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A Mature Response – Need of the Hour Rajindar Sachar

The threat held out to judiciary by some politicians because of interim stay of OBC quota shows lack of maturity and understanding of the role of judiciary in our constitutional set up. Is it advisable to raise the pitch, however, important the issue may be? After all we are a civilized constitutional democracy and must proceed on the basis of *bona fide* action by each instrumentality of the State; however we may disagree with it.

The charge that courts do not understand the sensitivity of the matters affecting the masses is a bogey politicians tend to put forward to conceal their own inaptness.

May one query the politician as to why while introducing reservation in services for OBC in 1990, the quota in higher education was not included at that time.

In 1951 the SC held that reservations could also be given in promotions but in 1992 the SC took the contrary view. The Parliament amended the Constitution to facilitate reservations in promotions. The Supreme Court upheld the amendment thereby accepting that this was a policy matter (not forbidden by the Constitution and the court therefore respected the mandate of the Parliament. No scope of over reaching was even attempted.

Again when the Supreme Court held illegal accelerated seniority given to Scheduled Castes, the Parliament amended the law to reverse that view. Challenge to that amendment was negative by the court.

Again the Supreme Court conceded to Parliament the exclusive right to expel members of Parliament for any alleged misbehaviour within the precincts of Parliament.

But now suddenly when Supreme Court stayed as an interim measure the implementation of OBC quota for this session, the court has been lampooned as indulging in adventurist incursion. So much was the political gimmickry and arrogance of the executive that it was not willing to exclude the creamy layer segment even for this academic year (and which, many impartial court observers feel, may have persuaded the court to relax its total stay and allow amendment to operate for non-creamy OBC students. Is it that OBC leadership is in the hand of creamy layer and hence a stand which might have found acceptance by the court, and helped non-creamy poor OBC was not even considered, even when urged by Non-OBC parties from within the front. And yet the chorus of aggressive blaming game against the Supreme Court is acquiring shriller tone.

Politicians seem to think that the courts ought to give to all the Parliament’s decisions automatic seal of approval. But that would mean being false to the oath by the judge who can (...on page 10)

Andhra Panchayat Case Report:

Women's Power, Women's Blood

George Mathew*

When Dhoolla Ratnam (48) was preparing bed for her eight year old grandson and herself on 14 July night her plan was to get up early for the daily chores and engage in her work as member of the Srungavruksham *panchayat*. But that was not to be because her political opponents had a different plan. In the early hours of 15 July, those opposed to women's power and functioning of grassroots democracy presented to the village, the woman *panchayat* member's charred corpse along with Veerababu's – her grandson.

This barbaric incident took place exactly on the first anniversary of Ratnam's election. (Last *panchayat* elections in Andhra Pradesh were in July – August 2006). What crime Ratnam had committed? She contested the local government elections according to the Constitution of India and tried her level best to fulfill her responsibilities as people's representative. Of course the problem was that she belonged to the Yadava caste where Kapus, the landlords dominate. The Malas and Madigas are a minority.

Srungavruksham, seven kms from the pilgrim centre Annavaram on the Chennai-Howrah rail route, is easily accessible. With good rain fall the area is lush green and I was told that this entire east Godavari district of Andhra Pradesh is rich and peaceful.

The strong-willed Ratnam was determined to enter public life. But the landlords had a male candidate for this backward caste reserved ward. When Ratnam filed her nomination, immediately the spokesperson of the landlord class offered her as much money she wanted if only she withdrew from contest. They wanted "consensus" in the village. But Ratnam's faith in democratic elections gave her courage. She did not yield to the

pressures and threats. Her campaign was limited to house visits and printing a model ballot paper. Being a daily wage earner, she could not do more than that. Her opponent distributed small silver boxes of *kumkum*, small *Lakshmi Devi* idols in gold and about 80 saarees. The total number of voters in the ward was 284; out of this, 227 (80%) cast their vote. Ratnam defeated her rival Yadala Nokaraju with a majority of 14 votes. The election heralded a chain of events ending in the heinous crime in less than a year.

Village *Panchayat* presidents in Andhra Pradesh are directly elected but the Vice-President must be elected by the council. Ratnam's opponents in a secret conclave elected the Vice-President and the swearing-in ceremony was declared. When the function was about to begin, Ratnam challenged the election of the Vice-President and told that there was no formal meeting for the election. The Mandal *Panchayat* President who was present on the occasion apologized for the mistake. But her opponents numbering seven protested saying there is no need to apologize; "this is how we do".

