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## No Going Back from Peace Talks on J&K

Rajindar Sachar

The shameful, condemnable terrorist attack on the Srinagar Rally on 21<sup>st</sup> May to stall the peace talks between India and Pakistan has rightly been defused by the Prime Minister's courageous and immediate response that notwithstanding this dastardly attack, the talks with the various J&K leaders fixed in Srinagar will continue. Of course, it also somewhat calls for a more incisive looking into the attitude of Pakistan to these attacks. It is also a matter of concern that our security forces and intelligence agencies should have been taken totally by surprise. There were too many coincident instances of gruesome tragedies happening on this day, i.e. 21<sup>st</sup> May previously which was a day when Maulvi Mohd. Farooq, father of Mirwaiz Umer Farooq was shot dead by two assassins at Srinagar. Aabdul Ghani Lone, Chairman of People's Conference, was shot dead at the Moulvi's commemorative rally with the background intelligence agencies and security forces should have taken more secure steps. The newspaper reports that all this mayhem was carried out by just couple of terrorists dressed in police uniform makes one wonder as to what kind of a security and intelligence is done at a meeting which was to be addressed by top leaders including the Chief Minister of the State. Surely, at such a meeting the police and security personnel to be on duty must have some special identity indicator to find out whether some intruders has not entered the security cordon. From reports in the press it

appears that the terrorists dressed in police uniform spraying bullets at random without any obstruction and as a matter of fact was helped even by a random public person assuming he was a police personnel. Of course the probe will follow. But let us be clear that some more solid, concrete measures will have to be evolved to prevent these kind of tragic incidents because it is no doubt that such vicious armed attacks do strain the credibility of Indo-Pak parleys.

The talks between the Prime Minister and the J&K leaders have assumed further significance because of this gruesome attack. The Hurriyat had been publicly showing its insensitivity about its having talks with the Prime Minister. The present attack gave an opportunity to Hurriyat and leaders like Yasin Malik and Shabbir Shah to react more substantially than mere taking cover under an excuse that talks are taking place with other political parties and groups and not exclusively with the Hurriyat and that there is no necessity for these leaders to participate in talks at Srinagar. Their refusal to participate has cast great doubt on their genuineness and commitment to peace process. It tends to suggest that possibly they are under some extraneous influence - an approach hardly befitting a group which purports to claim to be carrying on struggle for the dignity, self-respect and rights of the people of J&K.

Possibly, *Hurriyat* has worked-out this strategy (...on page 18)

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# Hashimpura Massacre Trial after 19 Years-Failure of All Organs of State

## Iqbal A Ansari

*(It is good that the PUCL Bulletin has reproduced the Hashimpura Report. The following article brings out some salient omission of State action)*

The trial of the accused personnel of the Provincial Armed Constabulary (PAC) charged with the cold blooded murder of about forty Muslims of Hashimpura, Meerut on 22 May 1987 has taken more than 19 years to haltingly start in the Tees Hazari Court, Delhi on July 15 2006 .It is not only a case of proverbial judicial delay, but crookedness of the course of law that deserves critical scrutiny to be able to understand how the system has given rise to a climate of impunity, especially in heinous hate crimes against vulnerable groups, which emboldens the criminals including those in official uniforms and causes frustration among victims, who lose hope in the system.

According to the order of 18 May 2006 by the Court of the Additional Sessions Judge, Delhi, N P Kaushik it is the prosecution's case based on the inquiry report of the Crime Branch of the CID (CBCID), that curfew was clamped in Mohalla Hashimpura of Meerut city in the name of search for illegal arms and 644 persons (all Muslims) were randomly picked up from their homes and were arrested. Of these 644, forty two (mostly younger ones) were directly taken in a PAC truck to Upper Ganga Canal, Murad Nagar, where some were shot at and the bodies were thrown into the canal and the remaining were taken to Hindon river, where similar operation was done. Though all were taken as dead, a few survived. FIR was lodged on the basis of their statements on 22/23 May 1987. A few days later dead bodies were found floating in the canals -- sending shock waves worldwide.

The ghastly incident had stirred the conscience of the nation, as

the outrage it caused in the average citizen was more than that felt against terrorist violence, as the killers in this case were those who were supposed to be protectors. Nikhil Chakravarty compared the event with "Nazi pogrom against the Jews, to strike terror and nothing but terror in the whole minority community". Mr Subramaniam Swamy, who went on fast unto death over the incident, characterized it as a clear case of genocide. Mr Chandra Shekhar made the observation that "the Hashimpura (Meerut) tragedy was the most shocking incident in my political life..."

Nirmal Mukarji observed that "the truth is that Hashimpura and Malliana affected the Muslim psyche as nothing else had since independence, for the community began to see itself as under attack by the state itself. The least that should have been done was to have promptly disbanded this particular unit of the PAC and to have cashiered its officers. But no action was taken. The outcome was that, far from being on the side of the angels, the UP police emerged as the devil itself".

In a joint statement, eminent persons including I.K Gujral, Rajindar Sachar, Kuldip Nayar, Subhadra Joshi and Badr-Ud-Din Tyabji demanded that "the government must prosecute all those members of the PAC and police who have disgraced their uniforms. Their misdeeds must be treated at par with treason and tried by special courts".

The letter that was sent by the team of inquiry led by Justice Rajindar Sachar to the Chief Minister, Uttar Pradesh and Prime Minister Rajiv Gandhi, along with the report, was not even acknowledged. *Even though the*

*Prime Minister was convinced about the veracity of the case by the testimony of one of the survivors, Zulfiqar Nasir, who was produced before him, and wanted to initiate effective action, he was advised not to do any thing, which could undermine the morale of the armed police, which were, in their view, the main prop of the state's authority.*

When the pressure on the government increased, the Chief Minister B.B Singh instituted an inquiry into the incident by CBCID. By the time the inquiry report was submitted after seven long years in February 1994, the incident had become a forgotten massacre, like a bad dream, by not only the political class but also by all segments of the civil society. People's Union for Democratic Rights (PUDR) had filed a writ petition in the Supreme Court in 1987 for investigation of the case and damages to the victims, which was routinely dealt with and disposed of on 12 September 1990, enhancing the rehabilitation - compensation from Rs 20,000/- fixed by UP Government to Rs 40,000/-, though with the provision that " if any one has applied for claim for compensation for death or bodily injuries, our direction for payment of rehabilitation compensation does not intend to affect such claim and same would be available to be proceeded in accordance with law"

After the submission of the CBCID report, some of the victims of Hashimpura, who were left to fend for themselves, filed a writ petition in the Supreme Court in February 1995 for making the report public, prosecution of all the indicted persons and payment of adequate compensation to the victims. The Supreme Court did

not consider it a fit case for admission under Article 32, and directed the petitioners to approach the High Court, in spite of the fact that the drafting history of the Article shows that the provision was made to ensure that in the event of clear violation of any fundamental right a citizen could seek remedy directly from the apex court. It could have easily settled the issue of adequate compensation, which it had kept open in 1990, in the light of its own liberal rulings on the issue. Subsequently Jalaluddin and others of Meerut filed a writ petition in the Lucknow Bench of the Allahabad High Court on 15 February 1995 with the same prayer.

Though the CBCID had indicted more than sixty PAC and police personnel of all ranks, the Government of UP gave permission for prosecution of only 19 of them, all of lower ranks. What disciplinary departmental action was taken against others has not been made public. On the contrary many of them are enjoying promotion.

How successive governments led by the Congress, SP, BSP and the BJP from 1987 till date seem to be determined to deny adequate compensation to the victims and seem not to be keen on punishment of the guilty, is obvious from the record of the cases at Lucknow and Ghaziabad and subsequently from September 2002 at Tees Hazari, Delhi.

On the issue of compensation, the UP Government's counter-affidavit says that in compliance with the Supreme Court's order it had paid Rs 40,000/- and the issue was therefore closed, which is in utter disregard of the clear direction of the Court on the matter. The case is still lying in the High Court at Lucknow in a state of neglect.

Even statutory resolution of the National Commission for Minorities (NCM) for enhancement of

compensation in October 1999 and firm assurances given by the Chief Secretary of UP in May 2000 to the NCM to review the case, has not yielded any result so far. It must be kept in view that Hashimpura is not a case of police-firing during riots, but a case of custodial terrorist killing, with hate motive by the states's forces against innocent citizens on the ground of their religious affiliations, worse than Best Bakery and other cases in Gujarat, where in spite of states' complicity the police did not pick up Muslims from their homes and killed them; nor did it happen in anti-Sikh pogrom of 1984.

## II

Though the UP Government filed charge sheet against 19 PAC men in the court of CJM, Ghaziabad on 20 May, 1996 under sections related to murder, attempt to murder, conspiracy and concealment of evidence, how serious it was for successful prosecution is obvious from the fact that in spite of CJM court's summoning order followed byailable and non-bailable warrants 23 times between January 1997 and April 2000 the accused PAC men, who were in active service and whose residential and posting addresses were there in the file, were never produced before the court.

I had started appealing to minority and human rights groups since 1995 to intervene in the case or provide necessary assistance to the petitioners, so that "successful conviction of the PAC personnel sends the message that law is still supreme in the country." However by 1999 I realized that the local petitioners did not have adequate legal resources and no assistance was being made available to them. I personally visited Meerut and Ghaziabad in May 1999 to collect papers related to the case: Subsequently in a meeting convened by the Minorities Council on July 9, 1999 a decision was taken that the Council in

cooperation with other organizations willing to lend support, including PUCL, would pursue the cases in the Lucknow High Court, and Ghaziabad CJM's Court. I also published an article under the title 'Forgotten Massacres, on Hashimpura case from 1987 till August 1999' in the Autumn 1999 issue of the Quarterly IOS Bulletin *Human Rights Today* that I edit, which made some impact and led to Siddharth Varadarajan taking interest in the case, who published front page story in *The Times of India* of May 17, 2000 on the bizarre proceedings in the CJM Ghaziabad Court. That was the time when on our representation, the National Commission for Minorities (NCM) impressed upon the Union Home Minister and the Government of UP to take early measures for payment of adequate compensation and speedy trial. This pressure from the Minorities Council, the NCM and *The Times of India* seems to have forced the UP government to realize that it could no longer shield the guilty PAC men. As a consequence of this pressure, 16 of the 19 accused PAC men surrendered in groups in the last week of May 2000 and early June 2000. One accused was absconding, another was reportedly dead. They were refused bail by CJM, Ghaziabad. However they were allowed bail by the District Judge on the ground that there was no direct evidence against them and that being members of the PAC there was no chance of their absconding.

