were taken neither to police stations nor produced before judicial magistrates. All the testimonies indicated that they were beaten up and taken to unknown locations. Some of them were kept in the police station for hours, and in some cases they went without food, water or medical attention for more than one and a half days. Some of the accounts also stated that young men were illegally detained at the Varusanadu Firing Range. This has been documented by the Judicial Magistrate in his remand orders and the District and Sessions Judge in her bail orders as well as the petition for cancellation of bail of the 65 persons filed in the Madurai Bench of the Madras High Court by the state.¹⁴ Later, 30 of them were found to be minors. Several others who were not detained, across various locations in Thoothukudi, confirmed that they were rounded up and beaten by the police. The same can be proved through the injury marks they recorded on their mobiles after being beaten.

The PI team also recorded violence after May 23. In one case, on the early morning of May 31 at around 3 am, in village Meelavittan, which is barely 1.5 km from Sterlite and has a history of relentless struggle against Sterlite, three young men were picked up and detained by the police in mufti. The women in this and other villages around the area, who are in the forefront of the struggle, went the next day to the DC to petition for their release. The DC assured them that they will be

¹⁴ Remand orders of 65 persons indicating their illegal arrest and torture sustained, with the orders of bail of the District Judge and the petition for cancellation of bail in the High Court. (Annexure 25 (a) (b) & (c) of Part I on Pgs A – 120 to 146.)

released in one hour. However, it is learnt that the young men were for long in Palayamkottai Central Prison.

All persons whom the PI team met, including members of civil society named one Inspector Hariharan, the SHO of SIPCOT Police Station, of being particularly violent towards the people and also indulging in 'vulgar' casteist comments especially of a large section of people from Pandarampatt village who were of SC origin. No complaints were preferred since he was there jurisdiction officer.

From the testimonies, police had filed FIRs on unknown persons regarding the incidents on May 22 and 23, most of which appear to be done deliberately to remand more unspecified people belonging to the anti-Sterlite campaign. According to one testimony, a person who was already in police custody on May 23 since 1 pm, has been falsely charged for having torched a police bus in Anna Nagar, although the torching of the police bus had occurred at 2.30 pm. The police have followed the modus of registering one FIR in all police stations for every vehicle that has been registered to have been burnt. A perusal of the FIRs will reveal the same. This has enabled the local jurisdictional police to still keep out of the investigation of the few FIRs related to the firings and deaths caused that have been transferred to the crime branch CID and yet have several hundred FIRs some of which are open FIRs with over 1000 unnamed accused persons to harass innocent persons. (The following documents documenting a few sample cases registered by the police against a few persons will indicate the same.¹⁵) There are several instances of persons who have applied for official police permission to organise events after one month of the 'killings', who were refused the same and then moved the Madurai Bench of the Madras High Court and who have now thereafter been included in not one but over 11 cases. The classic case is that of human rights defender and advocate Mr. Vanchinathan, the State Organiser of the Human Rights Protection Centre who was initially arrested by the Thoothukudi police at the Madras Airport as he was returning from New Delhi by a late night flight after appearing before the Supreme Court of India in a public interest matter. This was in a case in FIR bearing Crime No. 190 of 2018 of the SIPCOT PS where though the petition for anticipatory bail was dismissed by the Madurai Bench of the Madras High Court, the formal order of the Court was not available on the day of the arrest and for more than a week later. When the bail petition was filed for Mr. Vanchinathan there were over nine criminal cases registered against him.

The PI team also observes the subsequent use of the preventive detention law against certain persons owing allegiance to certain specific organizations such as the Naam Tamilar Party, Makkal Athigaram etc. using provisions of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum-Grabbers, Act, 1982 and the National Security Act, 1980.¹⁶

The PI team observes that many young men have been forced to leave their homes, as they fear arrest and torture at the hands of the police, even though they were not part of anti-

¹⁵ Chart indicating cases registered against a few person as an example of false cases being registered against a large section of people. (Annexure 27 (a) to (e) of Part I on Pgs A – 147 to 185.)

¹⁶ Preventive Detention orders of Kottaiyan, Mohammed Irsath, Mohammed Anas, Kaliloor Rahuman & Velmurugan @ Murugan dated June 10, 2018. (Annexure 28 of Part I on Pgs A-186 to 190)

Sterlite rally on May 22 or even before that. Those who took part in the protests apprehend arrest as police have filed open FIRs against thousands of unnamed persons. There have even been instances where all the members of a family have fled their home, fearing false cases. There are also several injured people who have not availed medical treatment or reported their injury out of fear of being targeted by the police. The PI team witnessed a huge presence of police personnel and observed people living in terror even ten days after the rally. Testimonies also stated that the CCTV cameras in Thoothukudi South Police Station were covered with cloth when persons are illegally detained were taken to its precincts.

The tabular columns attached as well as an analysis of the total number of the 240 FIRs that this PI team has analysed indicate that in most of the cases there is no name of the accused while in others there are un-named accused, comprising of 400 to 1000 or 2000, or 5000 and in one case even 7000 persons. The offences range from rioting, unlawful assembly, hurt with dangerous weapons, wrongful restraint, mischief by fire, criminal intimidation, house trespass and attempt to murder, under the IPC besides offences under the Explosives Substances Act and Tamil Nadu Public Property Prevention, Damage and Loss Act. While some FIRs have been registered on May 22 some of them have been registered on May 23 and even thereafter. While an FIR can be against unknown persons, having them against 400 to 7000 persons only means that provision is being made to add names at any point of time. This was a major fear operating in the minds of the people whom the PI team met.

This fear has reportedly been proved right from the versions given by those who were monitoring events that have taken place in Tuticorin after the PI team's departure. Representatives of a team led by Justice Hariparanthaman met the new SP of the District, along with Mr. Kamal Kumar IPS (Retd.) and Dr. Christudoss Gandhi IAS (Retd.), on June 3, when they were assured that the 'midnight knocks' would come to an end. Team members mentioned this assurance at the press conference held on June 3, however, what has been observed thereafter, is reported as follows:

- that the midnight knocks, followed by abuse of women folk and arrests did gradually stop for a few days after June 3;
- these were exactly also the days that the teams from the SHRC, NHRC and the Judicial Commission of Enquiry headed by Justice Aruna Jagadeesan were visiting Thoothukudi town and undertaking interviews with victims and their families from June 2 to June 6;
- however pursuant to that, large scale arrests preceded by breaking open doors, abuse of women in homes, torture of suspects, mainly youth, commenced in both the villages and Thoothukudi town in larger numbers than had existed when complaints of this had been made to the District SP by the members of the team;
- when the SP was met by leaders from political parties who made representations to him on these large scale arrests, the standard reply of the SP was that he had instructions from above and he had to do justice to the police who had been beaten by the protestors and sustained injuries and further since a lot of property was also damaged by these protestors during the march to the Collectorate on May 22;
- in fact the SP was quoted saying to the leaders of political parties who met him including the veteran political leader of the Communist Party of India (CPI), Mr. R. Nallakannu and represented this phenomenon of midnight arrests, that he has arrested over 800 people and have another 5000 more who need to be arrested;

- in fact in each of arrest narratives that were shared, the PI team was informed that a greater sense of fear was present once again in a town that had not yet completely mourned the deaths of 15 of its citizens. The same continues till date forcing even bodies like the traders' association to pass a unanimous resolution as late as on July 9, condemning this action and threatening a shutdown of shops if the same continued;
- it was also brought to the PI team's notice that since illegal detentions and torture had already been proved by the combined exemplary actions of the local bar associations offering free legal services, the sub-ordinate judiciary ensuring all Supreme Court and High Court judgments and guidelines relating to arrests were to be meticulously adhered to, the illegal detentions were no longer taking place in the Vallanadu police firing range. But now the venue has shifted to the armed reserve compound located in Millerpuram (within Thoothukudi town limits), and further that the main road leading to this armed reserve buildings was also blocked with no access to anyone except the police; and,
- the above illegal arrests also followed with political leaders addressing public meetings on the same issue, human rights organisations issuing public statements on the same' specific writ petitions also being filed in the Madurai Bench of the Madras High Court in relation to the same¹⁷, and even a one day symbolic fast being held by the members of the Tuticorin Bar Association.
- the latest is an allegedly confession statement from one Mahesh of Madathur village this statement speaks volumes about how the statement is now willing through its investigating agency to implicate persons who had participated in Peace Committee 20 May 2018 and agreed to protest at SAV grounds. This is conclusive proof of the design to implicate anyone who speaks about Sterlite.

From an analysis of the FIRs, is the PI team notes that barring a few, the FIRs concerning attacks on police were not registered under IPC sections such as Section 326 or Section 307, indicating that the claim of the police that they were excessively attacked and suffered injuries at the hands of protestors, appears to be largely unfounded. Even from the testimonies presented before the PI team and visits to police stations, cases of excessive injuries suffered by the police have not been made out, in comparison to the massive numbers of civilian injuries and deaths. While several FIRs have been registered against unknown persons/protestors, no FIRs have been filed by people or on their behalf against the police or even unknown persons, in the case of those who have died or have been injured in the police firings and lathi-charge. This clearly indicates that people are totally frightened to seek recourse under the law. Also, even before the firing at the Collectorate, no FIRs are noted to be filed in respect of the incidents that have taken place on the way to the Collectorate.

The police terror and repression continue even as on date in Thoothukudi with police officers from several other districts still manning police stations without knowing who the locals are and their antecedents. National and regional political parties and local leaders have also not been granted permission to conduct meetings to publicly mourn the deaths in the city and publicly condemn the killings. Permission was sought for the same by the Communist Party of India (Marxist) (CPM) and

¹⁷ Writ petitions filed in the Madras High Court on the Thoothukudi incident in public interest. (Annexure 52 to 63 of Part V on Pgs A – 235 to 403)

the Viduthalai Chiruthaigal Katchi [VCK] for such meetings and both were refused permission¹⁸. Both the parties approached the Madurai Bench of the Madras High Court. It is interesting to note how the court responded to this application for exercising the right peaceful assembly, protest and expression. The court granted permission but with conditions stating how many hours the meeting should be held, how many persons should attend, who should welcome the meeting, who were to be the two speakers, who was to deliver the vote of thanks and that the police would be free to videograph the proceedings. The police not only regulated the entry to the said meeting when it was finally held on July 18, but also videographed every person who came to attend the said meeting. In the prevailing climate at Thoothukudi one can very well understand the purpose in videographing every participant at the meeting. The irony was that instead of 1000 persons, 1726 persons attended the meeting and hence the police thereafter also registered an FIR under Section 188 IPC against the meeting organisers and the 1726 participants of the said meeting. The Madurai Bench of the Madras High Court had to quash this FIR subsequently.

Similarly, the VCK organised its meeting where the Madurai Bench of the Madras High Court had permitted only 4 speakers to participate. One Mr. Paul Prabhakar who attended this meeting as the State Propaganda Secretary to the Dravidar Viduthalai Kazhagam is now before the Madurai Bench of the Madras High Court for an anticipatory bail due to harassment that he and his family members are facing from the police stating that he has criminal cases pending against him.

¹⁸ Order of police declining permission to CPM and VCK and order to conduct meeting to CPM dt June 16, 2018. (Annexure 19 (a) & (b) & 20 of Part I on Pgs A – 57 to 69)

5. The Thoothukudi Tragedy: A Background

Policy Violations, Dilutions, Nexus between a large Corporate and the State

Sterlite Copper is a unit of Vedanta Limited, one of the world's largest mining and metals company and it accounts for 36 per cent of India's total copper output. Founded by Anil Agarwal, its current chairman who is currently based in the U.K., Vedanta set up the Sterlite Copper Plant in 1996. It consists of a smelter, refinery, acid plant, and copper rod plant, in the land allocated to it by State Industries Promotion Corporation of Tamil Nadu Ltd. (SIPCOT) in Thoothukudi. The plant has the capacity of producing 4,38,000 tonnes of copper terminals per annum, or 1,200 tonnes per day. Sterlite plans to double its production and emerge as the world's second largest copper smelting units in the world. Sterlite is located in a thickly populated zone with more than 4.6 lakh (46 million) people living in 8 towns and 27 villages inside a 10-km span of the plant.

