

# PEOPLE'S UNION FOR CIVIL LIBERTIES

## *Preliminary Report Of the Fact-Finding Team On State Repression*

### *in Betul, Harda & Hoshangabad Districts, Madhya Pradesh*

*(Based on Visits from October 1 to 4, 2007)*

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#### **I- Introduction:**

The People's Union for Civil Liberties (PUCL) has been concerned about growing state repression in Madhya Pradesh, especially in the districts of Betul, Harda & Hoshangabad. It has been receiving reports from various quarters, including the victims. The PUCL has also been apprised of various steps taken by the victims for relief, which includes approaching the District Courts, the High Court of Madhya Pradesh at Jabalpur, the Tata Institute of Social Sciences (TISS), Mumbai, the Human Rights Law Network (HRLN), Mumbai & Bhopal, the Chief Minister, the Government officials, Political Parties, Social Action Groups, and other Human Rights organisations.

On perusal of available documents and primary information collected by the PUCL Team, the complaints/grievances are of the following nature:

1. That the District Administrations at Betul, Harda and Hoshangabad districts were using exclusive and specific repressive measures targeting particular political parties, social action groups working on the issues of people's human rights guaranteed under the Constitution of India, political and social activists, and the people themselves (mostly tribals in this case), who were basically denied of rights to land, water and forest, etc.
2. That the provisions of the Madhya Pradesh Rajya Surakshya Adhiniyam 1990 (generally described as Black Law) were invoked against political and social activists which includes harsh measures like externment from six to nine districts for a period of one year.
3. That a series of criminal cases were registered against the political and social activists, which included kidnapping, attempt to murder and dacoity etc.
4. That people, mostly tribals, struggling for the right to life & control over livelihood resources like jal, jangal and zameen, have been harassed on day-to-day basis by the Forest Department, including physical assault, destruction of crops, plantation and houses, etc., and registering criminal cases leading to long periods of incarceration in Jail;
5. That in the process, the people, mostly tribals, were being deliberately denied access to their homes, forests, land and livelihood resources and, in turn, uprooted and/or displaced due to such repressive measures;
6. That the democratic space available to the citizens and organisations within the broader framework of the Indian Constitution to express their grievances through peaceful demonstrations and protests ( like Dharna, Rallies, Public Meetings, etc.) was being denied by the District Administration by adopting to various un-democratic, illegal and repressive

measures against the target groups, organisations and activists. Physical assault, abuses and attacking the dignity of the demonstrating citizens and activists by the police administration were part and parcel of their brutal repressive measures;

7. That such repression was at the behest of certain political forces/elements, business/commercial interests, etc., in the region who were the biggest losers due to the activities initiated by these people's organisations/political parties.

The PUCL constituted a Fact-Finding Team (FF Team) to look into these complaints/grievances:

1. Mr. Chittaranjan Singh, Organising Secretary, National PUCL & Vice-President, UP PUCL (Ballia, UP)
2. Mr. Shyam Bahadur "Namra", Poet, Educationist & Social Activist working in Tribal Areas, Founder Member, PUCL (Anooppur, MP)
3. Adv Rajendra K Sail, President, Chhattisgarh PUCL (Mahasamund, CG)

The FF Team visited the region (Betul, Harda & Hoshangabad) from 1<sup>st</sup> to 4<sup>th</sup> of October, 2007, and has prepared its Preliminary Report. The Final Report will be prepared and submitted to the General Secretary, National PUCL, New Delhi within a fortnight from now.

The FF Team visited the affected villages, met a cross-section of people, including the victims, government officials, representatives of the press, political parties, lawyers, social organisations, NGOs, intellectuals, etc. A separate list is being annexed herewith. (**Annexure I**).

The Team also studied and inspected various documents related to the incidents.

During its visit, the FF Team was also approached by various individuals and organisations about cases of human rights violations ranging from attack on minority rights, women's rights, children's rights, right to food, right to work, right to housing, and police atrocities, etc. Although, such cases were not directly falling within the Terms of Reference (ToR), the FF Team looked into these with utmost care and consideration it required. However, FF Team is of the opinion that these complaints of human rights violations in these three districts must be looked into separately.

## **II- FINDINGS:**

At the very outset, it must be mentioned that several of these issues and concerns are under the purview of the Madhya Pradesh High Court at Jabalpur and/or other courts of law. Thus, the FF Team would refrain from making any judgment on these issues and concerns. However, it believes that the facts and figures it has collected should form the integral part of this report, as it would help in establishing the truth, and exposing the undemocratic, illegal and un-constitutional activities of the State *per se*.

## **A-TARGET OF REPRESSION:**

1. The systematic and planned repressive measures by the District Administration have been targetting the following political parties, people's organisations & social action groups, including their leaders/workers:

- a) Samajwadi Party
- b) Madhya Pradesh Kisan Sangharsh Samiti
- c) Samajwadi Jan Parishad
- d) Shramik Adivasi Sangathan
- e) Kisan Adivasi Sangathan

2. The obvious objective of taking such repressive measures against these political parties, people's organisations, social action groups, leaders and workers is to contain their growing political influence and/or increasing mass appeal due to their focussed democratic action and rights-based approach in dealing with the people's basic problems like food, forest, land, work, shelter, etc.

