

Thriving Usury in Tirunelveli

Observations of a People's Tribunal

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The recent self-immolation of a family in Tamil Nadu drew widespread attention to the issue of usury prevalent in the state. Following a hearing on the depositions of 60 borrower victims at a people's tribunal in Tirunelveli district, an attempt has been made to examine the nature of the issue, profile the borrower victims, the perpetrators, government apathy and the failure of law enforcement.

The term “usury” implies lending money at an exorbitant rate of interest. It is an age-old practice, rejected—to varying degrees—by many religions, including Judaism, Christianity and Islam. However, mainstream Hinduism and the original Sanatana dharma consider lending as a business activity (Visser and McIntosh 1998). According to the *Manusmriti*, differential rates of interest are applicable for different castes, beginning with 2% for Brahmins, 3% for Kshatriyas, and 4%–5% for Vaishyas (Doniger 2000: Chapter 8, para 142). Modern-day legal regulations related to moneylending were introduced during the British rule (Hardiman 1996). Today, there are various laws and statutes¹ to regulate the lending of money by individuals and institutions. Yet, none of these laws define what a “high interest rate” is, in specific terms, leaving vast room for interpretation in this regard. Anything above a rate of 18% per annum can be considered an exorbitant rate, and thus an offence. However, usurers operate outside of these laws, with their rates of interest rising several times higher than this limit set by law.

In Tirunelveli district, located in southern Tamil Nadu, moneylending was professionally carried out by the Nattukottai Chettiar community, as well as the Brahmins. There were also other caste and religious groups involved in this profession: The Labbai Muslims, Nadars, Devangas and Vaniya Chettiars (Velmani 2002: 631–35). In the recent times, the Thevars have become an important caste group involved in usurious money-lending activities.

Non-committal State

In October 2017, a family of four—a husband, wife and two children—immolated themselves in the Tirunelveli collector's office because of facing continued harassment by usurers, and the

inaction of the administration to prevent them (*Hindu* 2017). Newspapers continuously report such incidents involving small industrialists, cinema producers, farmers and housewives. In fact, a prominent Tamil daily claims that in the last seven years, around 800 persons have committed suicide in the state because of “usury” (*Dinamalar* 2017). The Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 (TNPCEI Act) deems usury a criminal offence. Under Section 4 of the act, whoever charges an exorbitant interest rate or abets the molestation of the debtor shall be punished with imprisonment of up to three years, and a fine of up to ₹30,000 (Government of Tamil Nadu 2003). Further, in the cases of suicide committed by borrowers or any family members due to harassment by the lender, Section 9 of the act considers the lender to have abetted the suicide, an offence punishable by up to 10 years of imprisonment under the Indian Penal Code (IPC) Section 306.

The TNPCEI Act has, however, seldom been implemented. A police report submitted to the High Court of Madras stated that from the enactment of the TNPCEI Act in 2003 until 2014,

[O]ut of 1,531 cases, 297 were under investigation, 331 pending trial, 20 ended up in conviction, 388 in acquittal and 257 were closed as “mistake of fact.” Further action was dropped in 144 cases and charge sheets had been filed in 94 cases before the lower courts concerned. (*Hindu* 2014)

Activists claim the law to be a failure, stating that the small number of cases booked and tried are only the tip of the iceberg.

A People's Tribunal

Against this backdrop, political parties and human rights organisations in the state together established the Collective for Abolition of Usury. On 10 December 2017, International Human Rights Day, the collective organised a peoples' tribunal for victims of usury. The tribunal's jury was headed by B G Kolse Patil, a retired judge of the Bombay High Court, V Vasanthi Devi, M H Jawahirullah, Paul Newman, V A Rameshnathan, Priscilla Pandian, S S A Alaudeen, T N Gopalan, and A R Meyyammai. The jury, thus, consisted of prominent academics, a former

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legislator, social activists, and journalists. In all, 60 borrowers—residing within different police station limits in the district—who were victims of usury, deposed before the jury. An attempt is made here, to synthesise the proceedings and the documents produced by the victims.

Profiling Borrower Victims

Most of the borrowers are daily labourers who do not possess any assured source of income. They are engaged in beedi rolling, masonry, hawking and other petty works available in urban and semi-urban areas. Some are also lower-level government staff such as peons, and a few are retired pensioners. Many of them are members of local self-help groups (SHGs) or other groups operated by microcredit organisations. They belong to different caste groups residing in the area. The Scheduled Caste (SC) borrowers include Arunthathiyar, Pallar and Paraiyar castes; the backward castes include Thevar, Nadar, Asari, Paravar, Chettiar and Konar castes. In terms of religion, the borrowers are from all three major religions, that is, they are Hindus, Christians, and Muslims.

Barring a few business loans, most of the loans are mainly taken to tide over urgent exigencies such as medical expenses, marriage expenses, urgent purchases for the family, educational expenses, and petty businesses. There are no uniform terms and conditions with regard to such loans. The principal amounts range from ₹4,000 to ₹6,00,000. The interest rates range from 3% to 10% per month. Often, borrowers take out repeated loans and, in some cases, the interest is compounded into the principal interest at short intervals, such as in a month or a quarter. Reasons for defaulting are sickness, unemployment, and business failures.