From its inception, the plant has been wracked with controversy. Numerous court cases and refusals of permission to produce are witness to this. Most especially there have been numerous complaints against the company for harming the environment and breaking environmental regulations. Several reports suggest that the company, given its monetary and political clout (while it remains one of the ruling Bhartiya Janata Party's biggest donors the former Union finance minister of the previous Congress-led UPA government was a paid non-executive director of the group), has been able to break laws with impunity. Numerous reports that have examined the working of Sterlite suggest that the company has been able to continue to function and expand, despite continuously violating environmental laws and regulations. The fact that it has been able to transgress the limits of permissions accorded to it is suggestive of the power it wields and the influence it is able to muster.

In 1992, Sterlite was allotted 500 acres of land by Maharashtra Industrial Development Corporation (MIDC). The land was allotted to it for setting up a 60,000-ton per year copper smelter in Ratnagiri. The people of the area around the plant, who feared the impacts the pollution caused by copper smelting would have on their lives, were successful in stopping the construction of the proposed plant after a year-long agitation.

Original Plant

In 1994, Vedanta, after being unable to set up the copper plant in Goa, Gujarat and Maharashtra, came to Tamil Nadu (TN) and was successful in getting a no objection certificate from the Tamil Nadu Pollution Control Board (TNPCB) to set up the Sterlite Copper Plant in Thoothukudi. The Ministry of Environment and Forests (MoEF) had issued an Environmental Clearance (EC) for the plant in 1995 without waiting for the Environment Impact Assessment (EIA). In 1996 the TNPCB granted Vedanta a licence to operate, violating its own condition that the plant should be located at least 25 kilometres away from the Gulf of Mannar. The plant was allowed to come up within 14 km from the Gulf of Mannar. Although the Environmental Clearance (EC) granted in 1995 was challenged by National Trust for Clean Environment before the Madras High Court, the plant began operations on January 1, 1997, even as the matter remained pending at court. Just after the plant started operating, local residents complained against it, but TNPCB did not take any action and in fact defended the owners of the plant. In just four months, in the year 1997, the Tamil Nadu Electricity

Board (TNEB) and its manufacturing unit near the plant, complained about a gas leak. Nevertheless, Sterlite was given a clean chit.

The National Environmental Engineering Research Institute (NEERI), on the directions of the Madras High Court, submitted studies on pollution being caused by the plant. While NEERI had initially reported the violations of the plant – which forced the plant to shut down operations in 1998 for a short spell – it was allowed to restart and NEERI was asked to carry out another investigation. In its subsequent report, NEERI changed its earlier stand and argued that the plant should be allowed to run at full capacity. It is speculated that NEERI revised its position and gave a clean chit to Sterlite after being awarded projects worth Rs 1.27 crore between the period 1999-2007.

In 1999, 11 staff members of All India Radio, working in the vicinity of Sterlite, had to be hospitalised because of a gas leak and in 2001, toxic wastewater released from the plant, polluted water flowing in an area close by. It also appears that although TNPCB had limited production to 70,000 tonnes per year, Sterlite manufactured 1,75,242 tonnes of copper anode in 2004. In 2004, the Supreme Court Monitoring Committee (SCMC) team inspected Sterlite and recommended that environment clearance for expansion from 391 to 900 tonnes per day be given. However, even before this clearance was procured, the new production facilities had already been built, indicating that Sterlite had expanded its production capacity without the necessary licences. Within a day of the SCMC's inspection, MoEF issued an environmental clearance to Sterlite for the plants it had already begun to construct – which only indicated the extent of government support it was receiving. This despite the reports of TNPCB which accused Sterlite of indulging in unlicensed production by pointing to an entire factory complex where none of the plants had the necessary construction licences from TNPCB.

Expansion in 2009

In 2008, the company proposed expansion of its daily production from 900 tonnes per day to 1200 tonnes per day of copper by putting up Unit-II and obtained environmental clearance for the same on January 1, 2009.

The process by which environmental clearance was granted to Vedanta remains controversial. It dispensed with the mandatory requirement of a public consultation process, justified on the company's representation that Unit-II was located inside a notified area of SIPCOT industrial park, which had already received environmental clearance. Under clause 7 (i) 3 Stage (3) (i) (b) of the EIA Notification, 2006, projects located within industrial parks that have received EC (under item 7 (c) of the Schedule to the Notification are not required to conduct public hearing prior to issuance of EC. However, the original Phase II of SIPCOT, where Unit-II was located, had itself not received environmental clearance. Therefore, the EC that was granted, on the representation made by Vedanta, was faulty and illegal.

This EC dated January 1, 2009, for Unit-II, which was originally valid for a period of 5 years, was extended, on July 23, 2015, for a further period of two years. It was thereafter renewed, on March 2, 2016, for a further period of three years and was accordingly valid till December 31, 2018. This was done in the following manner:

- The MoEF issued an Office Memorandum on December 10, 2014, interpreting clause 7 (i) 3 Stage (3) (i) (b) of the EIA Notification, 2006, in effect diluting it by issuing a clarification that the

exemption from public hearing would extend to projects or activities located in industrial estates and parks notified by the government prior to September 14, 2006 (the date of EIA Notification, 2006 coming into force). This sought, in effect, to apply the exemption to projects or activities located in industrial estates and parks which had not obtained EC or approvals under the EIA Notification, 2006. This notification enabled companies such as Vedanta to avoid the public consultation process, which would have allowed for questions from the local stakeholders, hearing their fears and grievances and their objections to the setting up of the polluting plant.

- This notification, dated December 10, 2014, was in dilution of an Office Memorandum dated May 16, 2014, which clarified that the exemption from public consultation would be granted only to projects located in industrial parks or estates that had obtained EC under item 7 (c) of the Schedule to the EIA Notification, 2006. The renewal application of Vedanta was pending before the MoEF and Vedanta was required to undertake public consultation as per the laws then existing, and as clarified under Office Memorandum dated May 16, 2014, which it had not done.
- Meanwhile, on April 29, 2015, the government issued a draft notification to amend the EIA Notification 2006 to extend the validity of EC granted under the law from the original five years to seven years and to also enable the renewal process (for a further 3 years). This directly benefited Vedanta as its EC dated January 1, 2009, for the Sterlite Copper Smelter Unit-II was due for renewal on completion of its 5-year tenure. However, with the introduction of this new notification extending the validity period, Vedanta applied for extension of the EC, and on July 23, 2015, got the EC extended by an additional period of two years. Immediately thereafter, on March 2, 2016, Vedanta obtained recommendation for renewal of its EC up to December 31, 2018.

Expansion announcement in January 2018

In January 2018, the company announced its plans to double the capacity of the copper smelter. This was opposed by the people in Thoothukudi. In March 2018, the original plant was shut down for 15 days due to maintenance and preparations for expansion. Pursuant to this, they were not granted a licence by TNPCB to continue their operations beyond March 2018, due to non-compliance with environmental regulations. After the May 22 rally and subsequent killings, vide a Government Order dated May 28, 2018, the Tamil Nadu Government has endorsed the closure of the Sterlite Copper by TNPCB in larger public interest. SIPCOT, too, has passed an order cancelling the land allotment made in favour of Sterlite for the expansion of Unit-II.

A brief summary of Sterlite's legal violations

The history of Sterlite's operations demonstrates how regulation and regulatory agencies constantly played catch-up with the legal violations that Sterlite engaged in.

The following are some of the key legal violations:

Sterlite Copper Unit 1

MISREPRESENTATION OF LAND HOLDINGS: On August 9, 2007, the Ministry of Environment & Forests issued an Environmental Clearance to Sterlite for expansion of copper production from 900 tonne per day to 1200 tonne per day on the basis of Sterlite's claim that it had sufficient land for its expansion and for environmental protection mitigation infrastructure to handle the additional

pollution load generated by the expansion project. The Clearance states: "Total project area is 172.17 ha and no additional land will be required for the expansion project."

The company never had 172.17 hectares. As the most recent 2018 Inspection Reports of TNPCB demonstrates, the company holds only 102.5 hectares against the required 172.17 hectares. The EC was obtained on false declarations.

GREENBELTS: The Union Ministry of Environment & Forests recommends a 500 metre wide greenbelt around any large industry, and 1000 metres between two large industries.

In Sterlite's case, the TNPCB first (August 12, 1994) mandated the development of a 250 metre wide greenbelt, which was then (on August 18, 1994) arbitrarily reduced to 25 metres upon the company's request. In its November 1998 report to the Madras High Court, NEERI found that the company had failed to develop even the reduced extent of greenbelt. NEERI also found that the reduction from 250 metres to 25 metres was arbitrary and not scientific.

The violation continues to the present day. As per the Environmental Clearance of 9 August 2007, authorising the company's expansion from 900 tpd to 1200 tpd, the Union Environment Ministry requires Sterlite to develop a greenbelt of adequate width over 43 hectares of the total 172.17 hectare project area. As stated earlier under Section titled "Land Fraud," Sterlite never had and does not possess 172.17 hectares. It has only 102.4 hectares. The question of developing a 43 hectare greenbelt does not arise. However, in its statutory submission reporting compliance with Clearance Conditions, Sterlite boldly misrepresents facts to make it appear as though this condition has been complied with.

UNDER-DESIGNED CHIMNEY STACKS: The stacks attached to the ISA smelter and the two sulphuric acid plants are far below the legally prescribed minimum height for such operations. While copper and sulphuric acid production has grown from 234 tpd and 638 tpd respectively in 1995 to 1200 tpd and 4200 tpd respectively in 2006, the heights of the chimneys attached to the smelter and sulphuric acid plants have remained the same – at 60 metres. The existing plant with 4 lakh tpa copper capacity also has only 60 metre stacks against a legal minimum of 103 metres.

UNLICENSED EXPANSION (2004): On 21 September, 2004, the Supreme Court Monitoring Committee on Hazardous Wastes directed the TNPCB to inspect the plant "to ascertain whether the unit has already proceeded with the expansion of the project without prior permission from the appropriate authority(ies) in which case the TNPCB shall take suitable action..." It also stated that "When the existing waste management practices of the unit are not in compliance with the environmental standards...it would be inadvisable to consider expansion of the unit..." A Committee constituted by TNPCB inspected the plant on 29-30 October, 2004, and found that ISA Smelt Furnace, Rotary Holding Furnaces (2 Nos), slag cleaning furnace, converter, an anode furnace, caster unit, oxygen plant, sulphuric acid plant had already been constructed without obtaining mandatory Consent to Establish under Air and Water Acts. A refinery and a continuous copper rod plant were under construction, also without Consent from the TNPCB. The plant that was constructed without a license was rewarded with a license to operate in 2005 by the TNPCB.

TREATED EFFLUENT FAILS TO MEET REGULATORY STANDARDS: NEERI reports from 1998 to 2011 – submitted to the courts -- have consistently indicated that the effluent treatment system is operating inefficiently. In its report of 2011, for instance, it reported that "levels of both TDS and

sulphates in treated effluent continued to exceed standards. Fluoride levels in treated effluent were also shown to exceed standards. Treated wastewater samples from the spray ponds exceeded standards for fluorides, sulphates, TDS, and zinc.”