Apparently their practically being absconders from January 1997 to May 2000 did not weigh with the learned court while easily allowing bail to all 16 in groups on June 2, 2000 (Bail Application No. 1353/2000), June 5, 2000 (No. 1412/2000), June 27, 2000 (No. 1564/2000) and July 4, 2000 (No. 1620/2000).

The entire sequence of legal proceedings since the submission

of CBCID report in February 1994 till date has been rightly summed up by Siddharth Varadarajan of *The Times of India* in the following words, "Even by the lethargic and Kafkaesque standards of the Indian judicial system, the Hashimpura case is in a class of its own" (TOI, May 17, 2000).

From the analysis of the order sheet from May 1996 to June 2000 at CJM court Ghaziabad it was obvious that there was collusion between the prosecution and the accused, which made this writer, who has been helping the victims in the case on behalf of the Minorities Council, apply to the Supreme Court for transfer of the case from UP to Delhi, which it did in September 2002, in the interest of justice. [It needs to be recorded that since May 1999 it was under legal guidance of Justice R S Narula (then President of Minorities Council) and Justice Rajindar Sachar that I was all along pursuing the case with some success. Advocate Sanjay Parekh, a member of this team, helped prepare and file the application for transfer of the case in Dec. 2001, which was argued personally by Justice Rajindar Sachar before learned bench of the Supreme Court, which ordered the transfer of the case. Again it was under the advice of Justice Sachar that I approach Mrs. Vrinda Grover for regular legal assistance in the case at Tees Hazari court, which she has been doing with diligence and dedication.]

However, after transfer in September 2002, not much progress could be made in the case for lack of timely appointment of a team of competent and independent PPs and SPP, who could do justice to the case; part of the reason lying in the lack of clarity about the appointing authority in such transferred cases. As along with the Supreme Court's order transferring the case from Ghaziabad (U.P) to Delhi, there was no direction on the

appointment of SPP, as was done in the Best Bakery case. Initially the Delhi Court as well as the complainants took the view that it was for the Government of Delhi Administration to appoint the PP/SPP. Later the Additional Sessions Judge, Tees Hazari issued notice to the Government of U.P expressing concern at the delay in appointing the SPP. Later the long-awaited U.P Government's appointee was found to be technically unqualified. Subsequently the Government appointed an SPP, but the case continued to be adjourned on various technical grounds, as well as owing to strike by lawyers of the Tees Hazari court, which continued for months. At long last the Additional Sessions Judge Sh. N.P Kaushik passed orders on 18/24 May 2006 for framing of charges against the accused and fixed 15 July 2006 as the date for the evidence of witnesses. On the date, when the survivor eyewitness Zulfiqar Nasir came prepared to give evidence, the SPP Shri. Adhlakha expressed inability to produce before the court the 'Property of the Case' including the rifles and some necessary documents required under law. Taking a serious view of such deliberate slowing of the trial, the Hon'ble court issued notice to the Chief Secretary and other concerned officials and summoned the Additional SP (CBCID) Meerut, Ms. Bharti Singh to explain the reason for non-production of the rifles etc and fixed 22 July as the next date of hearing.

On 22 July the sensational disclosure was made that the rifles used in the case, had been redistributed. Admitting this fact Ms. Bharti Singh gave the assurance that she would submit to the Court the information on how and under whose orders the rifles were redistributed. Noting this, the Court recorded the detailed deposition of the first witness Zulfiqar Nasir - who gave

graphic description of the ghastly incidents of 22 May—when he was shot at and taken as dead.

How serious is the Government of Uttar Pradesh in effectively pursuing proper prosecution is obvious from the fact that on the next date of hearing of the case i.e. 31<sup>st</sup> July, Adhlakha was absent, incurring a fine of rupees five thousand against the State Government. On 8 August 2006 the rifles were deposited with the Court and deposition of Zulfiqar Nasir continued. The list of witness being long, it will take quite some time to complete it.

The role of the Samajwadi Party Government led by Mulayam Singh Yadav, who is supposed to be favourably inclined to Muslims, has lately come in for severe criticism in the sections of media, and by political groups, some of which are motivated by calculations in the ongoing electoral game in the State, but it cannot be denied that even Mulayam Singh Yadav and his Muslim supporters including his Muslim ministers can take credit only for sanctioning approval for prosecution of the 19 PAC personnel of the lower rank. They have done just absolutely noting more. Concern for getting justice done in the case has been totally missing, from Rajiv Gandhi – Bir Bahadur Singh to the present incumbents and their predecessors at Lucknow and Delhi.

### III

The issues that arise from criminal neglect of the case by successive governments and the apparent apathy of the civil society including human rights groups, need to be raised and discussed in the larger institutional and political perspective of the failure of all the organs of the State to deliver justice to victims and punish the guilty.

In his report on 1982 Meerut riots NC Saxena, the then Joint Secretary NCM, had written that

“...In many places the PAC behaved like a mob and committed atrocities” and made a significant observation that “the district administration perceived threat to public peace only from Muslims... the order from the senior officers in the district to the police could be summarized in one phrase: ‘Muslims must be taught a lesson’ the PAC and the Police faithfully implemented this policy”. The result was deliberate killing of Muslims trapped in Feroze Building. But all that was done by the secular class, Gandhians and human right groups was to raise the level of rhetoric. The guilty were allowed to enjoy impunity. Such deliberate targeted killing of Muslims by the PAC started in Aligarh in 1978 and has continued till 5 April 2006 when four Muslim youth were killed by police firing, unwarranted by the situation. It is this climate of impunity which made the senior district officials of Meerut—may be with active or passive connivance of the political executive at Lucknow—decide to teach Muslims a bloodier lesson than was done in 1982.

In the name of ‘operation search’ the most brazen killing against Muslims in Independent India was performed by State’s armed constabulary—the PAC, which was characterized by the Amnesty International in its report on Meerut, 1987, as a Hindu paramilitary force in numerical terms (only about 2% of the PAC being Muslims) as well as in terms of attitudes.

Subramaniam Swamy undertook fast unto death against the crime of genocide in Hashimpura, which the honourable politician broke when a team led by Justice V.M Tarkunde offered him a glass of juice—with the implied assurance that the issue of genocide that he had raised will be addressed. Was any step taken in that direction? It is lack of accountability of the district administration and police/

paramilitary forces and their political mentors for such crimes against humanity that made them play blatantly partisan role during most situations of communal conflicts during decades of 1980s and 1990s, which led to Gujarat 2002. In the Bill 2005 on communal violence there is continuing glaring absence of any such provision for accountability of those who wield power.

Even in the absence of any law on the crime of genocide, in the light of existing Constitutional-legal provisions, the Government of BB Singh should have been dismissed and under President’s rule, there should have been disbanding of the specific unit of the PAC and all concerned District officials and the Police-PAC personnel of all ranks should have been tried under a special Tribunal constituted for the purpose.

The most distressing aspect of the case is the lack of provision of adequate compensation for loss of life and limb caused by the State’s agents—State’s liability to pay such compensation is settled in India. However, till date no law on rights of victims has been enacted, in spite of the NCM’s persistent demand since 1980 and recommendations of several bodies, including Justice Malimath Committee.

The apex court has not covered itself with glory by routinely disposing of in 1990 the case on Hashimpura filed by PUDR in 1987 and again by missing the opportunity of playing a proactive role when a writ was filed by the aggrieved Jalaluddin and others in 1995. Why did the sections of political class and civil society, including human rights groups allow such delay and denial of justice in the case?

It requires some introspection and action now with clarity and vigour, including a concerted non-partisan demand for NHRC-NCM approaching the Supreme Court for direction for appointment of

*amicus curiae* and guidelines for appointment of PP-SPP, and most urgently for payment jointly by the Central Government and the State Government of adequate compensation of at least rupees five lakhs plus interest—as it was not a case of killing by police firing in the street during riots. But a case of cold-blooded murder with hate communal motive by State forces. □

## Prof Devvrat Pathak is No More

Prof Devvrat Pathak, President of Gujarat State branch of the PUCL expired on September 8, 2006. One of the internationally known political scientists of Gujarat, he was a former Vice-Chancellor of Saurashtra University, Honourable Professor, Peace Research Centre of Gujarat Vidhyapeeth, and President of the Senior Citizen’s Club of Ahmedabad, and Fulbright Scholar. Born on November 5, 1920 he had completed 86 years and to mark the event, Dr Asghar Ali Engineer had delivered a lecture on “Gandhi, Non-Violence, and the Present Day World on August 13 2006. Dr Sudershan Iyengar, Vice-Chancellor of Gujarat Vidhyapeeth declared that the Vidhyapeeth had decided to publish the English translation of Shri Indulal Yagnik’s autobiography done by Prof Pathak. Dr Vidyut Joshi, Prof Digant Oza, Dr Sadhana Vora also spoke about Prof Pathak. Prof Pathak was visibly moved and thanked his circle of colleagues and co-thinkers for their emotional support. The meeting was conducted by Gautam Thaker, a constant companion of Prof Pathak and General Secretary of Gujarat PUCL. Devvrat Pathak’s departure from the Gujarat Human Rights scene is a big blow to the movement in the State. — Y P Chhibbar, General Secretary

## Balancing Merit with Equity

M A Rane

When I was a student in the Government High School at Karwar, I used to write regularly for our school annual magazine one article. When I was in the higher standard I wrote an article under the title "Caste Prejudice and Class Discrimination", pointing out that those who are fortunate to reach the top of the mountain because of the advantage of their family, can throw ropes to enable the large number of people at the bottom of the mountain to enable them to climb it and not throw stones at them to prevent them from climbing the mountain. I do not know what prompted me to write the article. At that time I was totally ignorant of the principle of affirmative action or positive discrimination with which I became familiar after I started legal practice in the Bombay High Court in 1949. It appears that my response was to the milieu existing in the society at that time.

However, at present I find substantial change in the milieu in the situation. In villages of both banks of river Kali in Karwar district, young and enterprising people started primary and high schools in every village or to cater to two neighbouring villages. The result was high literacy of people not only of boys but also of girls in villages of the Kali Valley. Some enterprising people also started colleges and technical institutions in addition to those started by the Government at different places like headquarters of Karwar. The result was that a number of students got opportunity to join colleges or other higher institutions. The students including girls not only graduated from such colleges but also did their Ph.D. Some of the students including girls went to States for higher education. What is true of Kali Valley is also true of Goa.