3. The mass education and action initiated by these political parties, people's organisations, social action groups, leaders and workers has led to exposing corruption, illegalities, irregularities and non-implementation of various government schemes (including welfare schemes), meant to directly benefit the people;

4. The emergence of these political parties, people's organisations and social action groups in the recent times in the region and their direct participation in elections has led to political imbalances primarily amongst the traditional political parties, more so in the present Ruling Party, the Bhartiya Janata Party members;

5. The commercial/business interests represented and/or protected by politicians and political parties have been affected by the activities of these political parties, people's organisations, social action groups, leaders and workers, even leading to action by the High Court, like in recovery in the illegal mining in the forests, etc.

## **B- Externment Proceedings:**

6. The initiation of proceedings under the Madhya Pradesh Rajya Suraksha Adhiniyam 1990 ( especially the externment proceedings) against the targetted parties and activists is purely politically motivated, and prima facie appears to be baseless in so much as in majority of the cases:

a) the criminal proceedings quoted in the notices served by the District Magistrate of Betul to 3 political workers (*Mr. Milind Khatarkar, Mr. Manoj Agrawal and Mr. Anil Soni of Samajwadi Party*) u/s 5(a) & (b), have been recommended to be withdrawn by the State Government itself in the interest of justice (***Annexure II***)

b) the criminal cases cited in the notices served by the District Magistrate of Harda to two political workers/social activists ( *Ms. Shameem Modi & Mr. Anurag Modi of Samajwadi Jan Parishad*) u/s 5(b) (*at a later stage of the proceedings other sections were added*), all these were initiated on the basis of the letter written by Superintendent of Police and Divisional Forest Officer of Harda on 5/6/07 to the District Magistrate Harda. In the said letter no where encroachment is attributed to either of these two activists (Shamim and Anurag) or their organisation to which they belong. The copy of the letter is attached herewith. (**ANNEXURE III**)

c) Some of the evidence appears to have been either manufactured or manipulated in order to suit the charges made in the notices. For example, an audio-cassette recording and its manuscript of a speech made by Ms. Shameed Modi has been produced by the Police Department as an after-thought, although no mention of the same has been made in the notice served by the District Magistrate. The contradictions and discrepancies in the video-recording and the manuscript of the speech require strict scrutiny to establish its authenticity.

7. Without going into the merits or demerits of the case, the PUCL's stand is clear that such laws like the MP Rajya Suraksha Adhiniyam 1990 are un-democratic and un-constitutional and, therefore, need to be repealed. The existing normal laws of the land, like the Criminal Procedure Code & Indian Penal Code, etc., are sufficient to bring to book the culprits through due process of law;

8. An objective analysis of the use of such repressive laws like the MP Rajya Suraksha Adhiniyam 1990 has revealed that it has been selectively used to target the political opposition or to benefit certain vested interests represented by political elements. The case in point is demonstrated by the list of citizens in Betul and Harda (supplied by the District Magistrates) against whom such proceedings were initiated during the past one year. (**ANNEXURE IV**)

### **C- Repression on Tribals:**

9. The major conflict between the tribals living in the forest areas and the Forest Department has its roots in the age-old demand of settling them on forest land. The recent legislation named the Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 conferring forest land rights with the cut-off date of 13.12.2005 has resulted in a new spurt of activities leading to gaining control over forest land by the landless. Interestingly, the DFO, Harda District has also recognized four major causes of the problem of encroachment in his report as follows (in that order!):

“ 3. Major Causes of the problem of Encroachment:

1. Demand for Agricultural land by the Adivasis
2. Repeated Settlements are also leading to the encroachment. For example, in the year 1976 tribals were settled, and then in 1980 it was done, and in the present the Bill dated 13.12.2007, settlements are to be done in accordance with the provisions of the Bill.
3. Increase in the family population is the major cause of encroachment.

4. Adivasi Organisations also instigate and motivate the villagers for encroachments.” (**ANNEXURE V**)
10. However, instead of finding a peaceful and long-term solution within the broader framework of the recently passed legislation, the strong-arm of the government is coming heavily on the vulnerable tribals resulting in present conflict and confrontation. Although, the government officials the FF Team met recognize the need for a positive solution to the present conflict between the “tribals” and the “forest/police administration”, no one seems to be coming forward in doing so partly because of political considerations/pressures.
11. The tribals in the region are constantly facing harassment by the Forest Officials, which include taking bribe (both in cash and kind), destruction of their crops, houses, family belongings and, very often, physical and sexual assault;
12. The tribals, on the otherhand, have been struggling to lead a dignified life through hard work, which includes tilling the land and growing food through meagre means, collecting forest produces, migrating to near-by places in search of work, etc. That too without any visible support from the Government, especially the Forest Department, through various welfare schemes meant to benefit them;
13. The tribals dwelling in the forests the FF Team visited were denied of basic rights to education, food, water, shelter, health, work and security;
14. The tribals organized by these political parties, people’s organisations, social action groups were all the more subject to harassment and brutal repression by the Forest and Police department. Even the tribal women and children were subjected to severe repression and atrocities.