GROUNDWATER QUALITY WITHIN FACTORY PREMISES: In its report of 2011, NEERI stated that well water samples exceeded maximum permissible limits for drinking water in TDS, iron, sulphates, and fluorides. Samples also exceeded desirable levels for chlorides.

GROUNDWATER QUALITY OUTSIDE FACTORY PREMISES: Samples for ground water quality outside Sterlite premises consistently exceeded stipulated standards for drinking water in NEERI Reports from 1998 to 2011. Its 2011 report recorded groundwater samples with levels in excess of the standards for TDS, sulphates, calcium, magnesium, fluorides, and iron.

RECENT GROUNDWATER QUALITY DATA INDICATES POLLUTION: Results of Analyses of 15 groundwater samples (7 within the factory and 8 from villages around the factory) collected by TNPCB and the Thoothukudi district administration on 28 March, 2018, reveal that all 15 water sources are polluted and in violation of the Bureau of Indian Standards norms for one or more drinking water parameters. Levels of the neurotoxin heavy metal lead, which is particularly toxic to children, were found to be between 4 and 55 times higher than levels considered safe for drinking water.

The findings revealed that groundwater in Therku Veerapandiapuram village had lead levels 55 times higher than permissible standards. Kumareddiapuram village groundwater had lead 39 times in excess of safe levels. Kayaloorani village groundwater had lead levels 46 times higher than permissible levels, Pandarampatti village 40 times higher, Madathur village 21 times higher, and Meelavittan village 11 times higher. Fluoride levels were above desirable levels prescribed by the Bureau of Indian Standards in groundwater taken from Madathur, Silverpuram and Meelavittan.

In its submission to the Appellate Authority, where Sterlite has challenged the rejection of renewal of Consent to Operate by TNPCB, Sterlite has presented TNPCB groundwater data – a total of 32 results from 16 locations inside and outside the factory, one each for 2016 and 2017 to claim that there is no evidence of groundwater pollution. However, Sterlite’s own data tells a different story. For instance, magnesium levels are in violation of desirable standards in all 32 results. Iron levels are in violation of permissible standards in 28 out of 32 results.

AIR QUALITY: NEERI Reports from 1998 to 2011 also document air pollution emissions in excess of the standards. For instance, NEERI 2011 recorded particulate matter emissions in excess of the limits for both PM10 and PM2.5. The report also showed fluoride concentrations in excess of the levels stipulated by the WHO.

UNAUTHORISED HANDLING OF HAZARDOUS WASTE: Between July 9, 2013 and March 31, 2018, the company handled, transported and disposed of hazardous wastes without a valid authorisation under the Hazardous Waste (Management, Handling and Transboundary Movement) Rules, 2008, later replaced by Hazardous and Other Waste (Management & Transboundary Movement) Rules, 2016. This fact is recorded in the Proceedings of TNPCB in April, 2014 rejecting the company's application to renew its Consent to Operate under the Air and Water Acts.

HEALTH IMPACTS ASSESSMENT: In 2008, the Department of Community Medicine, Tirunelveli Medical College submitted a report titled ‘Health Status and Epidemiological Study Around 5 km

radius of Sterlite Industries (India) Limited, Thoothukudi'. The study covered a population of 80,725 people and compared the health status in villages around Sterlite with the average health status prevailing in the state and two other locations that did not have any major industries. It indicated the prevalence of brain tumours among males is 5.6 percent, as against a national incidence rate of 5-10/100,000 in India. 12.6% of deaths were due to nervous diseases and major causes for this was recorded as paralysis, loss of sensation and brain tumours. At 13.9%, respiratory diseases were significantly more prevalent in the areas surrounding the factory than in areas without industry, and were much higher compared to the state average. The incidence of asthmatic bronchitis is 2.8%, more than double the state average of 1.29%. The study noted that eczematous skin lesions were high (1.38%) in the region. "Women in the [study] area had more menstrual disorders, like menorrhagia and dysmenorrhagia...." according to the report.

Sterlite Copper Unit 2

FALSIFYING INFORMATION TO OBTAIN ENVIRONMENTAL CLEARANCE: The Copper Smelter Plant-II at Thoothukudi originally obtained Environment Clearance for a greenfield smelter complex on 01.01.2009. Subsequently, the EC was renewed on 23.07.2015 and 02.03.2016 by the Union Environment Ministry. The original environmental clearance and each renewal was illegally obtained by availing exemption from public consultation by misrepresenting the location of the project as being within a "notified Industrial Estate/Complex." This illegality came to light recently by information unearthed using the Right to Information Act, 2005. A review of the land survey numbers for Sterlite's proposed site, and the Survey Numbers for the proposed "SIPCOT Tuticorin Industrial Park" (TIP) indicate that Sterlite's entire proposed project falls within the TIP. The proposed TIP is still at the planning stage and is proposed to be developed under SIPCOT Phase – II scheme, Tuticorin and is yet to be granted necessary environmental approvals from concerned authorities. Sterlite had commenced construction at the new site after the Madras High Court on April 28, 2016 dismissed a Public Interest Litigation challenging the Environmental Clearance.

A renewed challenge to the Environmental Clearance was filed in the form of a Writ Petition in the Madras High Court in May 2018. The petitioner challenged the Clearance on grounds that it was fraudulently obtained by misrepresenting facts regarding the project site, and by misleading the Court in collusion with the Union Environment Ministry. On May 23, 2018, the High Court issued an interim injunction directing Sterlite to stop all ongoing construction at the site of its new 1200 tonne per day copper smelter¹⁹.

Court Litigation at a Glance

Several litigations were filed in respect of copper smelting units I and II, which are listed below.

S.N.	Case	Parties	Forum	Details / Status
1.	W.P.15501-15503/1996	National Trust for Clean Environment - Petitioner	Madras High Court - PIL	Challenged the Environmental Clearance granted by the MoEF and Consent orders under Air Act and Water Act granted to Unit-I by TNPCB

¹⁹ Interim order of the Madurai Bench of the Madras High Court dated May 23, 2018. (Annexure 9 of Part III on Pgs 283 to 308)

2.	W.P. 5697/1997	V.Gopalaswamy - Petitioner	Madras High Court - PIL	Seeking a direction to Sterlite to stop operating the plant- inter alia
3.	W.P. 16861/1998	CITU-Petitioner	Madras High Court - PIL	On the issue of failure to take safety measures in the 1 st Plant leading to many accidents
<p>By a common order dated 28.9.2010 all the Writ Petitions listed at 1, 2, 3 above were decided and the plant was ordered to be shut down by a Division Bench of the Madras High Court²⁰.</p> <p>The Closure Order was stayed by SC on appeal (See below) by Sterlite on 01.10.2010</p>				
4.	Civil Appeal- 2776- 2783/2013	Sterlite Industries- Appellant	Supreme Court of India	In 2013, Supreme Court set aside the order dated 28.9.2010 of the Madras High Court. While acknowledging the large-scale pollution and also the misrepresentations of the Appellant – Sterlite ordered to pay damages of 100 crores. It was allowed, however, to continue operations. ²¹
5.	WP	Patchammal, Petitioner	Madras High Court - PIL (Madurai)	On slag dumping near water bodies in Pudukottai village, Tuticorin Taluk. (Status Not Known)
6.	Appeal No. 23/2013 and 24/2013 dated 01.04.2013	Sterlite- Appellant	National Green Tribunal (Southern Zone)	Against the closure order of 23.03.2013 of TNPCB pursuant to the gas leak.
		Fatima- Intervenor	NGT	Impleaded in the above appeal by Sterlite
		V.Gopalaswamy- Intervenor	NGT	Impleaded in the above appeal by Sterlite
7.	Appeal No 57 and 58/2013	Sterlite – Appellant	NGT	Above matter transferred from SZ to Principal Bench, New Delhi
<p>On 08.08.2013, NGT verdict in favour of Sterlite, after an expert committee conducted an inspection and submitted a favourable report.</p>				

²⁰ Common order dated Sept 29, 2010 by the Madras High Court when plant was ordered to be shut down. (Annexure 5 of Part III on Pgs 213 to 237)

²¹ Order of the Supreme Court set aside the order dated 28.9.2010 of the Madras High Court. (Annexure 6 of Part III on Pgs 238 to 259)

8.	SLP Civil Appeal 8773 to 8774 of 2013	TNPCB-Petitioner	Supreme Court of India	Against the above NGT Verdict, on technical grounds that NGT ought not to have entertained the appeal, as the rightful forum for the appeal was the Appellate Authority constituted under Air and Water Acts.
9.	W.P. 13810/2009	Pushparayan-Petitioner	Madras High Court - PIL	Seeking to challenge the environmental clearance granted on 01.01.2009 for Unit-II with 1200 tpd capacity on the ground that EC was obtained without Public Consultation wrongfully invoking an exemption from public hearing clause that applied only to units proposed to be located within notified industrial estates. Dismissed on 28.04.2016 because all Respondents represented that the proposed smelter would be within the existing notified SIPCOT Industrial Complex
10.	WP Number Not known	Muthuraman-Petitioner	Madras High Court - PIL	Seeking to cancel the lease deeds issued by SIPCOT to Sterlite
11.	Appeal No. 36 and 37/2018	Sterlite – Appellant	Tamil Nadu Environment Appellate Authority	Against the order dated 09.04.2018 of TNPCB wherein the consent to operate for Unit-I was not renewed. Fatima, V.Gopalaswamy and others have impleaded themselves in this. Case is pending.
12.	WP (MD) 9283 of 2018	V.Gopalaswamy - Petitioner	Madras High Court - PIL	Seeking a direction to not extend any licence or clearance to Sterlite and close down existing operations of Sterlite. ²²

²². Writ petition filed by Mr. Vaiko, General Secretary of the MDMK dated April 23, 2018 before the Madurai Bench of the Madras High Court. (Annexure 52 of Part V on Pgs 235 to 249)

13.	WP (MD) 11220/2018	Fatima- Petitioner	Madras High Court - PIL	Challenging the environmental clearance dated 01.01.2009 (extended on 15.07.2015 and 02.03.2016) to Unit-II. The court granted an interim order on 23.05.2018 directing Sterlite to stop all activities at the second smelter and also asked the MoEF to consider the application for fresh clearance by sterlite within 4 months with a mandatory public hearing ²³ .
14.	SLP	Ramasubbu	Supreme Court of India	Against NGT order regarding slag dumping along Uppar river. Admitted and notice issued.

People's opposition to Sterlite

When the foundation stone for Sterlite was laid on the October 30, 1995 by the then Chief Minister of Tamil Nadu the citizens of the town were carried away by the pomp and flourish that accompanied the arrival of the industry. There were many who believed that Tuticorin was going to make it big in the industrial map of the country and that it could offer jobs to all the unemployed youth of the district. A few voices raising concern went unheeded. It was only after the negative environmental damage and ill health started to show and the industry spread its octopus tentacles into every aspect of life and livelihood of the townsfolk without taking the consent of locals as necessary that opposition to Sterlite began to be voiced. The havoc wreaked by the industry became explicit as early as the year 2000 with patients crowding hospitals with respiratory disorders. The situation worsened as years passed by and Tuticorin came to be known as the cancer capital of Tamil Nadu. The discharge of disproportionate quantities of arsenic, sulphur and other hazardous chemicals is said to have damaged the environment and the health of the people to an inestimable extent.