The proposal of reservation of seats in higher educational

institutions as well as in Government and private industries announced by the HRD Minister Shri Arjun Singh, even without discussing the same in the Cabinet, is highly divisive like the Mandal proposal. Instead it is far better to follow the point system of USA in the Universities and by Government and Private industries in order to give weightage to the socially backwards like African-Americans as well as the poor people even from amongst the Americans. According to the system in the first 50 points academic qualification are considered. In this class largely persons coming from higher class, advanced class and richer parents generally stand a better chance. Next 50 points are allotted on the basis of various factors such as backwardness, community, education level in the family, financial position of the family and other factors. In this system the backward gets weightage and there is equitable balancing between merits and equity. This was necessary in USA because US Supreme Court rejected the principle of reserved quotas. There is no reason why we should not follow this point system in India, which will create balance between merit and backwardness. In an edit page article under the title "Quotas and beyond" in the Times of India of July 6, 2006, Solil Paul, with the Institute of Conflict Management, New Delhi has pointed out that this point system is followed by the prestigious Jawaharlal Nehru University (JNU). In the entire controversy about the quotas I did not come across any article referring to the point system being followed in JNU. It is worthwhile quoting from the article extensively as follows: "It is high time to think out of the box, arriving at the right mix of social justice and merit as mandated by Articles 15(4) and

335, while also addressing to the creamy layer problem. The selection process in educational institutions in India, such as Jawaharlal Nehru University or University of Michigan abroad, suggests a way out of the imbroglio. It is a point based system, which gives weight age to many other aspects of the applicant, besides his academic achievements. In a total point system of 100, 50 points could be assigned to academic factors and the other 50 to non academic factors. While the first half would be mark sheet based, as is the common procedure for admissions, the latter half would be well distributed among factors which help identify the backwardness of an individual applicant. Social-educational (and even economic) factors would include aspects like the backwardness of the region to which the applicant belongs, educational facilities available in the region (high school facility existing in the village or not), status of schools, government or public, literacy rate of the community, the family source of income, drinking water and power if available in the village, among other things". I am of the opinion if the point system is followed there will be justice and no conflict between the people of India. There will be balancing of merit and social justice to the students seeking admission to higher educational institutions or in seeking employment in government and private industries. It will also remove the tension created by Arjun Singh for extraneous purpose of getting votes, just as V P Singh used Mandal Commission report for the same purpose. – July 25, 2006 □

## **PUCL Report:**

# **UP Government's Land Grabbing and Farmers' Struggle at Bejhera Khurd**

*The agricultural production in the country is declining. The farmers effected by the rising debt and gradually seeping poverty in their lives are committing suicides in various parts of the country. The agricultural policy of the union and the state governments lack vision resulting in severe hardships to a vast majority that is dependent on it.*

*The commercial interests of the big corporate houses are becoming so overwhelming in some states that the line of public and private interest is getting blurred. Farmers are forced to sell their land at prices much below the prevailing rates and the government ruling in their name ironically does this. When they protest they are subjected to severe repression and the role of beneficiary political parties police and bureaucracy coalesce in a united manner. Even the judiciary's role is questionable when it comes to vulnerable versus the powerful. In a way the right of exist comes under attack.*

*What happened at Bejhera Khurd in Gaziabad district of Uttar Pradesh on 8 July 2006 is a grim reminder that unless the farmers of the each state come together and treat the suppression of farmers of one area by the government as an attack on the whole farming community they will continue to subjected to deprivation and suppression by the vested interests in league with the governments of the day. It is a challenge for the civil society groups too to gear for new situation where they are pitted against the formidable interests and it would need new strategy to educate and prepare people to challenge this unholy alliance.*

*The report presented below by Peoples' Union for Civil Liberties (PUCL) and NAPM (National Alliance for People's Movement) with a foreword by Justice Rajinder Sachar brings out sharply the vulnerability of farming community of contemporary India. – Pushkar Raj, Secretary, PUCL*

### **Unbound Savagery Unleashed on Bejhera Khurd Farmers in Ghaziabad District of Uttar Pradesh**

#### **Foreword**

*This report brings out again sharply the perennial question, which the poor in the country are asking – Development for Whom? Apparently, a big business company has been allotted land disproportionate to the requirement to the extent of 2500 acres whereas according to some experts, requirement should have been 400 acres. There is said to be no covenant fixing a date for the start of the power plant for which allegedly and to meet the shortage of the electricity the contract has been entered into. The result is the displacement of thousands of people from Bejhera Khurd, Kakrana, Dhaulana, Dehra and Jadaupur villages. Well may and rightly the farmers protested not only at being displaced but also at not being given their fair market price to the least they are entitled to; though the Government had promised them, it resiled, and the farmers persisted in their peaceful protest. They were locked up in jail, barbarous beating by the*

*police and locking up them in jail with injured persons not getting proper medical aid amongst them. Medha Patkar, Rajender Ravi, Bhupender Singh Rawat and I with others visited the jail on July 9, 2006 and saw injured ones in jail. We also went to the village Bejhera Khurd and were shown the scene of occurrence and were told the brutal and inhuman ways the police and their henchmen (in plain clothes), mercilessly beat them, broke up their meetings, went into their houses, even beat up some of the old women and sick persons who were being removed to the hospital. No enquiry has been neither ordered nor any public apology given by the Government for this inhuman act. The farmers are enraged in their peaceful battle and entitled to all the support, sympathy from all right thinking people. Another and more significant question arises whether the Government should resort to and whether it should be legally permissible for it to acquire land for the benefit of the company. It may be that for a very definite public purpose a land may have to be acquired by the Government. But when the land is*

*being acquired for a private company even when it is going to engage in production of electricity, I see no justification as to why the Government should use its power to acquire the land at such cheaper rates. It is no answer to say that the company is going to produce electricity or some other public activity because the real motive of the private company is make profits and not engage in public service. The company must, therefore, go to the public as a businessman and negotiate with the farmers concerned and not take cover under the umbrella of public interest or public benefit. Not only that, it is essential that the whole scheme of acquiring land of the farmers, considering the absolute shortage of agricultural land, a new policy has to be devised by which it is not only incumbent to compensate the farmers the cash market price but there should be a governmental sponsored programme for rehabilitating them and to provide a means of livelihood either by the alternative land or by making suitable arrangements for them. That is why the alternative policy of providing land for land at least has*

*the benefit of looking after provision of livelihood to the displaced farmers and also problem of housing. This Report represents the facts and though in anger (and in my view justifiably), it is factually correct and by public-spirited people. PUCL along with NAPM presents this report to the social activists of human rights and hopes that issues raised in it will receive their urgent attention so that the poor farmers affected could get immediate relief.* –

**Rajindar Sachar**, former President, PUCL

Immediately after assuming the office of the Chief Minister of Uttar Pradesh, Mulayam Singh Yadav, constituted an 'Uttar Pradesh Development Council' under the chair of his confidant Amar Singh. A number of inner circles of Amar Singh became member of UPDC, which included Anil Ambani, Amitabh Bachchan, Adi Godrej and Subroto Roy. The committee was supposed to give advice to the Uttar Pradesh Government for the development of the state, to make it an 'Uttam Pradesh'. However, what resulted were not 'development' of Uttar Pradesh but distribution of 'developmental' projects to committee members and their wards.

On December 26<sup>th</sup>, 2003 the Chairman and Managing Director of Uttar Pradesh Power Corporation, Arun Mishra, while briefing the media told that Reliance Industries is looking for over 2,500 acres of land for its proposed 3000 Megawatt power plant. On 29<sup>th</sup> January 2004, Anil Ambani, who was Vice President of the Reliance Group declared in the fourth meeting of UP Development Council that Reliance would invest Rs 10,000 Crore in Uttar Pradesh for the biggest gas base power plant in the world. He further said that the cost of the power generation would be around Rs 2 per unit and therefore the customers would be paying lesser amount than the

current rates. He also added that the first phase of the plant would be completed within a year and it would start generating about 1000-1500-megawatt electricity during this period.

On June 10<sup>th</sup>, 2004 UP government formally approved the power plant to be built by Reliance Industries at Dadri (Ghaziabad). The chief minister Mulayam Singh Yadav said that the Uttar Pradesh would get 1,500 MW electricity, which would be available to people would get 24 hour electricity. Interestingly, the Chief Minister admitted that Reliance has not given any undertaking in writing about the unit cost of electricity but the Chief Minister said that it would be Rs 2 per unit.

On 17<sup>th</sup> June, 2004, Santosh Kumar Yadav, the then DM, Ghaziabad, informed the press that Land Acquisition for Dadri plant would soon start under section 6/17. DM Yadav declared that the Government would disburse Rs 100 per acre as an annual lease rate for non-private lands.

On 20<sup>th</sup> July 2004, ADM (LA) Indravir Yadav forced the 400 farmers of Dehra and Berhampur villages to sign agreement for Rs 150/- per square yard. In *Amar Ujala* appeared a report on 24<sup>th</sup> July 2004 in which it was said that the farmers were not happy with the compensation amount and were planning to intervene legally in the matter. Enraged by ADMs functioning as an agent of Reliance, women of Bejhara Khurd villager did not allow the survey team as they thought that the UP government and the district administration were punishing the farmers for their legitimate demands.

Activists of *Maharana Sangram Singh Kishan Sangharsh Samiti* continued their sit-in *dharna* at the collectorate and participation by the people increased as the days passed. Farmers from different villages showed their

solidarity and strengthened the struggle. Seeing the farmers struggle gaining ground, the district administration became jittery and deployed the PAC

Since the administration had acquired every inch of land belonging to over 2500 families in 5 villages, including the *Gram Sabha's* land, land meant for 'cremation' or burial ground, pond and land belonging to religious places, the farmers continued their protests under *Maharana Sangram Singh Kishan Sangharsh Samiti*. They sat on hunger strike in Dhaulana since 26<sup>th</sup> November 2005. Five farmers, namely, Mangu Singh Rana, Rohtash Singh, Babu Singh, Malkhan Singh, Deepa Singh and Rambhul Singh had been on long and historic indefinite hunger strike for their 8-point demands. The condition of the two of the farmers Rohtas Singh and Malkhan Singh deteriorated and doctors had to be called in to provide support to them. Though the hunger strike was withdrawn but the sit-in *dharna* still continues.