Perpetrators of Usury

The lenders hail from the same areas where the borrowers live or carry out their occupations. In some cases, they are also related to the borrowers. Many lenders are from the dominant castes such as Thevar and Nadar amongst the Hindus, while they hail from Christian and Muslim communities as well. It is alleged by the victims that microfinance groups are also involved in usurious

lending practices. For instance, more than 15 petitioners alleged that a ring leader named Gomathi Ammal from one such group had been lending to them, and showed their names as borrowers from different SHGs or other microcredit beneficiaries. It was shocking to note that the project of SHGs—which was expected to contribute to the emancipation of women and ultimately their empowerment—was visibly one of the perpetrators of this practice of usury.

In all the 60 cases heard, the borrowers have submitted some documents or property as surety/guarantee/mortgage to the usurers. Signed, but unfilled promissory notes, non-judicial stamp papers, blank papers and cheques; and original documents of land/house or other properties like vehicles, are usually taken from the borrowers. Some lenders have taken the borrowers' ration cards, bank ATM cards, as well as any other documents relating to the product that was purchased with the amount borrowed. The documents or papers are used to coerce borrowers to repay the loans on the lenders' terms, failing which the documents are used to take over entitlements and assets.

Harassment and Coercion

Borrowers are harassed in several ways when they fail to repay the loan. This ranges from verbal abuse and threats, to forced occupation of their properties. At best, the borrowers patiently bear the abuse, and at worst, they silently migrate. In many cases the usurers took away furniture and household articles by force; and occupied the land and houses of borrowers by evicting them. The lenders blackmail the victims using the blank documents which were initially surrendered, and threaten to fabricate sale deeds, mortgages or promissory notes and go to court or to the registrar. In a few situations, the lenders have auctioned or sold the borrowers' property at distress prices, and have also engaged the police to file criminal complaints of cheating against the borrowers. In almost all cases police officials were not fully in support of the borrowers. Among the 60 depositions heard, there were six suicides: the husband of the borrower in one case, the borrower's wife in another, and the aforementioned

family of four. In all these cases, harassment, and inaction of the authorities in prevention of the same, was the reported cause of suicide.

In all the depositions heard, only nine of them succeeded in lodging complaints under the TNPCEI Act and in persuading the police to register first information reports (FIRs) against the perpetrators. Many of the borrowers complained that the police were not helpful in registering their complaints, and, in some cases, they alleged that the police worked in collusion with moneylenders. In the case of one borrower named Indirani, when she tried to register her complaint at the Seethaparpanallur police station, the police blamed her, and abused her for borrowing money, even suggesting that she "commit suicide." She has submitted four petitions to the Tirunelveli district collector to no avail. The same district collector was responsible for the failure to act upon the complaints of Esakkimuthu, the victim who immolated his family. Yet, the district collector has not been penalised by any public authority for his "wilful negligence" against the victims of usury.

Observations of the Tribunal

Over the course of the hearings of the people's tribunal, the jury observed the following: (i) The TNPCEI Act is impotent and not useful in curtailing the practice of usury, (ii) the government is apathetic to the victims, while government machinery emboldens the usurers to further their businesses, (iii) the police often collude with usurers and fail to protect the victims, (iv) atrocities against SCs and Scheduled Tribes (STs), and women through usury is becoming more difficult to control, (v) repeat loans from usurers cause continued damages to the borrowers, and result in debt traps, (vi) lack of regulation of microcredit organisations leads them to abuse their members, and (vii) lack of bank support in lending to hawkers at affordable rates forces them into a debt trap.

In the light of these observations, the jury then recommended that the government: (i) order the State Legal Services Authority to appoint a legal clinic for every taluk in a district, in order to oversee complaints of usury in the district, by travelling to villages and seeking out

specific complaints from victims; (ii) ensure the district collector and superintendent of police act on such cases with urgency, and hold them accountable in instances of failure to address the same; (iii) increase the penalties and harshen the punishments for usury under the TNPCFI Act; (iv) monitor microfinance programmes, and ensure their proper functioning; (v) ensure proper registration and regulation of private finance companies; (vi) ensure that registrars inform the nature of transfer (sale, mortgage, lease, etc) when parties come to them for registration; (vii) use the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, in all cases where borrowers belong to SC and ST groups.

In an attempt to draw the attention of the public as well as the bureaucracy towards the issue of usury, the people's tribunal has shown that continuing urban poverty, distress and lack of the enforcement of

the law, as well as the lack of an effective law to tackle usury, may not bring an end to usury in the near future. It is, therefore, high time the state government acted on the above recommendations. In this regard, the establishment of a dedicated wing within the police and revenue administration to respond to distress will further facilitate efforts to tackle usury in the state.

NOTE

- 1 These include the Reserve Bank of India Act, 1934; the Banking Regulation Act, 1949; the Usurious Loans Act, 1918; the Indian Cooperatives Act, 1904; the Tamil Nadu Pawn Brokers' Act, 1993 (previously the Tamil Nadu Pawnbrokers Act, 1943 and Tamil Nadu Debt Relief Act, 1977), the Tamil Nadu Money Lenders' Act, 1957; and the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

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