The continuous year on year discharge of hazardous chemicals into the air, ground and drinking water and into the ecology of the Gulf of Mannar, has not been estimated and is probably incalculable. Alongside the irreparable damage to environment and significant health deterioration the populace faced, was Sterlite's ability to bypass all regulation, obtain licenses without due process, as it continued to construct and manufacture in violation of permissions and regulation and completely exclude the local population from their statutory rights of consultation, or be heard successfully at any ready local or state forums, except in the distant courts and even here orders were frequently subverted on the ground. Finally faced with an intolerable and worsening situation and no redress available, the residents of Thoothukudi had little choice but to take to the streets in protest,

²³ Court pleadings in the case of Fatima against Sterlite (Annexure 16 to 18 of Part III on Pgs 325 to 356)

The anti-Sterlite people's struggles started as early as 1995. The first major uprising was that of the fishing community that objected to hazardous waste being dumped into the sea. They located the pipes carrying the sludge and broke them in order to stop that exercise. They blockaded two vessels carrying copper ore at sea and stopped them entering Tuticorin port. They embarked on a voyage in their barges and boats, carrying just biscuits, bread and bananas for a few days' sustenance. Their resistance sent the vessels rushing to the Cochin port, where they unloaded their cargo which was later transported by road to the plant.

On the July 5, 1997, more than 100 women working in the adjacent Ramesh Dryflowers Company were affected by a gas leak from Sterlite, causing nausea, dizziness and suffocation. While many fainted there were reports of abortions as well. They were all admitted in the GH. Later that night, as news spread, people poured out into the streets in a state of panic. The administration pacified the people by ordering an enquiry. The outcome was 'Sterlite not guilty'. The question "Then who is the culprit?" was not however answered. The lack of any resolution to the problem or administrative response to the deteriorating health issues of the area, prompted ever larger protests on to the streets. On the July 9, 1997, more than 10,000 people participated in a rally. Protests against the factory continued in big and small ways over the next few years.

Another upsurge of emotions and anger was experienced on March 3, 1999, when a gas leak impacted the staff of the All India Radio station unit located near Sterlite. Many of them were admitted in the GH for inhalation of noxious gas. The reports suggest that they were not given the record of treatment that they received there. They went on a strike, although the townsfolk did not participate in this action in a big way because it was not seen as their problem.

Thus, every time there was an accident, there has been a popular backlash, but one that ended after a few days. Meanwhile reports suggested that a number of accidents, causing death and permanent injuries, kept occurring inside the plant. Each time the issue subsided after the company "took care" of the affected families. In July 2010, activists and environmentalists who had by now organised into various small groups representing communities in the area, now demanded public accountability and demanded the closure of the unit for import duty evasion. They protested at the main entrance of the Collectorate. The SIPCOT police filed FIRs against a number of people.

With the cancer cases rising shockingly, a greater sense of awareness of the danger to their lives and that of their children, began to grow amongst the people, along with a simmering resentment. The occurrence that caused the people to flood the streets happened on March 23, 2013. On that day, the plant was started up after a short shutdown. During this process, the engineers failed to maintain the bed temperature in the copper smelter. This triggered a massive leakage of gas that the wind blew through the entire town. All those who were outside their homes were affected. Frightening fits of coughing, panting and swooning affected the whole town. There were abortions reported. Trees and plants across Thoothukudi appeared scorched. The DC Ashish Kumar himself stated that he and his wife were affected. Emotions ran high. People came out in large numbers to register their protest. Thousands sat on a hunger-strike. More than 3000 took part in a demonstration. Once again this led to several arrests. For the first time in the history of the struggle, medical practitioners expressed their views by offering supporting affidavits when a case was filed in the National Green Tribunal. Protesters went to Chennai and met the M.L.A.s to request them to address the issue in the TN State Assembly.

With little response from Sterlite or the District Administration, the Anti-Sterlite People's Movement conducted a massive human chain protest on July 18, 2017, with nearly 4000 people participating, to pressurise the government and the TNPCB to withdraw their consent orders to Sterlite Phase II. This was the first struggle against the expansion activities of Sterlite Phase II.

Large-scale protests, street corner meetings to spread awareness, signature campaigns, dharnas, RTI campaigns, hunger fasts, rallies and petitioning, have all been part of the anti-Sterlite struggle. Popular protests have caused the factory to shut down five times, but never permanently. Today, the situation has come to such a pass that what is being demanded is nothing less than the permanent closure of the plant. As Mr A.W.D. Tilak, President of the Bar Association of Thoothukudi, put it: "This is a fight for justice, truth, human rights." In many ways, it has demonstrated the resilience of ordinary people to take on a corporate behemoth that has been polluting their environment for over two decades with total impunity. Will the country's constitutional institutions rise up to the challenge of ensuring that their tortuous, often tragic, struggle will not go in vain? That is the question that demands an urgent answer.

6. Recommendations

A. Immediate Recommendations

a. Completely halt all operations of Sterlite:

1. Sterlite, and its parent company Vedanta, have a record of violating the law, and acting in ways that seriously impact the lives of tribal and local communities, the forest, and the environment. This is recorded in judgments of courts, official reports including those made to the Forest Advisory Committee, and the poor ethical and human rights record of the company has been acknowledged and acted upon by agencies such as the Norway's Government Pension Fund, the Church of England, the Scottish Investment Group Martin Currie and, more recently, after the Thoothukudi firing, the Labour Party in the UK which called for de-listing Vedanta in the stock exchange. In 2007, the Supreme Court cited the Norwegian Pension Fund's decision to disinvest in Vedanta because it was concerned that "the Fund (ran) an unacceptable risk of complicity in present and future severe environmental damage and human rights violations by continuing to invest in the company." The court said: "We do not wish to express any opinion on the correctness of the said Report. However, we cannot take the risk of handing over an important asset into the hands of the company unless we are satisfied about its credibility." While disinvesting in Vedanta, the Church of England said, in 2010: "We are not satisfied that Vedanta has shown, or is likely in future to show, the level of respect for human rights and local communities that we expect," adding that maintaining investments in Vedanta "would be inconsistent with the church investing bodies' joint ethical investment policy".
2. Sterlite has been persistently in violation of law, and of the licence that regulates its conduct of business in Thoothukudi. Agencies in different parts of the world have recognised supporting the functioning of such a company would amount to complicity in unethical and illegal activities. In the language of the law, the company has emerged as a habitual offender.
3. The company's operation must cease in Thoothukudi. The plant must be dismantled, the site cleaned up, and the effects of its operation so far carefully assessed and remediated. This is also important so as to ensure that the health effects, and the polluting of water, and of air, that has been witnessed in the vicinity of the Sterlite plant is mitigated urgently.
4. It has been proven beyond doubt that the Sterlite is a serious violator which has severe implications for people's lives, why should such a company be given a license to operate at all? The same rationale was applicable to Dow when it took over from UCC to do business in India. Dow was, moreover, also harbouring a fugitive implicated by the court of law which itself is a crime. The basic question was the same then and remains the same now – why should the violators be given license to operate, not to speak of expanding operations?

5. A health study must be immediately undertaken to identify, treat, mitigate and compensate those suffering the effects of the operation of the Sterlite plant in Thoothukkudi. People living in the vicinity of the plant have been experiencing increased morbidity since the plant began to function. Breathlessness, frequent coughs and cold, fevers, giddiness, fatigue and a rising incidence of cancer have been the experience of local people. Some doctors even call it 'Sterlite sickness'.
6. Even as the health study is carried out, the involvement of Sterlite in the government hospital must cease. Local people spoke of the futility of trying to get records from a hospital that is, even if in part, controlled by the company. This despair of the people must be addressed. The only hospital records to which the affected people have had access is the prescription. They have had no access to records of what they had been tested for, or the diagnosis, or the proposed treatment. The right of the patient to her records must be enforced.
7. An inquiry into the role of the TNPCB must be conducted. The failure of PCBs to act, or to follow through on what they find, is causing a great deal of harm to people, and to the environment. A thorough investigation into the role of the TNPCB in the setting up of the Sterlite plant, the permissions given or refused, the cases filed, the orders and the follow through must be a prelude to taking action based on the findings. Properly done, it should reveal what PCBs can be reasonably expected to do, their failings, and how they may be set right. Failures of PCBs, it should need no saying, means that harm and injury, often irreparable and irremediable, occur.
8. The PI report has documented facts and evidences which demonstrate gross violations of human rights from May 22 onwards and the entire state machinery affiliation towards a corporation over its own people. The report has also documented serious concerns pertaining to health, environment, livelihood and components of business and human rights. It is important to acknowledge that people have been long victim of Sterlite's operations in Thoothukudi and on several occasions made attempts to communicate to their concerns with the district administration and the state government. It is in this backdrop, the PI team recommends that all operations of Sterlite are completely halted/banned with immediate effect. All related requirements of Sterlite's exit from Thoothukudi must be at its own cost.

b. Violation of Standard Operating Procedures (SOP)

1. The Tamil Nadu Chief Secretary must appoint a team of senior officers from police and Executive Magistracy in order to investigate to what extent the SOP was violated by the relevant government functionaries, in the Thoothukudi firing and the subsequent human rights violations that took place in order to fix the liability of those officials responsible for specific delinquent acts. This should also include both acts omission and commission and be completed without any further delay and in a time bound manner. It is only such acts of those responsible for governance that will build trust among the people of Thoothukudi.

c. Examination of intelligence reports

1. The Tamil Nadu Chief Secretary must appoint a team of senior officers from police to closely examine intelligence reports about the planning, preparation and conduct of May 22 protest action against Sterlite Copper. This team should find out the actionable prognostic contents of the reports and thereafter examine the quality prudence and efficiency of follow-up actions by law-enforcing wing of police and Executive Magistracy, in the whole affected region.

d. Access to autopsy reports

1. The Tamil Nadu Chief Secretary in order to avoid any misgivings of the relatives of the deceased, makes available the autopsy reports, videos and photos of the autopsy to the representatives of the deceased at the earliest. In cases where the reports may be pending due to the delay of toxicology/histopathology reports, an interim report detailing the injuries and findings of organs can be given to the relatives.

e. Introduction of a special visitors' register to enter messages from VIPs and political leaders to the hospital

1. That instead of subsequent questioning and photographing of patients during the visits of VIPs to the hospital, a special visitors' register can be maintained at the office of the dean of the hospital or the administrative head of other hospitals. This will ensure that all special visitors and VIPs can sign it to express their sincere concerns. This will respect the privacy of patients undergoing treatment in hospitals.

f. Fire and Ambulance services

1. The Tamil Nadu Chief Secretary appoints a senior officer to undertake a deeper probe into the use of fire and ambulance services on May 22.

g. Remand orders

1. In view of categorical proof of individual remand orders being passed mechanically by some Judicial Magistrates at the time of remand of the accused in the Thoothukudi cases , an immediate exercise of judicial scrutiny in all the individual remand orders passed by the concerned Judicial Magistrates in the 239 FIRs registered by the inspectors of police, of SIPCOT Police Station, Thoothukudi South Police Station, Thoothukudi North Police Station, Thoothukudi Central Police Station, Puthukotti Police Station, Puthiamputhur Police Station, Muthiahpuram Police Station and Sayarpuram Police Station is undertaken by the Chief Judicial Magistrate (CJM) to verify whether the arrest and remand in each case was in accordance with law and all the constitutional rights of arrested persons under 41A, 41B, 41C, 41D, 50, 54, 54A, 55, 55A, 56, 57 and 60A of the CrPC were respected. The report of the CJM that should be made public should be submitted to the protocol judge for Thoothukudi district for taking necessary remedial action.

h. Solidarity meetings

1. The District Superintendent of Police of Thoothukudi should ensure that all applications seeking permission for meetings to express solidarity with the people of Thoothukudi for the incidents of May 22 and onwards, from political parties, independent people's movement, profession based organisations, traders' organisation and human rights organisations, are not forthrightly denied using the provisions of Sections 30(2) of the Police Act 1861 forcing each of the organisations to rush to the Madurai Bench of the Madras High Court seeking permission for the conduct of these meetings. Such meetings fall within the freedom of association, assembly and expression, guaranteed under Article 19 of our Constitution and presently strengthened by the United Nations Special Rapporteur on the right to peaceful assembly and association, as well as the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Such meetings respect the commemorations and tributes to the victims that has to be followed as per the UN guidelines.