On December 13<sup>th</sup>, 2005 there was a huge *Kisan Panchayat* at Bejhara Khurd. Government adopted pressure tactics and deployed PAC in the entire village. Officials went to the village and tried to mollify the farmers. A district administration official alleged that the agitation against the power plant was an outcome of instigation by one farmer, whom he didn't name. The DM tried to hoodwink the people by the argument that the 'law' will take its own course and that administration would deal with the striking farmers 'sternly'. It was pitiable that the DM condemned the farmers and termed their demand as 'ridiculous' and aggregated.

On December 25<sup>th</sup>, 2005 a team of district officials visited the farmers sitting on fast unto death but the farmers refused to listen to their oft repeated demand of compensation was according to

law and conventions. On the same day, five farmers of *Maharana Sangram Singh Kisan Sangharsh Samiti* received notices from Sub District Magistrate charging them becoming obstacle in the 'development' of Uttar-Pradesh. These notices were sent to Manoj Bhardwaj, Rajesh Sisodia, Mangu Singh Rana, Yash Pal Singh and Ranvir Singh. They were charged with instigating farmers to sit on hunger strike due to which their conditions deteriorated.

Meanwhile Reliance was giving pipe dreams to people of Uttar Pradesh. They claimed that by December 2008, they would supply power to majority of UP town and that capacity of the power plant would be raised to 5,500 megawatt. Again, the officials told that the company would enhance the capacity further to 7,480 Megawatt. Reliance have concealed the fact from where they would be getting the gas and how will they enhance the capacity of the power plant so easily. More importantly, why was the need to acquire such a huge area of land if it could have done in less than 500 acres.

Political parties as well as non-party political formations, such as Rashtriya Lok Dal, Janata Dal (Secular), *Dehat Morcha*, *Kisan Manch* participated in the protests launched by the farmers. In January 2006, a big rally showing solidarity to the farmers' struggle was organised. In the meanwhile, Reliance was sitting quietly over the land unleashing brutal assault through police on the farmers. The 'farmers struggle' got highlighted only after former Prime Minister Shri VP Singh decided to take a plunge into it. VP Singh and his comrades in *Jan Morcha* decided to organise a protest march against the modus operandi adopted acquiring land on July 8<sup>th</sup>, 2006. It was said that VP Singh would till the land as mark of protest. The Uttar Pradesh Chief Minister Mulayam Singh Yadav

took this as a threat to his personal obligation given to Anil Ambani. He deployed police and para-military forces of all the nearby districts to thwart the march by unleashing a 'reign of terror' so as to teach the people demanding fair price, a lesson. Police bereft of any decency and norms, which according to Justice AN Mulla, former Chief Justice, Allahabad High Court are 'organised gangster of criminals in uniform' unleashed unbound savagery upon the farmers and their family members by mercilessly beating them up, ransacking their houses, looting their cash and jewellery and not even sparing women, infants or old. The police cordoned off the entire village in the midnight of July 7<sup>th</sup> 2006 and used its might to muzzle the protesting farmers.

To investigate the brutal and unlawful violence against protest farmers by the state police, *People's Union for Civil Liberties and National Alliance for people's movement* formed a joint team, which included *Tarun Kanti Bose, Pushkar Raj, Shree Prakash, Rajendra Ravi and Bhupender Singh Rawat* visited the affected people and recorded their statements.

#### **Bejhera Khurd Face the Police Brutalities**

Bejhera Khurd, the village in Hapur Tehsil, Ghaziabad district is located about 60 kilometres from Delhi. It is said that people started settling in this village in 896 AD. It is relatively a big village with a population of seven thousand people mostly farmers. The most dominant community here is the *Rajputs* who constitute nearly 60 per cent of the population. A majority of them are farmers. Other 40 percent of the population comprise of Brahmin, *dalits*, OBC castes and Muslims. Among the *dalits*, there are *Jatavs* and *Balmikis* and OBC castes include *Jogi, Goswami, Koli, dhobi, Dhimar*, carpenter, Potter and Barber. Muslims include barbers

and weavers. Few of the *dalits* and OBCs own land, as majority of them are landless peasants. *Dhimar* and *dhobi* do not own a land. Only fraction of *Koli* families possesses land.

The farmers' movement in the green belt has often turned volatile and violent whenever they felt that they were given unfair deal. This is one of the most prosperous belt of farmers in the country where per capita income of the farmers is much high then their counterparts elsewhere. In the mid eighties Mahendra Singh Tikait's movement had got wide support and it became difficult for the government machinery to visit the village unless it has got approval of the Bharatiya Kisan Union. Therefore, it is more shocking when the fertile land of this region was being acquired for a project whose benefits no body know. Moreover, compensation planned and being given makes a mockery of playing by the game. More so, because, it is always considered that politicians do everything for votes. One does not know whether the villagers of village Bajhera Khurd are not voters or whether their votes do not count much for the state government.

It is tragic that while land owning farmers might get some compensation (much below their expectations) for their land but there is no possibility for the landless people to get a compensation for their work. Even if they get, bureaucratic hurdles, corruptions and low level of compensation would make it impossible for any of them restart their business. Even 800 acre of the *Gram Sabha*, which would be acquired for the project, has been fixed an annual lease rate of Rs 100 per acre for non-private land. Like any other part of western Uttar-Pradesh, this part is also fertile sugarcane belt. While relations with different caste groups in western Uttar-Pradesh remain tense yet they never came

out in open. This issue, however, has united all of them together who are on the verge of getting dispossessed from their land.

The prosperity of the western Uttar-Pradesh as well as its proximity to Delhi has allured a large number of industrial houses and corrupt builders who are buying land on hugely subsidised prices with the open support of the state administration and building big malls, multiplexes as well as apartments.

### **What happened on 8<sup>th</sup> July 2006?**

On Saturday 8<sup>th</sup> July 2006, early in the morning when people have not fully got up from their sleep, a strong contingent of UP Police, PAC and hired goons of Reliance Energy Limited and the ruling party armed with carbines, rifles, cycle chains, iron rods and *lathis* descended from their vans surrounded Bejhera Khurd village. They first attacked the tent meant for the proposed meeting of Janmorcha. It was totally destroyed and the activists and farmers sleeping under the tent were beaten up mercilessly. Once they finished their work in the tent, the policemen and those accompanying them divided themselves in a column of 50-60 men and started searching individual households. Whatever, they got in front of them was smashed including vehicles, cycles, boxes, charpoys, tables, chairs, tractors was hit and smashed. Confronted by the rampaging policemen and goons, the dumbfounded villagers attempted to put up a brave front. This resulted in physical assault of each one who tried to question their action. Therefore women, children and even old aged were not left out.

Bejhera Khurd village has a history of leading this movement against acquisition of land and therefore the farmers there became the prime target of the police.

Among the seven villages selected for the acquisition of land for the proposed power plant to be made by Anil Ambani's Reliance Energy, Bejhera Khurd, has been at the forefront of the struggle launched against the modus operandi adopted in acquiring land for 3,500 MW Power Plant by Reliance Energy. Since February 2004, a sit-in *dharna* by the farmers under the banner of *Maharaja Sangram Singh Kishan Sangharsh Samiti* has been continuing unabated. 2,700 families living in Bejhera Khurd, Kakrana, Dhaulana, Jadaupur and Dehra villages face displacement as 2,500 acres of their farming land has been proposed to be acquired for the project.

According to villager's four buses of the Provincial Armed Constabulary (PAC) and four buses of private musclemen or hired goons descended on the village in the early morning when people just finished their morning cores. Some of them were still sleeping as it was just around 5.45 a.m. when police and the armed militia (these people were simply plainclothes and people believe that they were hired goons of Reliance Industries) without giving any warning swooped on the people, who were sleeping in the tent and ransacked it. It was not enough to satisfy the false ego of their political masters and therefore their chums began raining blows on them with lathis and rifle butts. There was chaos all around as people were running helter-skelter. Some of them were not even woken up properly before the lathi and rifles hit them. In the commotion some of them were overpowered as well as outnumbered and bundled into parked buses.

Having cleared the place of tent and people sitting on *dharna* the PAC and private *lathi*-wielding brigade accompanying the police entered the village. As per the villagers, the PAC and musclemen

along with it looted almost 200 – 250 houses. There are about 20 shops in the village. The police fired indiscriminately and lobbed teargas shells, took adolescents, young and old to the custody, violated all norms of decency with impunity. Even the media persons were not left. Some of the press persons complained how the police tried to snatch their papers and hit the photographers.

At the Ghaziabad-Delhi border on Ghazipur, a very large contingent of Uttar Pradesh police, PAC had blocked the traffic and erected barriers to disallow any efforts of political parties led by V.P. Singh to reach Bajhera Khurd. When Mr V.P. Singh, Raj Babbar, Udit Raj tried to cross the border, they were arrested and put in a guest houses in Vasundhara under the charges of threatening peace in the region. It is tragic that a state government feel a former prime minister of India who had been Chief Minister of state twice and Union minister has become for the 'peace' in the region. So terrified was the government of the state that it passed a ban on various political leaders visiting the district. The ban was imposed on V.P. Singh, Raj Babbar and others till 15<sup>th</sup> August, 2006.

### **Brutal Assault on the Villagers by Rampaging Policemen**

Following are the testimonies of the people interviewed by our team:

**1. Sanjay Singh, 28:** My uncle, Vinod Singh was taken to custody. Prior to his arrest, the police, PAC personnel and goons entered our house by breaking open the door. My uncle and 75-year old grandmother, Ramwati were beaten indiscriminately. Police rained incessant blows on me and I suffered a grievous injury on my head. Forcibly they took away whatever was cooked and split the milk. Looted all our belongings and stole all the household utensils.

**2. Shoma Devi, 37:** Barging inside the house by breaking the door, the policemen swooped on me when I was cooking. Using abusive and lewd language, they rained incessant blows with the rifle butts on my left arm, shoulder and hip joints. They didn't even spare my 13-year old daughter, Ruby. In a fit of rage, they smashed our motorbike, scooter and generator. Policemen stole my 'mangalsutra' and purse.