#### **D- Destroying Democratic Space:**

15. The democratic and peaceful activities of these parties and organisations have been crushed by biased bureaucrats obviously trying to please their political bosses derelecting their Constitutional duties; that too by resorting to illegal and brutal means;
16. There are examples of blatant violation of civil liberties & democratic rights of the people’s representatives from Janpad Panchyats, Gram Panchayats, etc., where they were forcefully/illegally detained by police and revenue officials without even bothering to show cause as to why and under which law they were illegally detained. Later, it became clear that such illegal and un-constitutional means were adopted purely to prevent the people’s representatives to expose large scale corruption, irregularities, atrocities of the involved officials before the Chief Minister of the State and/or the higher administrative officials. No records were maintained of such unlawful and un-constitutional activities of the police and revenue officials. The case in point is that of the members of the Kisan Adivasi Sangathan (**Annexure VI**)
17. The District Administration, especially the police administration, has demonstrated utter contempt for the guidelines provided by the Supreme Court in Justice DK Basu case. (**Annexure VII**) Many government/police officials even do not have any knowledge about the DK Basu Guidelines,

although it is mandatory to display these prominently at each Police Station, according to the judgement of the Supreme Court of India.

18. The established democratic institutions like the Gram Panchayats, Gram Sabhas, etc., are totally by-passed and/or ignored in resolving some of these conflicts, and the role and place of such democratic institutions is not even recognized by the District Administration/Political Parties in preversing and promoting the fundamental rights of the citizens like the tribals living in forest areas;
19. The Social Action Groups, People's Organisations and Activists have resorted to peaceful forms of agitation within the democratic framework of our country. It is clearly established that the District Administration itself has recognized this fact through granting of permission to hold rallies, public meetings, demonstrations etc. No evidence is available to show that these organisations, groups and activists were resorting to violence or adopted un-parliamentary means to protest.

### **E- Political & Economic Interests:**

20. The series of repressive measures by the state machinery against these political and social activists have gained momentum in the recent times due to threats they have posed to the political and commercial interests of the select few who have been the major beneficiaries of the system, so far. This is clearly evident in the Court's order where recovery of Rs. 4.5 Crores has been directed from the Contractors involved in illegal mining of forest/stones in the area. (**ANNEXURE VIII**)

21. This point also gains strength in the findings of the Election Commission of India, where it clearly indicates that the illegal detention of one of the candidates in the Lok Sabha elections in 2004, Ms. Shameem Modi, was due to political pressures and vested interests. Interestingly, the recommendation of the Election Commission of India calling for an enquiry and action against the erring officials is still pending. (**Annexure IX**)

### **III-RECOMMENDATIONS:**

1. The Madhya Pradesh Rajya Surakhsha Adhiniyam 1990 must be repealed forthwith, and all proceedings initiated under this draconian law must be dropped against all. If the District Administration has any evidence against the erring groups and individuals, these must be filed under the normal laws of the land like the Cr.P.C., and IPC etc., and the State should not hide behind the Black Laws;
2. The Scheduled Tribes & Other Traditional Forest Dwellers (Recognition of Forest Rights) Act 2006 must be implemented in "letter and spirit" without any further delay. The Central Government must issue notification and prepare the rules and regulations under the Act. The role and place of the established democratic institutions like the Gram Sabhas, Gram Panchayats, etc., must be recognized in resolving the issues related to land, etc.
3. An impartial enquiry be conducted by a Former Judge of the High Court into the systematic state repression and forest/police atrocities on the citizens of Betul, Harda and Hoshangabad. Till such time, all criminal cases and arrests

against the political and social activists must be stayed. (It may be noted that the High Court of MP at Jabalpur has already done so in some of the cases.)

4. Some of the names of politicians and government officials appearing again-and-again in supporting and instigating such atrocities and repression on the ordinary citizens, social and political activists, people's organisations etc., must be made public, and enquiry should be instituted of their complicity in the crimes committed by the State against its own citizens;
5. The PUCL must explore the possibility of approaching the State Human Rights Commission, Madhya Pradesh, and also the High Court of Madhya Pradesh at Jabalpur in fulfilling the above demands.
6. Immediate relief and rehabilitation must be provided by the Government of Madhya Pradesh to the victims of such a state repression, including adequate compensation for the damages done to them.

#### **IV- VOTE OF THANKS:**

We are grateful to all organisations and individuals, including the tribals and government officials, who provided relevant material and information through various means (documents and dialogues), and gave us an insight into the draconian designs of the State Machinery in crushing its own citizens, whose security and well-being is their constitutional duty.

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**Poet & Educationist**

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*5<sup>th</sup> October, 2007: Bhopal: Madhya Pradesh*