i. Prosecution and disciplinary action against police officers

1. The District Collector/District Magistrate should use the officials of the district administration to carefully detect all complaints of torture and other cruel, inhuman or degrading punishment, against all state officials that have been complained off by individual arrestees at the time of their judicial remand and duly recorded by the Judicial Magistrate for undertaking actions against the erring police personnel and police officers under the relevant provisions of law including disciplinary action and prosecution.

j. Compensation to all affected including long-term rehabilitation

1. While a general compensation has been provided to all the deceased and injured persons, the District Magistrate should approach the District Legal Services Authority to undertake a case by case study of each case of the 14 deceased and several hundreds of injured person and their families/dependents to ensure that the right to remedy for human rights violations as articulated in the 'United Nations Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of Humanitarian Law' are strictly adhered.
2. This compensation is to be recommended in addition to what has been already provided and needs to be proportional to the gravity of the violations and harm suffered; restore the victim to the original situation before the gross violation and restoration of employment and return of property; to be provided as appropriate and proportional to the gravity of the violation and the circumstances of each case such as physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

3. Satisfaction should include, where applicable, any or all of the following: (a) effective measures aimed at the cessation of continuing violations; (b) verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; (c) an official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; (d) public apology, including acknowledgement of the facts and acceptance of responsibility; (e) judicial and administrative sanctions against persons liable for the violations; (f) commemorations and tributes to the victims.

k. Cleanings up and restoration of air, water and soil pollution caused

1. The harm caused by industries needs to be undone or cleaned up at the earliest. This requires concentrated efforts as well as allocation of resources. The cleaning up shall be carried out by the State Government on the basis of recommendations of a high-level committee it should appoint to advise it on the matter.
2. This high-level committee should have experts on this issue and the same can be drawn from across the country not limited to the state of Tamil Nadu and government officials alone. The total costs of the of restoring air, water and soil pollution should be recovered from the Vedanta/ Sterlite.

l. National Human Rights Institutions (NHRIs)

1. Statutory and constitutional bodies set up to act on behalf of people's interest, especially in relation to the state, is often not taken seriously, and so it has been in Thoothukkudi. (Except in the case of the NHRC) The purpose of having a National Commission for Women, Scheduled Castes, Children, Minorities, for instance, is to lend a statutory role to those who recognise the special vulnerabilities of certain categories of people and speak to the government on behalf of their rights and interests.
2. A protest that was carried over a 100 days was paid no attention, and 15 people had to die before it became plain that there was simmering anger and anguish among the people of the town. That demonstrates a failure of these institutions whose mandate is to address the problems and difficulties that the category of persons who their mandates cover face. That is astonishing lack of concern which is neither ethically nor legally acceptable.
3. People protest when they have a cause, and institutions set up to care about what is happening to people cannot remain either unaware or silent while the people suffer. The inordinate burden placed on affected people in their battle against a powerful, and rich, corporation is unconscionable.

m. National Human Rights Commission (NHRC)

1. The NHRC is presently handling this case involving killings, torture and illegal detention by police, affecting children, women, person with disabilities and members of the transgender community. Also, issues concerning responsibility of business, in

this case Vedanta/Sterlite, to respect human rights has also emerged as one key component. It is therefore recommended that this matter is handled only by the Full Bench of the NHRC in its Full Court, allowing advocates to represent interested parties to appear before the NHRC and that the case is heard in a time bound manner on a day to day basis as far as possible, with very short adjournments if required.

2. The NHRC must include all petitions in this case who formally approached the NHRC with a complaint and mark them as respondents. Human Rights Defender's Alert – India (HRDA) petitioned as early as May 22 and People's Watch on the May 23 but their petitions are not yet numbered. Given their interventions in this case, NHRC must ensure that they are respondents in this case along with others whose complaints are taken on board.
3. The NHRC must ensure that the report submitted by its investigation team is made available to all those who have petitioned before it which will allow them to undertake further actions at their end that they deem necessary.
4. The NHRC should convene a meeting of its Full Commission [including all its deemed members] and in addition the Chairperson of the National Commission of the Protection of Rights of the Child (NCPCR) as a special invitee. The meeting should discuss the occurrence and findings in Thoothukudi and obtain their individual observations and recommendations after exchanging their own respective investigation reports among themselves. A joint action by concerned NHRIs in this case will be necessary to ensure victims/survivors in Thoothukudi get justice.
5. The NHRC should communicate urgently with the Chairperson of the Tamil Nadu State Human Rights Commission (SHRC) who had also taken this complaint as a suo motu action. NHRC should ensure that it alone carries on with its complaint, however it should seek possibilities of engaging the Tamil Nadu SHRC including its Director of investigation, who is presently an officer of the rank of Director General of Police in the state, and his Senior Superintendent of Police to gather any further ground level details that are required in this case.
6. The NHRC should form a committee of experts to meticulously study every photograph and video footage available in the social media, print and television media to identify every police personnel and officer who is seen to be using force contrary to the provisions of the existing Madras Police Standing Orders. The police personnel and officers so identified and those senior officers responsible for providing those commands should also be equally held responsible and legal actions initiated against them.
7. The NHRC should as a matter of grave importance and urgency, immediately make public if it has received the original order passed by the District Magistrate (DM) under section 144 containing all the grounds. NHRC should also enquire into the date, time, place and mode of section 144 service on May 21. In addition, the NHRC should also enquire into absence of the District Magistrate from the Collectorate or at his camp office on the May 22 when the orders directing police action were passed. NHRC

should also ensure that these are part of its investigation report and the same is made available to all respondents.

8. The NHRC should immediately exercise powers granted under Section 12 (b) of the Protection of Human Rights Act 1993 and intervene in all pending litigations before the Supreme Court of India, the Principal Bench of the Madras High Court, the Madurai Bench of the Madras High Court and the National Green Tribunal, so that it is able to present before the respective courts/tribunals its own position on the grave human rights violations in Thoothukudi and issues concerning business and human rights.
9. The NHRC should ask its newly formed committee on business and human rights to visit Thoothukudi and undertake a detailed analysis of the concerned situation there. The UN Guiding Principles on business and human rights developed by the special representatives of the UN Secretary General on the issue of human rights and transnational cooperation and business enterprises must be a reference point for the said committee's mandate.

n. National Commission for Women (NCW)

1. The significant presence and participation of women in the 100 day protest in Thoothukkudi should have alerted the National Commission for Women that they act under their mandate to inquire and intervene in what was happening in that town. Their absence, not only during the long haul of a 100 days, but even after the firing which killed and injured men, women and children is inexplicable. The NCW has a duty to safeguard and promote the rights and interests of women. It also has a responsibility to speak to the government carrying the voices of women in relation to what is happening with them, and what they seek.
2. The NCW must act to inquire, and report on, the events that led up to the May 22 firing. It needs to speak to the women of Thoothukkudi about their experience with the Sterlite plant, the health problems that have grown including concerning the health of their children, the polluted water, increased incidence of infertility, their encounters with the police and the violence which they faced, the trauma and anger that remains among them.

o. National Commission for Scheduled Castes (NCSC)

1. Acknowledging that the NCSC had also intervened in this case, almost five weeks after the incident and since the Honourable Chairperson of the NCSC is a deemed member of the NHRC, it is important that the report of the investigations undertaken by the NCSC is made available through its Chairperson to the NHRC.

p. National Commission for the Protection of Child Rights (NCPCR)

1. The effects that the operation of the Sterlite has had on the health of children has been reported widely in the area of the plant. Health effects, their irregularity in attending school because they fall ill, the responsibility of the medical professionals to report on patterns of illness and morbidity have to be inquired into and remediated.

The National Commission for the Protection of Child Rights is mandated to protect the rights and interests of children. Here, too, a hundred days of protest has gone unnoticed by the NCPCR. They need to step up immediately.

2. The firing has had a significant impact on the children in the area, and the NCPCR needs to speak on their behalf to the governments at the centre and in the state.

q. Tamil Nadu State Human Rights Commission (SHRC)

1. The SHRC which has taken suo motu motion of the issue and also visited Thoothukudi on June 2, urgently and without any delay should communicate with the NHRC and offers its support to the NHRC in this case. The SHRC should offer the services of its Honourable Members, its Director of Investigation, Senior Superintendent of Police and other staff, to assist the NHRC in any further investigations that are required in this matter. This combined complaint handling of the NHRC using the resources of the SHRC, will also be unique and perhaps the first time that a collective handling of complaints is undertaken by the NHRC and SHRC.

r. Tamil Nadu State Commission for Protection of Child Rights (SCPCR)

1. The SCPCR should immediately undertake a detailed inquiry conducted by its Chairperson on the basis of reports received from its members and publicly available into all cases of illegal detention of juveniles in the pending 240 criminal cases. The inquiry should include a visit to the official reception centres or juveniles' homes to understand the status of juveniles taken into custody in the said cases. If these visits and reports reveal complaints of illegal detention and torture of juveniles, the SCPCR is encouraged to discuss with District Legal Services Authority of Thoothukudi district for offering free legal assistance to each of the juveniles in these cases for disciplinary action and criminal prosecution of those responsible for the same.
2. The SCPCR is further recommended to approach the State Legal Services Authority for assistance in filing relevant petitions before the Madras High Court for any remedies that may be deemed fit for protecting the rights of the children affected in this case.

s. Tamil Nadu State Commission for Women (SCW), Tamil Nadu State Commission for Minorities (SCM), State Commissioner for Persons with Disabilities (SC – PWDs):

1. The SCW, SCM and SC – PWDs are recommended to immediately undertake a visit to ensure how women, minorities, and persons with disabilities have been grossly infected in this police action on May 22 and thereafter.
2. The SCW and SCM should make relevant and urgent recommendations after meeting victims, representatives of the anti-Sterlite movement, lawyers and others to ascertain how each of these sections were affected and make specific recommendations to overcome these in future.

3. It is recommended that the SC – PWDs recommends a multidisciplinary bio- psycho social model approach to address in this situation those persons who have been left with serious, possibly life-long disability as a result of the police action.

The SC – PWDs should take immediately necessary disciplinary action against the District Welfare Officer for not taking cognizance and for not providing requisite psychological, physical and other relief liable to the persons with disability and others affected in the police action.