**3. Harbati, 54:** 50- 60 police personnel pushed the door and came inside. I was driven out of home and blows of rifle butts were continuously rained on my hips, shoulder, back and head. Our television was smashed to pieces. My 17-year old son was kicked by the policemen and beaten mercilessly and my 56-year old husband, Birpal was brutally assaulted and taken to custody. He has been x-rayed thrice for an internal injury. A plastic can full of mustard oil was punctured and was spilled over the ground.

**4, Sapna, 24:** Rampaging policemen broke my kitchen door and damaged all the utensils. My 11-month old daughter was thrown away in the ground from the cot. My husband was taken to custody and Rs.15,000 was stolen by breaking the cash box. Standing nearby 50-year old Meena said, "I was brutally assaulted and incessant blows of rifle butts were rained on me. My 3-month old grandson, Monty was not even spared. He was thrown to the ground."

**5. Lekhraj Singh, 90:** I was sleeping on my cot outside the house. 50-60 policemen armed with rifles, *lathis* and iron rods broke the door and pounced on me. They rained incessant blows on my hip joints and shoulder. Still there is excruciating pain on the left side of my shoulder, left arm and hip joints.

**6. Dhropa, 35:** 50-60 policemen barged inside our house. They swooped on me and

beat me mercilessly. Continuous blows of rifle butts were rained on my leg and hips. They entered the kitchen and broke the earthen *chulha* (oven). Policemen forcibly lifted my golden earrings.

**7. Bijesh, 40:** The rampaging policemen broke upon our door and started beating my husband. Continuous blows of rifle butt were rained on me. The glass screen of our Maruti car was smashed and my golden anklet was snatched away by the policemen. My son, Somvir was taken to custody.

**8. Rampal Singh, 55:** At around 6.30 a.m. 60-70 policemen broke upon my iron gate and barged inside our house. Incapacitated by chronic lever problem I was laying on the cot. They pounced on me and disentangled my catheter and threw it. I was writhing with pain. Then they surrounded my wife, Angoori, daughter, Lata, son-in-law Shishpal and son, Manoj and started raining continuous blows with lathis and rifle butts. Rampaging policemen robbed golden earrings of my wife and daughter. Even they broke our almirah and stole Rs.40,000 from the cash box. Before leaving, they smashed the colour television and destroyed the motorbike. My son-in-law Shishpal was taken to custody.

**9. Maya, 50:** 60 policemen entered our house. They brutally assaulted me. My almirah was broken and all the ornaments, such as anklets, waist chain, rings and bangles were stolen. Even they took away Rs 30,000. Golden earrings were forcibly snatched from my daughter-in-law and me. Policemen pierced sharp-edged side of the rifle and damaged my son Sunil Giri's right eye. I am a widow and he is the only earning member of the family. See how blood is oozing from the bottom of the eye. My other son, Mahesh, who is just 14-year old, was also beaten mercilessly. Yogesh,

Sunil's brother-in-law was taken to custody.

**10. Omkari, 40:** 50-60 policemen barged inside our house and looted the small shop and took away everything. My husband, Ram Kumar is a poor landless labour who runs this shop to eke out a living. My 1 year daughter, Shivani was forcibly taken from my lap and thrown in the ground. Golden earrings of my 10-year old daughter and me were snatched away by the policemen.

**11. Rohtas, 70:** 60 policemen barged inside our house. They fired at the right foot of my 30-year old son, Prempal and took him away to custody. His condition is serious. Incessant blows were rained on my left foot. A motorcycle, recently purchased was damaged. They even looted biscuits, cigarettes and Rs.1,000 from the shop, which I run from the house.

**12. Daya, 52:** 50-60 policemen stormed inside our house. It went berserk and broke open the door. They smashed three motorbikes and a tractor. My 18-year old son, Vikram was brutally assaulted and taken to custody. Prior, to him being driven out of the home incessant blows of rifle butts were rained on Usha, Shashi and Guddi. Golden earrings were snatched from Usha and Shashi. Even two kids, 5-year old Vishal and 4-year old Ankush were not spared. They were beaten mercilessly.

**13. Dharambir Singh, 45:** Continuous blows of rifle butts and lathis were rained on our door and broken. When police stormed inside, my father Bhuliya Singh, who is 70, was gossiping with Rajpal of Kakrana village, while smoking *hookah*. The rampaging policemen beat my father mercilessly, now his condition is stated to be critical. Radio, lantern and chairs were smashed.

**14. Anju, 24:** Policemen constantly rained blows of rifle butts and lathis and broke upon the door. Rampaging policemen

used lewd and abusive language. They broke the almirah and stole golden earring, silver anklet and waist chain. Rs 11,000 were also robbed.

**15. Bijender Singh, 24:** 50-60 policemen broke upon the door and stormed inside the side. Incessant blows of *lathis* were rained on my mother, Shakuntala and my wife. Due to constant blows on my wife's hips and legs, now she can't even walk properly. Both of their gold earrings were snatched. My wife's anklet, golden *mangalsutra* and Rs 20,000 were looted from our house.

**16. Sudha, 40:** Persistent blows of rifle butts and *lathis* were rained on our front door and broken. Gold earrings of Sudha and Asha were stolen. Incessant blows of *lathis* were rained on Pramod's head and he was given ten stitches.

**17. Anita:** Policemen broke the door and barged in. Scared of the rampaging policemen children had ran away from the house. Rs.10,000 had been stolen by breaking the cash box. I was beaten black and blue by the police.

**18. Vidya, 70:** 50-60 policemen stormed inside our house and destroyed the tractor. The tyres were punctured. All the utensils were broken. Raju, who is 17-year old and brother-in-law of my son, Davinder was driven out of the house and taken to custody.

**19. Ruby, 30:** 60 to 70 policemen broke our front door by raining blows of rifle butts and *lathis*. My co-sister, Mahima, who is deaf and dumb and widow was beaten mercilessly and thrown from the rooftop. A motorbike was smashed. While leaving the house they rained some blows on my co-sister, Kamlesh and me.

**20. Shivdayal Singh, 83:** Policemen barged in and started beating me mercilessly. Excruciating pain in my right limb still bears the mark of the brutal assault. 2 mobile phones put on

the charger were robbed. The policemen looted Rs.1,57,000 collected for the *Mahapanchayat*. *Mahapanchayat* was scheduled on 8<sup>th</sup> July 2006 in which Mr. VP Singh, former Prime Minister was to address.

**21. Shakuntala, 60:** Fifty to sixty policemen stormed inside our house by breaking the door. Policemen thrashed me and my daughter-in-laws, Satho and Mamta. Satho's gold earrings were snatched and Mamta's gold chain was robbed. I am a widow and my 16-year old son, Bhojraj was driven away and taken to custody. While being taken to custody he was mercilessly beaten.

**22. Pappu Sharma, 30:** 20 to 30 policemen entered my house and started raining continuous *lathi* blows on head. I fell down and had to get six stitches for head injury. *Gutka* and cigarettes were stolen from my shop. I have also registered an FIR against the police atrocities perpetrated on us.

**23. Bimlesh Sharma, 30:** 30 to 40 policemen stormed inside our house. When they entered the house, they asked about my husband. I said that I am a widow. They did not believe me and pounced upon me, when I was cooking. Gold earrings and Rs 1,000 were stolen away by the rampaging policemen. They rained incessant *lathi* blows on hips, back and arms. My left hand finger has been damaged in the brutal assault. Scared by the marauding troops, children ran away and hid themselves.

**24. Shiela, 65:** Policemen broke the doors and barged inside our house. Incessant blows of the *lathis* were rained on my right arm. They didn't even spare my 67-year old sister, Kamala. Gold earrings were forcibly snatched from our ears.

**25. Rajesh, 40:** Rampaging policemen broke the door and rained constant *lathi* blows on me. I was alone in the house as my husband lives in Pilkhuwa. They

snatched away my earrings from. Continuous blows had injured my spine.

**26. Urmila Devi:** Forty to fifty policemen stormed inside our house and rained blows of rifle butts on the buffalo.

**27. Poonam, 36:** 20 to 30 policemen barged inside our house by breaking the door. They came and pounced upon me. I was performing *puja*. They caught me by hair and drove me out of the worship place. They robbed of my gold earring, anklet and smashed the wall clock. My 14-year son Ravindra Giri, who was sleeping in a cot, was taken to custody. My 80-year old father-in-law Ramjilal Giri was beaten mercilessly. Even the standing buffaloes were not spared.

**28. Leela, 45:** Fifty to sixty policemen broke the door and stormed inside our house. They went berserk. They snatched my grandson, Honey and started raining incessant blows of rifle butt on my shoulder and head. I fell on the ground and was unconscious for few minutes. The wound on my head was so severe, that the doctor gave 12 stitches. Under my right eye, you can still see a scar, which bears the mark of the brutal assault on us. My husband, Channo Singh, 50 was beaten mercilessly before being taken to custody.

**29. Urmila, 32:** I was having my morning tea. Policemen entered the house by breaking the door. One policeman pounced on me and snatched my *Mangalsutra* and robbed of my gold chain. They stole Rs.5000, earrings, and anklet. Radio and deck was smashed. My 18-year old son Dinesh was taken to custody from Kunwar Pal's house. While being taken to police station, he was assaulted brutally.

**30. Rajwati, 45:** Teargas was lobbed and nothing was visible. Policemen broke the door and entered the house. They went berserk and threw all the materials.

Incessant blows of rifle butts were rained on me. Gold earrings of my daughter, Amrita and me were snatched away.

**31. Kela Devi, 60:** 50 to 60 policemen broke the door and barged inside. 14-year old Kamlesh, my son-in-law's nephew was driven out from the house and taken to custody. Gold earrings and anklet of my daughter-in-law Munisha were snatched away at the gunpoint.

**32. Malkhan Singh, 58:** When policemen stormed inside the house, at that time, I was feeding my buffaloes. Then they asked me that was I part of the *Dharma*. I replied no. Even after my response they rained blows of lathis on my back, feet and arm. See I can't even walk.

**33. Ashrafi, 85:** Policemen barged inside the house and broke the windowpane. Then they were going to rain *lathi* blows on my son, Omprakash Giri, who is paralytic patient and bedridden for many years. I pleaded to spare him. After that, they started beating me mercilessly. Incessant blows of rifle butts were rained on the head of my grandson, Vinod Giri, who is 24-year old. He was beaten outside the house. He had twelve stitches on the head.

**34. Vimla, 40:** Policemen failed to break open our iron gate. But they took away my 14-year old son, Monu to the custody.

**35. Bugli, 50:** Policemen broke the iron gate and barged inside. Incessant blows of *lathi* were rained on hip joints, shoulder and legs. Still there is excruciating pain. Even, they continuously brutally assaulted my daughter-in-law. She has suffered an internal injury over the head. Gold earrings were snatched away from my daughter-in-law and me.

**36. Jaiprakash Giri, 63:** 40 to 50 policemen rained blows of rifle butts and brick pieces to break open the door. When they entered my house they started beating me by hitting me with rifle butts. My left

palm was fractured. Then they drove me to a PAC van. Then, I ran away and went hiding in the fields. My son, Mahendra Giri, who is a handicap, was mercilessly beaten. My wife, Dayawati, who is 60-year old, was beaten black and blue. Incessant blows were rained on her hip joints, now she is totally bedridden. My daughter-in-laws Rani and Resham were beaten mercilessly. Rani is physically challenged and Resham is pregnant. My 3-year old granddaughter, Anjali was thrown in the ground and blows of *lathi* were rained on her.

**37. Manoj, 13:** Policemen went berserk and smashed our Santro car HR-08-D-7600 by raining constant rifle butts and bricks. When I resisted then they caught hold of me and crushed middle finger of my right hand. Still there is excruciating pain in the bruised finger. Even they broke the headlight, filter tank, pump and battery of our tractor ISAR-312.

**38. Omprakash Singh, 60:** 50 to 60 policemen barged inside and broke the door. After storming inside, they started raining incessant blows on my back and I fell down. Then they broke the inside door and started constantly beating my 22-year old son, Anurag. He was beaten so badly that he was confined to his bed for 8 days. Even the policemen stole his Titan watch, which costs Rs 1100. My other son, Davender's TVS Victor motorbike UP-14-S 8323 headlight, indicator and tyre were punctured by sharp-edged weapon.

**39. Kashmiri, 25:** I was at rooftop, when the policemen barged inside by breaking open the door. Whatever food was prepared they split it in the ground. Then, they threw my 2-year old son, Saurav on the ground. You can see the bruises over his face. Broke open the other doors, then they rained blows of rifle butts on brick-laid roof. After that, they

rained *lathi* blows on buffaloes, horse and the mule.

**40. Manso, 65:** 50 to 60 policemen, PAC *jawans* and plain cloth men rained rifle butts and broke our iron gate. When they stormed inside they went berserk and destroyed all the electric switches and smashed two plastic chairs. Then, they broke the door of our shop and rained *lathi* blows on our buffaloes and horse. Scared by the policemen running amok I went into hiding along with my grandchildren in other room. In other room my daughter-in-law holed up. In the darkness, they barged inside the room and stole my son's new trouser and Rs.5,000.

**41. Sukhbir Prajapati, 50:** Policemen stormed inside my house and rained blows of rifle butts on my tractor. They broke the steering, air and battery of the tractor. They went berserk and rained incessant blows of lathis on my 17-year old son, Dharmi and drove out of the house and put him behind the bar.

**42. Ratno, 65:** Policemen barged inside by breaking the door. Scared by the rampaging policemen, I rushed to the other room, where they stormed inside and started raining incessant blows on my chest and arms. Constantly, they showered blows on his back, thigh and shoulder. They did not even spare my 68-year old husband, Buddhan Singh. He was beaten mercilessly and when he being driven out for taking him to custody. Then, my daughter's sons, Deepak and Kuldip started crying. Policemen rained blows of *lathis* on them also. Fearing reprisals from policemen, we didn't go to any Government hospital or dispensary.

**43. Harichand, 55:** Policemen broke upon the door and stormed inside our house. Using abusive language they asked that why we are not vacating the land after being paid the compensation.

Then they started raining continuous blows on my shoulder, back, thigh and legs. Caught hold of me by neck and threw me in the ground.

**44. Bhikhan Prajapati, 85:** Policemen broke upon the door by raining blows of *lathis* and rifle butts. Then they pounced on me and thrashed mercilessly. I have excruciating pain on my back and wrist of my left hand has been fractured.

**45. Shoma, 39:** When I busy cooking food, all of a sudden policemen broke the door and barged in. Then, they ran amok and started showering blows of *lathis* on my shoulder and hip joints. Our scooter DL-25-25 and motorbike UP-14R-8210 were smashed by the marauding troop. They looted my *mangalsutra* and gold earring. Even they stole my daughter-in-law's waist chain, 3 rings, pendent and gold chain. They broke the CD player and music deck.

**46. Surinder Singh, 45:** Policemen and PAC *jawans* broke the door and smashed the window screen of a Maruti car UP-14M-2570 and destroyed the motorbike UP-14-AC-8149. Even they damaged the wall clock. They looted Rs.20,000 by breaking the safe box.

**47. Gopal Singh, 50:** Policemen broke upon the door and they stormed inside. They showered continuous blows of *lathi* on my thigh. Still the mark on my thigh bears testimony to this fact.

**48. Nirmala, 24:** Policemen broke the iron gate and barged inside the house. I have a 10-day old son and 2-year old daughter. Policemen caught hold of my daughter and broke her limb. Then, they threw on the ground. They broke the cashbox and stole Rs.10,000, golden chain. They pushed my elder sister-in-law and in that process she was hurt and her index finger of the left arm was fractured. Incessant blows of rifle butt were rained on his left arm.

**49. Basanti, 55:** Police broke the door and stormed inside and robbed me of gold earring.

**50. Yashvir Giri, 35:** Policemen barged inside our house and pounced on the buffalo, broke the television and smashed the scooter. Continuous blows of *lathis* were rained on my 13-year old son. He was driven out and pushed behind the bar. They inside the other room broke quality about that. Blows of *lathis* were rained on my wife. Her gold earring, *mangalsutra* and *anklet* were stolen.

**51. Makhnial, 65:** Policemen stormed inside our house and rained blows of rifle butts on my left elbow. The deep cut on my left elbow is taking a serious turn.

**52. Nand Kishore, 50:** Policemen barged inside the house by breaking the door. Rampaging policemen accompanied by hired goons smashed by Maruti car and looted jewellery from my almirah worth lakhs of rupees.

**53. Udaiveer, 60:** Policemen and goons entered the house and rained blows of *lathi* on me. You can see the black spots on my thigh and back, which are visible marks of assault on me. Policemen pounced on me when I was taking breakfast. Police beat up my son Jagdish, 18 and fractured his leg. Another son Chander Mohan, 16, was beaten up severely and taken into custody. They looted gold chain and Rs 10,000 from our house.

**54. Kunwarpal Singh:** Policemen broke open the iron gate by raining continuous blows of rifle butts. Broke 100 Pepsi bottles, showered incessant blows of *lathis* on me and I fell on the ground. I was unconscious. Entered the house and broke the cash box looted Rs.50,000 and all the gold and silver ornaments. They drove out my two sons beating them indiscriminately to the custody.

#### **Role of the State**

The UP police and the state administration emerge as highly culpable in the incident of brutal assault, looting, smashing properties, framing false cases and indiscriminate firing on 8<sup>th</sup> July 2006.

#### **Police**

On 8<sup>th</sup> July 2006, Police and its accomplices (in plain clothes) surrounded the Bejhara Khurd village, broke the doors by raining rifle butts, mercilessly beat women, infants, young and old, looted ornaments and stole their money. We condemn police, PAC and armed goons, which went berserk at Bejhara Khurd by perpetrating brutalities over women, children and the old. Police are not accustomed to speak politely and behave in a dignified manner. The political interference in the matter of police have made them behaving like criminals. It is not unusual that when there are act of violence and highhandedness, charges are often levelled against Policemen for stealing and looting the money and gold-silver ornaments of the communities they raid. Bejhara Khurd was no exception as according to the villagers when police raided the village, beat up the villagers, a large number of their fellowmen were looting the ornaments and breaking the walls.

#### **Role of the District Administration**

The District administration has overtly or covertly colluded with the guilty police, PAC personnel and armed militia. It has been assiduously trying to shield them. The Chief Minister has shown its contempt for public opinion by not even offering its regret to the injured and the farmers. The very first action which was to be taken by it in the wake of the 8<sup>th</sup> July's brutal assault on the Bejhara Khurd villagers was to order an impartial investigation to pin down the guilty and release the villagers against whom false cases have been framed. This suggests that

the local administration is in complicity with the guilty police, PAC personnel and armed goons. The fact that demands an independent CBI investigation into the brutal assault on the Bejhara Khurd villagers. A judicial inquiry is also called for to punish the guilty. As reported earlier, the district and state administration is working hand in glove with M/s Reliance Energy of Anil Ambani group. District magistrate has actually warned people of dire consequences if they continue with their *Dharna* and protests. It is ironical that the administration has not asked police any show-cause notices and none of them have been held accountable. Contrary to the same, agitating farmers have been charged with various cases. It clearly reflects the *mala fide* intentions of the state government.

#### **How Justice Bhalla Acted to Serve Reliance?**

On the evening of 7<sup>th</sup> July 2006, Reliance Energy filed a writ Petition in the Lucknow Bench of the Allahabad High Court, seeking full police *bandobast* against the villagers. Despite this petition being filed well after court hours, and that the Lucknow Bench had no jurisdiction to hear this case, since only the Allahabad Bench had territorial jurisdiction to hear this matter, the Senior Judge, Justice Jagdish Bhalla directed that a special bench of Justice Bhanwar Singh and Justice S.N. Shukla would hear the matter at their residence, even though the petition had not even been numbered. Late that night, a hearing was held at the residence of one of the judges of this unnumbered petition. Aarohi Bhalla, the son of Justice Jagdish Bhalla appeared for Reliance. The petition was allowed that very night without notice and the State and police were directed to "provide all possible State protection to the petitioner company".

Armed with this order, the police resorted to a massive lathi

charge on the protesting farmers and did not even allow former Prime Minister V.P. Singh to reach there. The manner in which the Lucknow Bench proceeded to hear this matter late at night when they did not even have territorial jurisdiction and where the son of the senior judge appeared before the judiciary shows the remarkable way in which the Company obtained the said order.