B) Long-Term Recommendations:

a. Continued medical support for all health effects

1. The affected people are going to have long term health impacts and it calls for providing medical support for the affected people for a long term. Also, there are many health impacts that would emanate because of the health ailments caused by the direct exposure to the pollution and may not seem directly attributable. The Tamil Nadu Chief Secretary should ensure that a long-term strategy with clear allocation of resources is put in place to take care of health impacts on all the people in the affected area.

b. Establishment and Strengthening of Business and Human Rights Redressal systems in NHRC and other NHRIs

1. There is a pertinent need to initiate a division within NHRC exclusively on business and human rights, which investigates and recommends action in a time bound manner in cases of violations. The division should have a clear role to intervene in cases of human rights violations where businesses are involved directly or indirectly. The Chairperson should head this division.
2. Each of the NHRIs, created through constitution, statute or executive orders such as NHRC, NCW, NCM, NCSC, NCST, NCPCR etc. should mandatorily be made to create a division on business and human rights to look at violations from the respective constituencies. For example, NCPCR should have one division on child rights and business. It is critical to role played by businesses vis-à-vis particular constituencies particularly in the light that many of the services have been privatized and calls for accountability and fixation of responsibilities.

c. National Human Rights Institutions

1. The practice of having police officers and former police officers involved in the investigation of human rights violations, particularly in circumstances where the alleged perpetrators are the police, should be immediately withdrawn.
2. Confer power on NHRC to investigate cases against armed forces personnel.

d. Exclusive cell to investigate non-compliances

1. The Ministry of Corporate Affairs should have an exclusive cell to investigate non-compliance by the businesses. In all cases, where there is violence on communities, the ministry should organise mandatory public hearing. The reports from the public hearings should be made public.

e. Creating statutory entitlements for the communities

1. The National Voluntary Guidelines on business are as of now are toothless and its only significant role is in terms of mandatory disclosure by companies in the form of Business Responsibility Reports (BRRs). It is important that an independent body is appointed to look at different aspects of the guidelines and initiate processes for creating statutory entitlements for the communities, especially those who are impacted negatively by businesses. At the same time there is a need to look into the disclosures made by the companies as part of BRRs.

f. Community as stakeholder to be non-negotiable:

1. Communities need to be recognised as active stakeholder rather than mere beneficiaries of business action. Communities living in vicinity of business operations should be involved right from the beginning and their views should be incorporated in the project design. Though this is already recognised as a principle. There is a lack of operational systems to ensure the same. Ministry of Corporate Affairs should take a lead role and monitor the implementation of this, making it mandatory for companies to report on participation of communities during the project cycle.

g. Corporate Social Responsibility (CSR) cannot substitute for responsible business

1. It is quite evident that focus has shifted from core business actions to other peripheral development work undertaken by businesses with an introduction of 2% mandatory expenditure under CSR in 2013. It needs to be monitored that how responsible are businesses in their core activities and reporting systems should also be reflective of this. This requires strengthening of systems as well as establishment of statutory provisions making it mandatory for companies to report on impacts, which are negative in nature.

h. All monitoring and enforcement agencies to have local community participation

1. The systems used by monitoring and enforcement agencies are often “technical” and ignore experiences and expertise of local communities. This hides the concerns shared by local communities from being reflected in reports and consultations done by respective agencies. It should be made mandatory to consult and include community as one of the primary stakeholders for generation of information by monitoring and enforcement agencies.

i. Stringent standards for sanctioning, monitoring and controlling of polluting and harmful industries

1. The systems for sanctioning and monitoring of polluting and harmful industries are lacking in terms of effective check. Polluting and harmful industries need to be treated as exceptional cases where in more stringent norms should be brought in place. As of now systems of checks have become mere checklist items and require overhauling wherein there should be live data sharing on status of pollution and harm caused by industries. The businesses should provide the data in local language for easy access. At the same time communities consent should be a critical component, which should be periodically reviewed during the entire project cycle.

j. Guidelines in handling force and firearms

1. The Tamil Nadu Chief Secretary should constitute a high-level committee comprising experts from the police and from the legal fraternity as well as human rights defenders, to develop detailed guidelines in handling force and firearms as contained in the Madras Police Standing Order 703 and in accordance with the international standards on the use of force and fire arms. Once developed, these guidelines have to be meticulously followed in all cases of use of force and firearms and shall serve as the guiding force for any judicial scrutiny of the use of force in crowd-management.

k. Addressing issues concerning children

1. Introduce specific guidelines for protection and support for the victims and their families; strengthen the existing child protection mechanisms to minimize the crimes against children; improve victim compensation procedures
2. The NCPCR must be restructured to become an independent entity. The NCPCR must be given the same status as the NHRC.

l. Human rights defenders, freedom of association, assembly and expression

1. Enact a strong law, in compliance with international standards, for the recognition and protection of human rights defenders and enable them to continue their legitimate peaceful work including peaceful public protests to express dissent.
2. The NHRC should ensure that its focal point on HRDS should be a member of the commission as recommended by the UN Special Rapporteur on human rights defenders in her report in 2012. A fast-track procedure for complaints from defenders should be developed.
3. All human rights defenders wrongfully detained for exercising their right to fundamental rights to freedom of expression, association, assembly, should be unconditionally and immediately released.
4. Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the right to peaceful assembly and association in his annual report (2012) should become the basis for the development of NHRC guidelines on the same.

5. Government of India must ensure that security forces abide by the United Nations basic principles on the use of force and firearms by law enforcement officials; force should not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law.

m. Access to Justice

1. Ensure compliance with the National Legal Services Authority guidelines for prompt legal services to persons in police and judicial custody in Thoothukudi.
2. Institutionalize a regular reporting and monitoring processes in the legal aid machinery to ensure accountability and transparency.
3. Ensure that Boards of Visitors are constituted in all jails across states in compliance with the 2011 Ministry of Home Affairs advisory.
4. Fully comply with the amended UN Standard Minimum Rules for the Treatment of Prisoners, 2015.
5. Acknowledge and increase accountability and redress for all victims of custodial violence or other human rights violations by the police.
6. Implement witness protection in conjunction with the relevant actors involved in criminal justice.

n. Torture and Enforced Disappearance

1. Government of India must immediately ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol
2. Government of India must enact Prevention of Torture Bill in accordance with the international legal standards and taking into full consideration the recommendations/suggestions earlier made by the select committee and adopt a robust domestic legislation.
3. Government of India must immediately ratify the Convention against Enforced Disappearances
4. Government of India must invite and respond to the requests by the UN Special Rapporteurs on torture, extra judicial killings, human rights defenders, freedom of assembly and association, expression, Working Groups on arbitrary detention and business and human rights.
5. Government of India must remove requirement of sanction for prosecution of security personnel and grant permission to enable prosecution in all pending cases involving human rights violations
6. Government of India must ensure that all allegations of human rights violations by security forces and police are promptly and independently investigated, and that perpetrators are prosecuted in civilian courts in cases where security forces are involved, and victims and their families receive reparations.

o. Internet shutdown

1. Indian laws remotely allowing internet shutdowns are The Telegraph Act, 1885 and Information Technology (Amendment) Act of 2008 (IT Act). Section 5(2) of the Telegraph Act, more than a century old act in the era of colonised India, primarily allows the governments to restrict or interfere with the transmission of messages. There are no domestic court ruling which interprets its jurisdiction over internet. Section 69A of the IT Act allows the governments to block specific websites and pages and it also refrains from stating anything on internet shutdowns. It is in this context, it is to be noted that the access to the internet is well regarded as an enabled to freedom of expression. Government of India and state governments must take measures to adhere to the international human rights law to ensure the right of people to freely communicate including through the internet is maintained under all circumstances.

P. Use of Preventive Detention Laws:

1. All the cases of preventive detentions must be enquired into by the NHRC in a time bound manner. Application of preventive detention laws must take into account the restriction imposed on the constitutionally guaranteed liberty and human rights. NHRC after an independent investigation if arrives at the conclusion of wrongful confinement misusing the prevention detention laws, must order legal prosecution of such police personnel.
2. The courts should also take into account, the guidelines laid down by the Supreme Court. A bench of justices B S Chauhan and Dipak Misra on May 20, 2012, passed the ruling in the case of Huidrom Konungjao Singh from Manipur and stated that 'the personal liberty of a person is sacrosanct and state authority cannot be permitted to take it away without following the procedure prescribed by law, otherwise it would be violative of the fundamental rights guaranteed under articles 21 and 22 of the constitution.....the detaining authority also has to satisfy that it had reliable material on the basis of which it had reasons to believe that there was real possibility of the arrested person's getting bail and that after his release, he would indulge in activities, prejudicial to public order'.

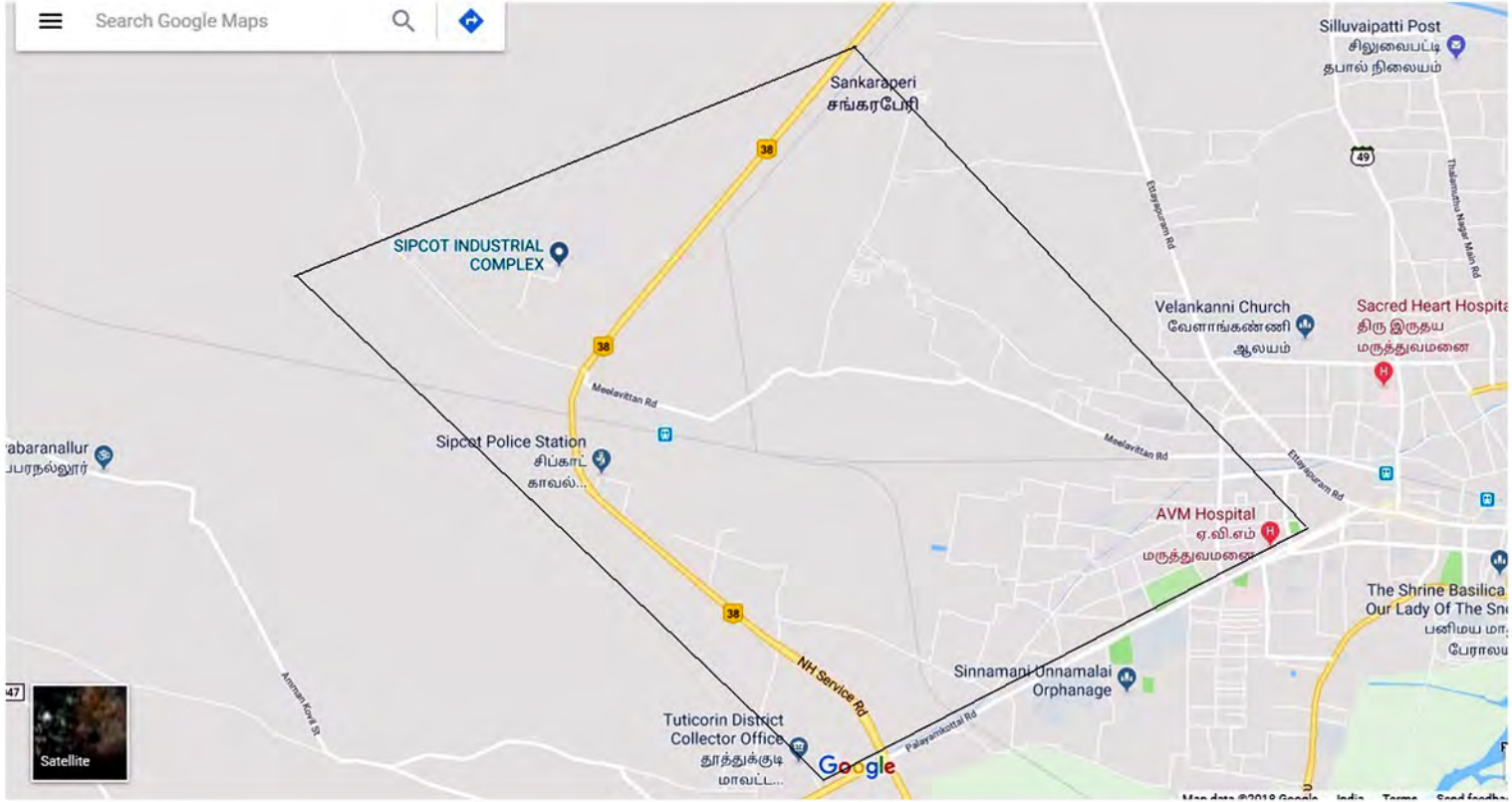
144 imposed areas and police firing areas in Thoothukudi