#### **Why the Uttar Pradesh Government Gives Undue Favour to Reliance?**

Answering to a query on this issue, Naresh Agarwal, Power Minister, UP, said in the Assembly that the Rs 150 per square yard rate was fixed after the farmers in Dadri endorsed. According to the minister, 2,173 acre of land has been acquired from the farmers and 165 acre of *Gram Sabha's* land. Further he said that work is afoot to acquire the rest of the land meant for the project. The MLA Munna Singh Chauhan, sought clarifications from the minister that why favouritism was to reliance in disbursing 2500 acre in contrase to the Tatas asked for 350 acres for the power plant. Clearly it shows, according to the MLA, the UP Government was giving undue patronage to Reliance by dispossessing the farmers.

The Chief Minister Mulayam Singh Yadav had declared in a public meeting that the rates for the land per square yard would be Rs 310 This fact has been confirmed by the former Prime Minister VP Singh, that the UP Chief Minister had promised to him the same when he visited the former PM. In a letter written to the Prime Minister Manmohan Singh on 11<sup>th</sup> of August 2006, the former PM drew his attention on the Dadri project. Mr. VP Singh wrote, "the Uttar Pradesh Government had acquired 2500 acres of highly productive agricultural land for the ostensibly 'public purpose' for infrastructure development namely, to set up a gas based

thermal power plant near Dadri in Ghaziabad. Nobody would question the need to augment the generation of power supply in the power-starved state. But what is most questionable is the way in which the government of UP has been acting at the behest of and for the benefit of one corporate house flouting all norms of propriety and prudence."

The former PM also questioned as why 'no competitive bid were called for before deciding in favour of one particular corporate house. He charged that for the said corporate house the cost of the land has been 'virtually subsidised to the extent of 60%. More worrisome was why such a vast tract of fertile land was needed for the power plant and why no work has yet started on the project site'.

Further he 'demanded a national moratorium for six month and immediate halt to the process of any further land acquisition, dispossession, demolition and displacement. The constituting of a high-level commission comprising of eminent persons is still pending. The task of the commission, should be to lay down a new comprehensive policy and set up an effective mechanism to ensure the protection of the right and interest of the affected people not as a post factor formality but as a necessary precondition to the initiation/resumption of work on projects including those related to urban renewal and development.'

Shamelessly, the Uttar Pradesh Government threw all the norms of democratic norms in the air and used a judicial order to thwart any public meeting in Bejhara Khurd. Even when the meeting for 17<sup>th</sup> August, 2006 organised by *Dehat Morcha, Jan Morcha* and alliance groups was to be held at Dadri, just 18 kilometres from Bejhara Khurd, the state government deployed all its forces to foil the struggle and not allow people to assemble. Since morning when people started assembling to participate in the meeting, they were obstructed. Farmer leader Mahendra Singh Tikait and others were arrested when they started from Muzaffarnagar. Border areas of district Ghaziabad were sealed and heavy police forces were deployed. The traffic from

Bulandshahar to Ghaziabad and greater Noida was blocked.

One needs to ask a question whether the farmers have a minimum right to register their protest. Do political formations have a right to organise a protest meet. At the Delhi-Ghaziabad border, VP Singh was arrested along with his comrades.

Bejhera issue has again highlighted the danger of 'corporate' terror unleashed on the poor fighting for their right. It also shows how state apparatus surrender meekly to their political masters who have been openly working with 'corporate' houses. That most of these projects are being handed over to corporate houses without calling for any competitive bid is a matter of grave concern. Often, the votaries of market economy and liberalisation mention that market mean openness and end to licence quota raj. If one see the project approved in Uttar-Pradesh and other parts of India, it reflect another kind of licence quota raj when the power elite behave hand in glove with the corporate. We need to ask why powerhouse constructions need 2,500 acres of land. Where in the world have we seen such huge land acquisition? Clear enough, those in power want to strip the people from whatever little resources they have with them. India needs a clear guideline on Special Economic Zone projects. Why the state is not only subsidizing big powerful corporate houses hugely in their land purchase but also given a long tax holiday. Such subsidies at the cost of the farmers, workers must stop at once and government must understand that it was voted to power against the economic policies of the previous government. Disarming people from their land and water rights is the biggest crime and the governments must be ready to face the crisis born out as a result of these circumstances.

#### **We Demand:**

1. To constitute a high power committee including members of Civil Society Organisations (CSOs), technical experts, farmer leaders, academicians, to find out how much exactly is needed for a 3000 MW power plant and which are the companies working in this field so that a competitive bid could be invited. Bids could also be invited from the state owned power companies operational in different states.

2. Till High Power Committee comes to a conclusion, no further acquisition should take place. The farmers must get their land back. However, UP Government working in behest of Reliance should not force farmers, who are not keen to sell their land.

3. Government must acquire non-irrigated land or wasteland in lieu of fertile land for power plant.

4. Government must be transparent enough for making open its deal with Reliance Energy. Has the Government fixed any penalty for delaying its construction? Had there been any condition laid down for land use if Reliance did not make a power plant under any pretext what would government do?

5. Dismiss all policemen responsible for brutal assault on villagers of Bejhera Khurd on 8<sup>th</sup> July 2006.

6. Institute an independent inquiry under a sitting judge of High Court to investigate into the lapses of district administration in Dadri and its adjacent villages as well as on the issues of farmers and their rehabilitation.

7. Give full compensation to the farmers or their family members, who were either injured in the police firing or whose houses were ransacked. Compensation for their vehicles, household items, gold ornaments and cash looted by police force should be returned back immediately.

8. The Central Government must come out with a comprehensive rehabilitation policy. There should be a clear-cut guideline for Special Economic Zones and every state must follow central guidelines before signing any treaty with a private party.

9. Investigate how Chief Justice of Lucknow Bench of Allahabad High Court appointed a two judges bench at haste to hear the case and allow his son to file the case on behalf of Reliance Energy. The Supreme Court must look into this matter and take necessary action.

10. The High-power Committee must probe into how the goons hired by private company to unleash a reign of terror in the village. The nexus between the hired goons, the state's ruling party and administration must be exposed and action should be taken to make administrative machinery fully unbiased, responsible and accountable.

11. To find out, as how much does Reliance Energy show the cost of the land for its bank loan and whether it is the same as per compensation given to the farmers for Rs 150 per square yard.

#### **Annexures**

##### **List of Few Damaged Vehicles:**

**Motorbikes:** UP-14-V-8382, UP-14-S-8323, UP-14-R-8210, UP-14-AC-8149, DL-7S-A-8341, UP-15-Q-2466, UP-14-X-0179, UP-14-AC-3672; **Two-wheeler Scooter:** DL-25-L-5410; **Cars:** Santro - HR-08-D-7600, Maruti - DL-2C-A-1299, UP-14-M-2570

##### **List of Arrested People:**

**Bejhera Khurd:** Chandra Mohan, 15; Jeetu, 15; Ravinder, 14; Devender, 14; Somvir, 22; Sanjay Kori, 25; Suresh Kori, 22; Dharampal Kori, 19; Dharmi, 18; Sunder, 21; Bhojraj, 18; Dheer Singh, 35; Dinesh Singh, 20; Sonu, 15; Manoj, 18; Anil, 35; Narendra Singh, 25; Pankaj, 15; Mahesh Giri, 14; Prempal, 28; Charan Singh, 28; Sanjay, 21; Bikram Singh, 27; Sonu, 20; Pramod, 26; Subhash, 45; Subhash, 35; Bhikki, 58; Vinod, 30; Brajpal, 19; Rampal Singh, 90; Somender, 25; Dhirender, 15; Sonu, 17; Rahul, 14; Krishen Singh, 36; Uday Singh, 30; Ram Kishan, 30; Dinesh, 30; Satish, 30; Chander Singh, 53; Bhutiya Singh, 68; Nasib Singh, 62; Sumit, 14; Shishpal, 70; Manoj Bhardwaj, 33; Buddha Singh, 35; Dhanna Singh, 50; Ramesh Singh, 62; Ompal Singh, 62; Omprakash Singh, 41; Chunnu Singh, 52; Veerpal, 70; Satpal, 50; Rajpal Singh, 55; Shiv Kumar, 22; Rampal, 50; Sanjay, 28; Richhpal Singh, 55; Jagbar, 71; Jaipal, 58; Vikram, 22; Ishwar Dayal, 76; **Asra:** Vijendra Pal, 17; **Gurgaon (Haryana):** Sishpal, 35; **Kheda (Pilkhuwa):** Monu, 16; Devender, 30; Gopal, 23; Raju, 22; Kude, 40; **Sopa (Bulandshahar):** Radheyshyam, 30; **Kalandi:** Major Himanshu, 34; **Mujahidpur (Muzzafarnagar):** Satish, 28; **Kastali (Aligarh):** Yogesh, 18; **Kakrana:** Dinesh, 26; Jagdish Singh, 66; Mahender Singh, 66; **Kota (Harnathpur):** Sunil Kori, 22; **Pilkhuwa:** Jasbir Kori, 21; **Delhi:** Parmender, 29 (B-113, Sarvodaya Enclave, New Delhi); **Hapur:** Deepak Gupta.

– A Report by: **Bhupender Singh Rawat, Pushkar Raj, Rajender Ravi, ShreeParkash, and Tarun Kanti Bose** □

## “9/11” and All That Y P Chhibbar

The whole month of September the Print media and the Electronic media has been publishing/airing stories revolving round the terror attack on the World Trade Centre twin buildings in New York in 2001. “9/11” has become an international icon and design to represent terror attacks. So much so that we in India also started writing the date of terror attack on Mumbai trains in the same design, i.e., “7/11”. This affords us a clinical case to demonstrate that intellectual freedom becomes subverted by subtle influences.

It did not occur to our channels and newspapers that we in India do not write the date like this. When we date a letter or a cheque as “11<sup>th</sup> July” we would write it as 11/7. Our practice is that we write the date first, followed by the month, followed by the year (DD/MM/YYYY). But in mentioning the terror attack on Mumbai trains

our media blindly copied the American practice. This created confusion in the minds of those who have not been in touch with American culture and practices.

Interestingly, people have pointed out that the date September 11 has significance in history in many other ways also. In 1803, on September 11 the British are said to have fought two important battles with the Marathas at a place where the NOIDA golf course stands today and at a place what is today known as Patparganj in East Delhi. This was the second anglo-Maratha war<sup>1</sup>. On September 11, 1893 Swami Vivekanand addressed a meeting of religious figures in Chicago, USA, drawing attention to the consequences of sectarianism, bigotry, and fanaticism<sup>2</sup>. On September 11, 1906 the Indian community in Johannesburg in South Africa was addressed by one Hazi Habib exhorting it to

follow the call of *Ahimsaa* and *Satyaagrah* given by Mohandas Gandhi<sup>3</sup>. One of the blackest drama of imperialism was enacted on September 11, 1973 when the democratically elected President of Chile, Salvador Allende, was overthrown by the army generals aided and abetted by USA<sup>4</sup>.