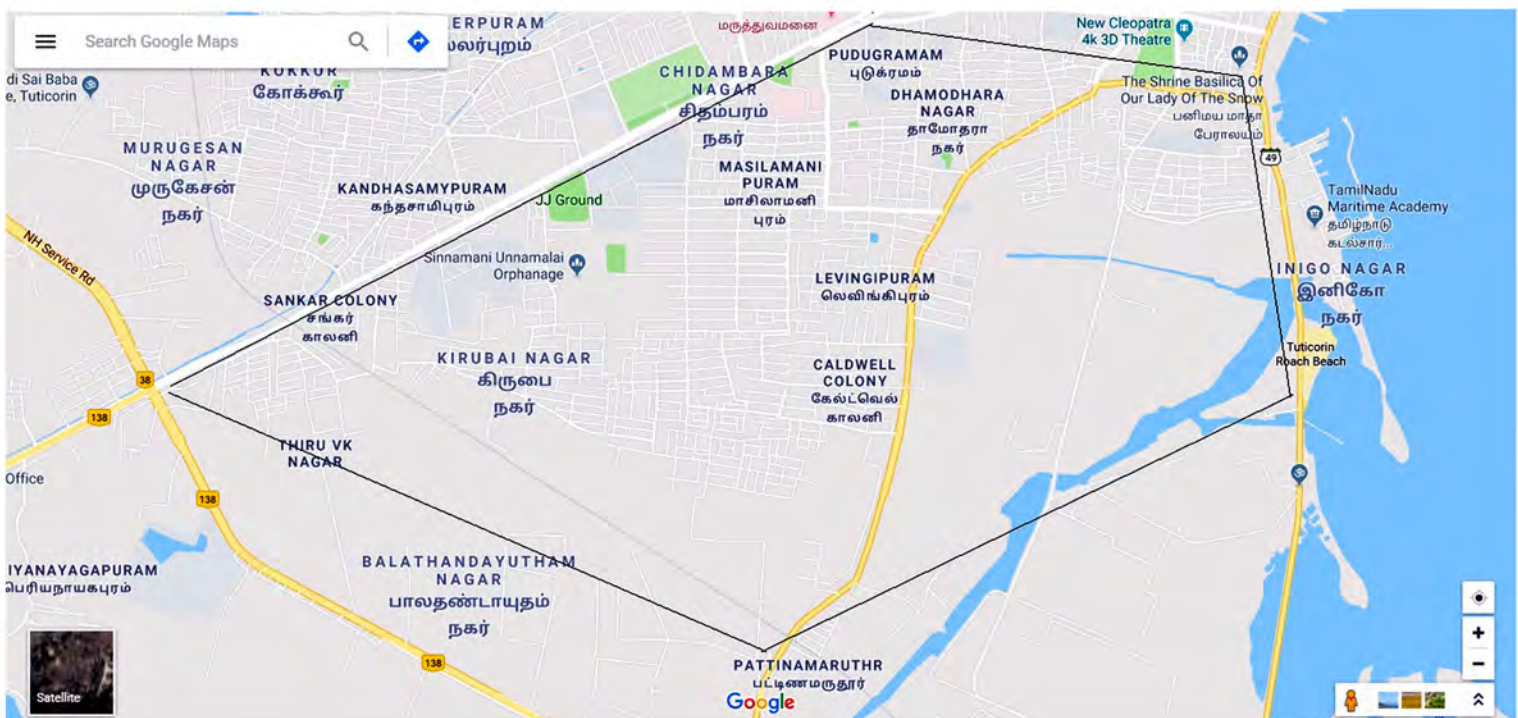
144 imposed
area



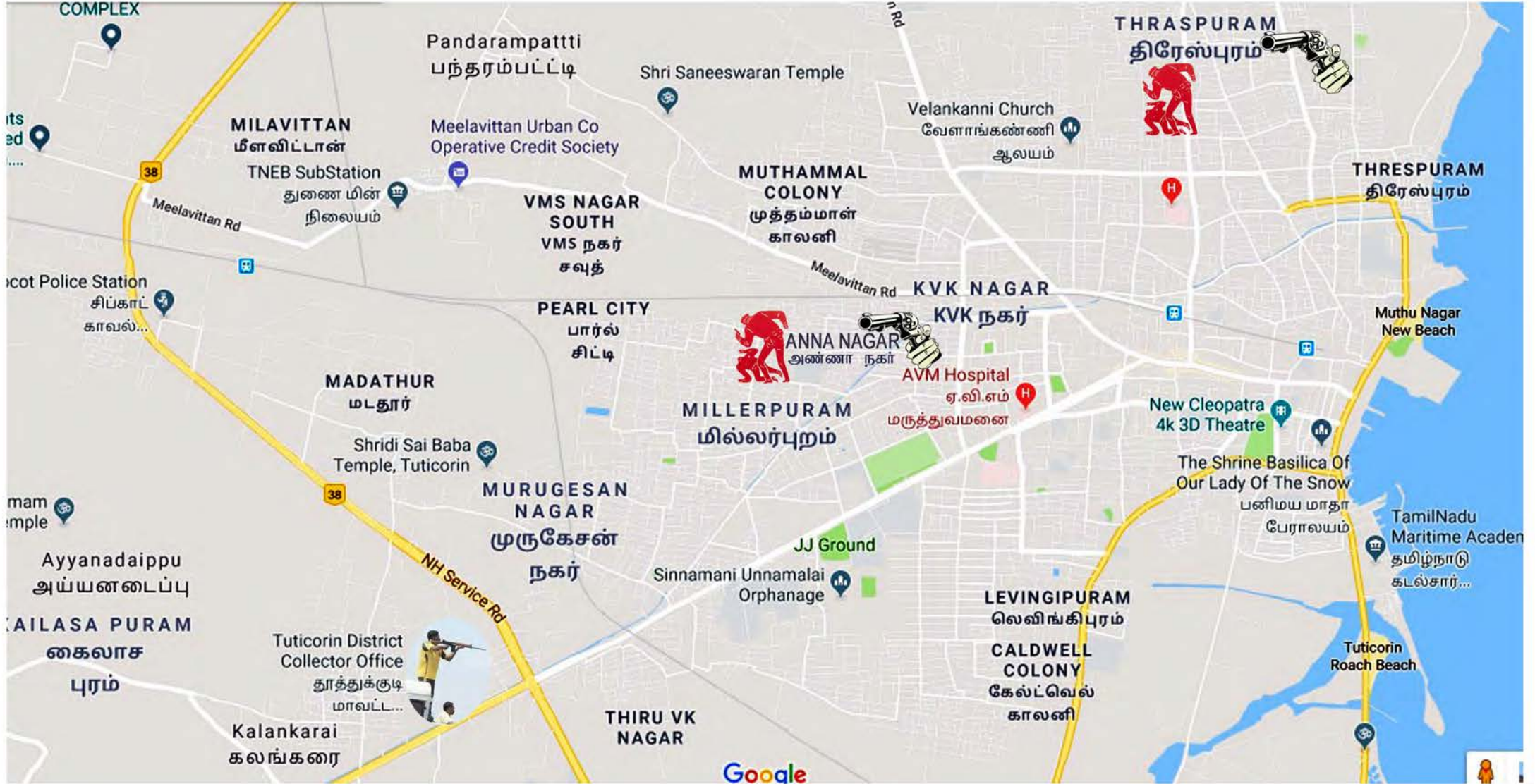
144 imposed areas in SIPCOT Police Station Limit



144 imposed areas in Tuticorin South PS Limit



Police Firing Area

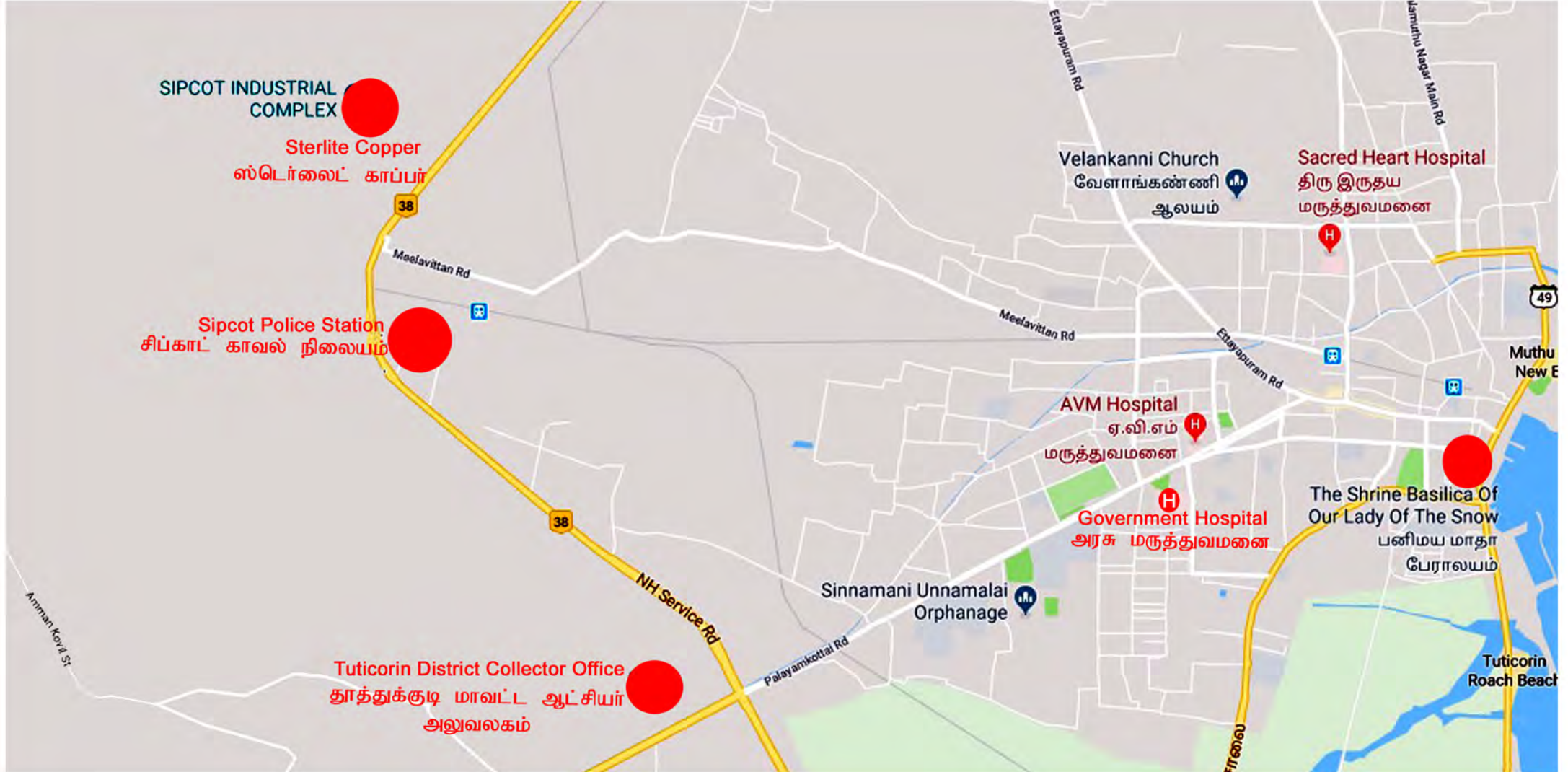


Illegal Detention



94 persons were kept in illegal custody at Vallanadu Shooting Range which is around 31 km away from the procession area.
Among the 94, 25 were juveniles

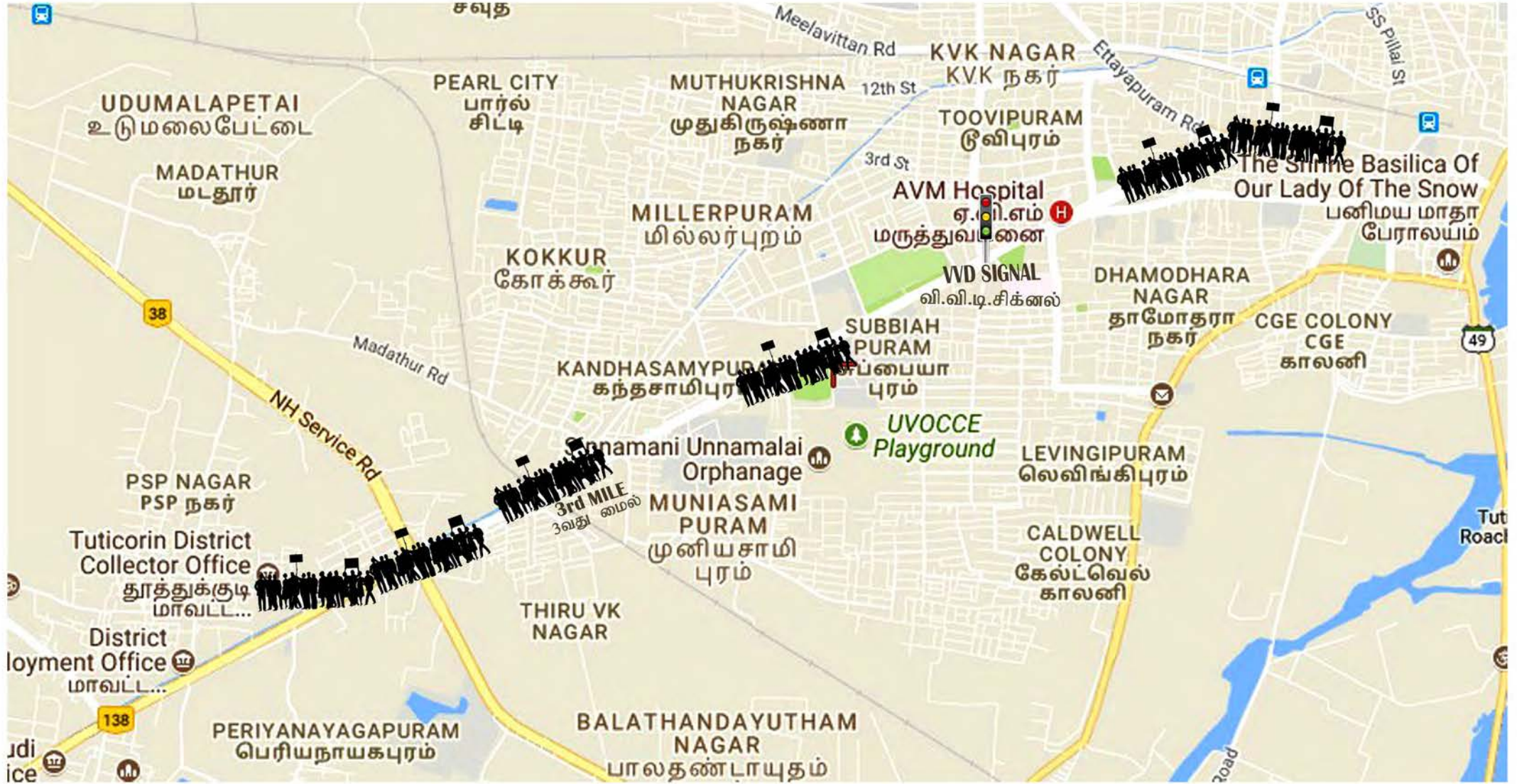
Important places of the procession



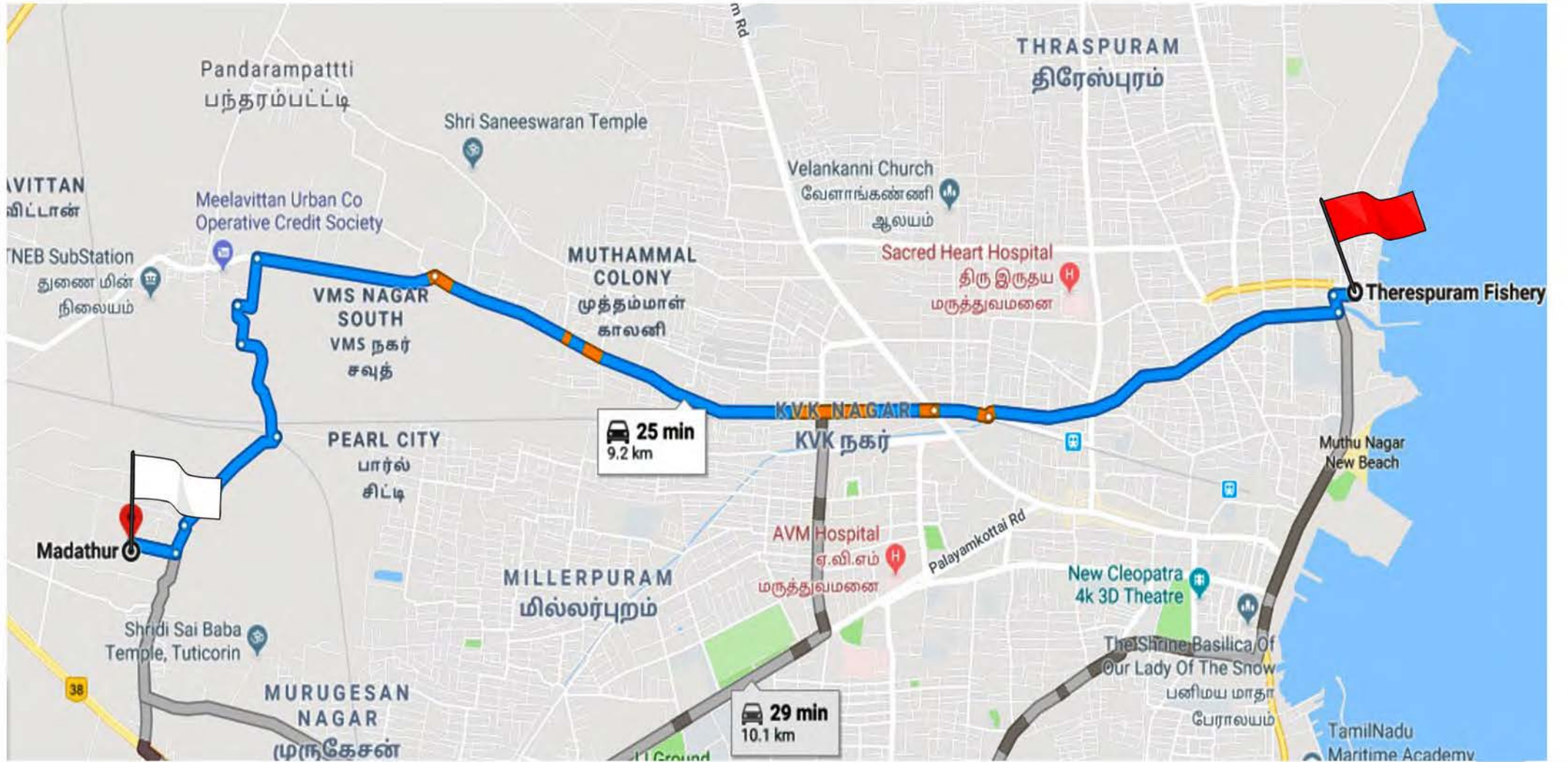
Lathi Charged Areas



Procession Path



Mr.Kannan, Zonal Deputy Thasildar

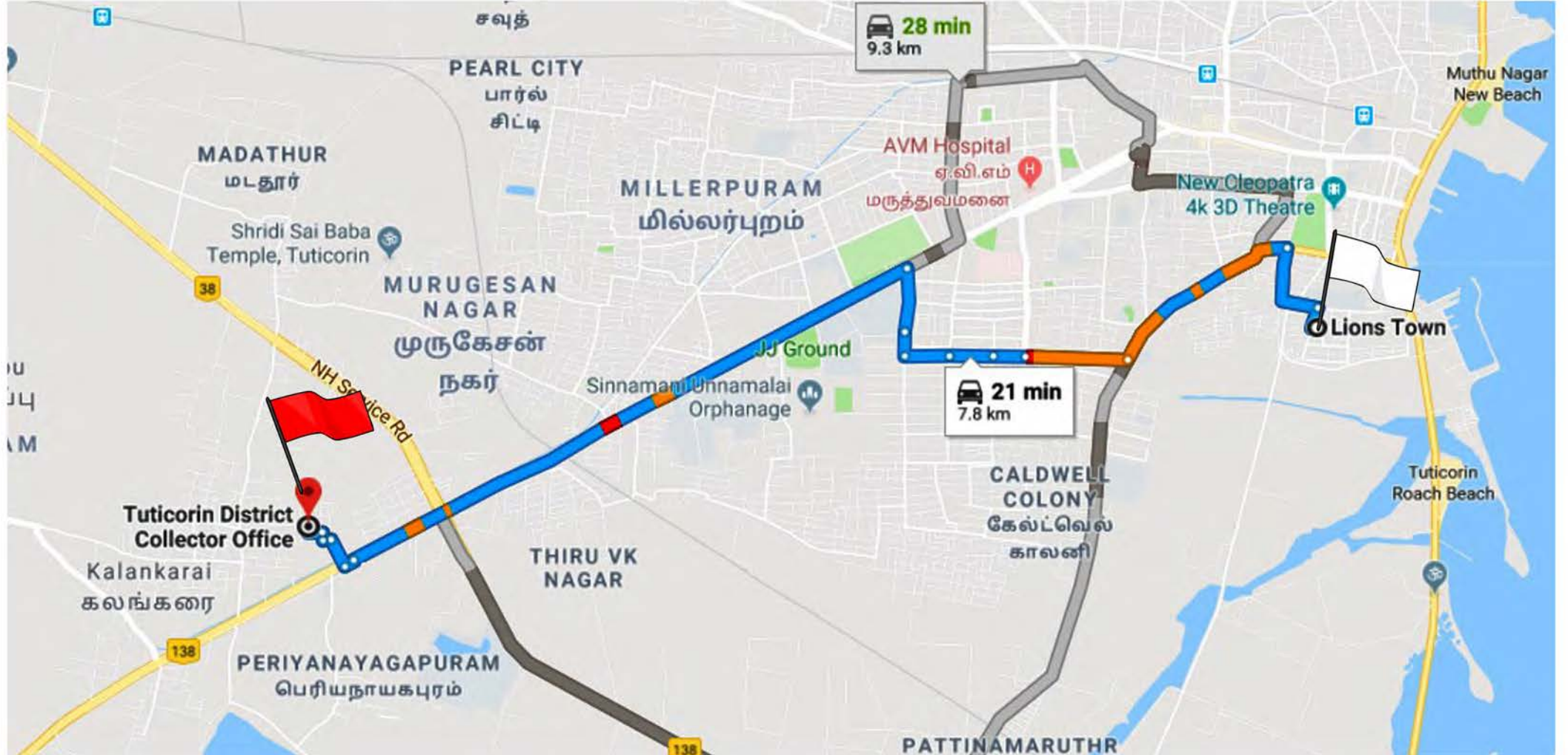


Actual posting area



Area which he ordered for Police Firing according to FIR
Cr.No. 219/2018 of North Police Station, Thoothukudi

Mr. Sekar, Special Deputy Thasildar (Election)



Actual posting area



Area which he ordered for Police Firing according to
FIR Cr.No.191/2018 of SIPCOT Police Station,
Thoothukudi

THOOTHUKUDI DISTRICT





PEOPLE'S INQUEST ORGANISED BY THE
COORDINATING COMMITTEE
FOR PEOPLE'S INQUEST INTO
THOOTHUKUDI POLICE FIRING