Such is the sweep of intellectual imperialism that a subaltern country's the whole thought process falls into the pattern of the world power centre unknowingly and our freedom of thought becomes subverted by the slogan of “Internationalisation”.

<sup>1</sup> Varun Sinha, “India's forgotten 9/11: In 1803, Delhi fell to British forces”, *The Indian Express (Express Newslines)*, 11<sup>th</sup> September 2006.

<sup>2</sup> Venu Madhav Govendu and Deepak Malghan, “The other 9/11”, *The Hindu*, September 10, 2006, Magazine section, page 4.

<sup>3</sup> Ibid

<sup>4</sup> Ibid □

### News:

## Be Humane to Refugees from Sri Lanka: PUCL

K G Kannabiran urged the Tamil Nadu government to deal with refugees from Sri Lanka, fleeing for the war there humanely.

Besides providing security, it was for the State Government to provide security and resources to refugees. Irrespective of whether it was the Liberation Tigers of Tamil Eelam (LTTE) or the Sri Lankan Army that was on the offensive, the ongoing war was a human rights violation. This affected India, especially Tamil Nadu.

Mr Kannabiran called for a permanent ceasefire in the island nation for the next five years. The peace process could be taken up during this period, he suggested. Recalling the campaign carried out by the PUCL under the leadership of retired Supreme Court Judge V.R. Krishna Iyer in 1977, Mr Kannabiran exhorted senior

citizens, writers and social activists to start a campaign to draw the attention of the international community to the rights violations in the name of war.

Mr Kannabiran and the secretary of the State unit of the PUCL, S Balamurugan, urged the Government to re-introduce the two per cent reservation in professional colleges for the children of refugees. According to them, reservation had been denied in the last three years.

The Tamil Nadu Government should withdraw all cases under the Prevention of Terrorism Act (including the case against 26 people arrested in Dharmapuri on charges of naxalism), Mr Kannabiran said.

He urged the Government to reintroduce remission for those

who had completed more than 10 years of imprisonment.

He demanded compensation to over 190 petitioners who sought relief from the Justice Sadasivam Commission of Inquiry. It was formed to probe charges of excesses by the STF to set up to nab the forest brigand Veerappan. The Commission had now awarded compensation to 98 people –  
**S Balamurugan □**

## A Request for July 1988 Issue

We do not have any copy of the July 1988 issue of the *PUCL Bulletin*. If any subscriber can send the same to us we will get the same copied and return, else, if a neat and clear copy is sent to us we will meet all the costs thankfully. – **General Secretary**

## Press Statements:

### 1. J&K State Human Rights Commission & Accountability Commission

The J&K state government should seriously look into the issues raised by Justice AM Mir while submitting his resignation from the post of Chairman of the State Human Rights Commission instead of criticising his person. There is no denying the fact that there are a number of shortcomings in the institution and the working of the Commission which need to be attended to. The appointment of his successor and other members of the Commission

should strictly follow the provisions of the J&K State Human Rights Commission Act and not the whims of the executive as has been the practice so far. Every report of the Commission with the ATR should be regularly presented in the next session of the State Assembly. The practice of submitting every recommendation of the Commission for further enquiry by the Deputy Commissioners is an affront to the dignity of the Commission.

The delay over the appointment of the Chairperson of the State Accountability Commission following the resignation of Justice RP Sethi is deplorable. Leaving two important institutions of the State headless for a long time reflects the attitude of indifference of the state government to the plight of the people these institutions were meant to provide relief to. – **Balraj Puri**, Convenor, J& K PUCL, August 29, 2006

### 2. Killings of Civilians in J&K

The recent killings of civilians in the state by the security forces and by the militants are deplorable. The killing of three innocent civilians mistakenly by the security forces in Kupwara and of a young person of controversial identity are

deplorable acts. These should be an independent probe into these killings. The attack by the police on the protest meeting of students in Amar Singh College should be condemned by all. Peaceful

protest is a democratic right of the citizens.

There should also be an inquiry into the killing of a civilian in cross firing in Mendher. – **Balraj Puri**, Convenor, J& K PUCL, August 29, 2006

### 3. Human Rights Watch Report

“The security forces, the militants, and other concerned agencies and persons should take a serious note of the report of the Human Rights Watch recently released in Srinagar. While one may disagree with it on a particular fact, it would be unfair to accuse it

of bias and being one sided. It is in the fitness of things to demand in this respect that the Government of India should remove restrictions on the visit to the State of International human rights organizations like Human Rights Watch and Amnesty International

so that accuracy of their enquires into all incidents of human rights violations could be further improved and they could meet all interested persons.” – **Balraj Puri**, Convenor, J& K PUCL, September 19, 2006 □

(...from page 1) with a view to presumptuously proclaim itself as a bigger and more exclusive group with whom alone Govt. of India is to come to settlement. May be, it is understandable that as for some time, the Govt. of India may continue to have talks separately with the Hurriyat and other leaders like Yasin Malik and Shabbir Shah. But there should at least be a reciprocal courtesy by Hurriyat that when the Prime Minister is sitting with other representatives of J&K these organizations should also participate in it. Whether they participate actively by joining the deliberations or keep quite and just listen is their own choice. But I do believe that normal courtesy and

protocol should be observed by Hurriyat and it should not pretend to arrogate to itself the right to hijack such vital talks on Kashmir by claiming an exclusive privilege to settle the matter and purporting to suggest as if it has the backing of Pakistan and General Musharraf.

Privilege of Indian Prime Minister and Gen. Musharraf to continue the peace talks belong exclusively to them. Of course they will necessarily decide their strategy and course of action in consultation with the people of J&K. But surely, Indian Govt. does not need any mediatory group to talk with Gen. Musharraf nor does the latter require the services of Hurriyat to talk frankly with Indian Prime Minister. The rapport and understanding

between the Prime Minister and General is well-known.

Here was a real test for the Hurriyat and other leaders to show its mettle and to prove that it stands for a peaceful outcome of the J&K problem. It could only have been done by joining the talks as this would have sent a message to the militants that it condemns their action which is harmful to the interests of the people of J&K and that Hurriyat is willing to take on the onslaught by the militants and is not caving in by not joining the talks because of the fear from them.

Refusal by Hurriyat, Yasin Malik and Shabbir Shah to join the talks shows them as craven people who refuse to take on the fight against the militants. By this attitude, they run the risk of thoroughly disappointing their friends and well-wishers. □

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### **Organisational Initiatives:**

## **Taking the Benefits to the People**

**Y P Chhibbar**

The Government of India has taken some steps through enactments in the Parliament for improving the welfare of labour, enhancing employment in rural areas, introducing transparency in government functioning, strengthening the legal support to under trial prisoners, and for protecting children from economic abuse. There is always a possibility that such steps may become pieces of decoration in the 'Constitutional Museum' of the country if no follow-up action is taken. The bureaucracy cannot be expected to undertake any such initiatives because this "steel frame", as it was described by Sardar Vallabhbhai Patel, has actually become a steel chain girdling the life of the common people. The PUCL General Secretary wrote to all State branches to initiate steps and evolve programmes so that the benefit of such enactments may reach the target population. It would

be fruitful to reproduce these initiatives of the PUCL so that individual members of the organisation and also other readers of the *PUCL Bulletin* may become aware of them and may take steps for their fruition whenever possible.

1. A **Crime against Labour Cell** is to be established in every district under the district judge. These cells will look into complaints registered by labourers. The cell will be a part of a nation wide network under the Legal Services Authorities Act 1987. Activists can help labourers to register complaints and to pursue them.

2. The **National Rural Employment Act** came into force on February 2, 2006 in certain selected districts of each State. Activists can help the unemployed in the rural areas to take advantage of the scheme by informing them and by supporting their efforts. It was reported in the newspapers that in some States the

exploiting private contractors were spreading rumours to the effect that through these schemes the government was preparing lists of unemployed people to send them to Iraq! Informed activists can see through such games.

3. The **Right to Information Act 2005** was notified on June 15, 2005. A skeletal machinery has been created for its successful working. Though there are controversies regarding its rumoured amendment but still there are immense possibilities for checking corruption and moving towards transparency by innovative steps in various fields for procuring information. The threat of Right to Information is like the sword of Damocles hanging over the head of bureaucracy. Shri Prabhakar Sinha and Shri Ramashrya Prasad have written very helpful booklets on this law which can be used by Activists.

4. The Parliament has amended **Section 436 of Cr.P.C.** by adding a Section 'A' to it making mandatory for courts to release on a personal bond with or without sureties, a person detained for up to 1-½ of the period of imprisonment specified under law (not applicable to those where capital punishment is one of the punishments). Every branch of the PUCL or individual Activists may identify such under trial prisoners and help them to take advantage of the new amendment. The full text of the new Section 436 A is as follows:

**Maximum Period for which an Under Trial Prisoner can be Detained**

*Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:*

*Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:*

*Provided further that no such person shall be, in any case detained during the period of investigation, inquiry or trial*

*for more than the maximum period of imprisonment provided for the said offence under that law.*

*Explanation: In computing the period of detention under this section for granting bail the period of detention passed due to delay in proceeding caused by the accused shall be excluded.*

5. The Parliament has amended the **Child Labour (Prohibition & Regulation) Act, 1986** and has imposed a ban on the employment of children below 14 years of age, to be effective from October 10, 2006. A notification has been issued and the Penalties prescribed are a fine up to Rs 20,000/- and imprisonment up to 2 years to be imposed on the employer. It would be in the fitness things that the members of the PUCL comply with this law. State Council or State Executive should resolve and see that no member of the Council or the Executive employs any person below the age of 14 years at home or at her/his place of work, to begin with. As a second step efforts should be under to see that all members of the PUCL in the State follow suit.

Office bearers of the branches of the PUCL, individual members of the PUCL, or other activists can take advantage of these initiatives taken by the Parliament and the government so that benefits may percolate to individual beneficiaries. □

**Please Note**

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- **General Secretary**

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