In Andhra Pradesh there is a practice that the local MLA's photo be displayed in *panchayat* office. In the first *panchayat* meeting the MLA's photo was removed as his opponents got majority there. Ratnam demanded that the photo must be put back; in protest she removed her saaree. Immediately the photo was brought back.

During the *panchayat* meetings the spokesperson of the upper caste sits near the President, Mrs. Koruprohu Sreedevi along with her husband. Sreedevi is from barber community. Ratnam used to object to this practice but her protest

made no difference. In the meetings she raised questions about expenditure without proper records, payments to labourers without list of names and so on. After about three such *panchayat* meetings the majority group felt that it was enough. At one midnight they set fire to her two 'Kuppas' (heaps of paddy harvested) on the two acre farmland her family had taken on lease. Ratnam did not take it lying down. She went to the Collector and told him that her property, her livelihood is destroyed. He asked her to file a case at the police station.

For the Indiramma Village Development Programme in Andhra Pradesh, the Gram Sabha has to appoint a selection committee to identify the beneficiaries. The practice in the state is such that although every district comes under the control of Minister, the local MLA proposes names of the selection committee members to the Collector and she/he gives the seal. In the Srungavruksham Gram Sabha, when the committee was announced, Ratnam objected to it saying that it is the Gram Sabha which must select the committee. Her opponents called her "you *lanja* (bitch)" and shouted that they will strip her naked and beat her up; they are the ruling party, they can do whatever they want. But she did not take it lying down. She caught the leader by his collar. There, according to the villagers she got the ultimate warning, "I'll see that you are finished".

About a week before the tragedy, from the village Fair Price Shop when 500kg rice was being taken in an autorikshaw at night, the villagers stopped it and next day Ratnam along with 30 ladies in the village complained to the *Tehsildar* about the malpractice.

The Tehsildar sealed the shop. After about three days there was a well conducted *panchayat* meeting. But a few people approached Ratnam and urged her to withdraw the complaint against the Fair Price Shop owner. Ratnam refused.

July 14 evening: It was a rainy day. Hardly anyone slept outside their houses especially under the banyan tree where an elevated platform is the normal place for the villagers to sleep. Ratnam had a visitor from the nearby house – Taupati Achyamma. She came from Kamrajpeta *panchayat* to visit her sister. She watched a TV serial in Ratnam's house and as it was getting late, Ratnam invited Achyamma to sleep in their house. She slept on the *verandah*, Ratnam and her grandson on a cot near her and Ratnam's rest of the family inside the house.

Villagers told me that about two hours before the *panchayat* member was set on fire, the electricity was cut off. A villager who went to field at night saw a few people taking petrol from the motorcycles.

When Ratnam and Veerababu were drowsed with petrol and set on fire in deep sleep, Achyamma also caught the fire but she got up and ran out and fell unconscious on the wet mud. She was taken to the (Kakinada) Government hospital. She was treated there for more than a week and she pleaded to be shifted to her brothers' house in Kamarajapet in Gokavaram Mandal.

When I left Srungavruksham after meeting the family members' villagers and visiting the *panchayat* office it was already evening. I rushed to Kamarajapet 50 kms away and reached there by 8 pm. It was raining and the muddy roads have not seen repairs in a long time. No lights either. All I could see was drunken people on the village roads. Illegal alcohol is a flourishing business in the state. Far away there was a flickering

light, and a villager showed Achyamma's brother Kuka Venkateshwara Rao's house. He is a milk vendor earning about Rs. 100 a day with five members in the family to look after. Achyamma is a widow with no children. She was bed-ridden with severe burn injuries including one on her head. Anyone could realize that she would succumb to her injuries soon. I enquired whether any help came from the government agencies or *panchayat*. The answer was no.

Let us get back to Srungavruksham. When I reached the village earlier in the day the crying, weeping, angry villagers welcomed me. No one could bear Satyavathy's tears (mother of Veerababu), so also his six years old sister Siva Parvathy. She and her brother were playing together, going to school, occasionally fighting but all that is now memory. Veerababu's father – Satyanarayana is a daily agricultural labourer. He was crying throughout my stay in the village. I enquired about Ratnam's husband. He had gone to work along with his second son. The society will not give them any time for mourning. They have no food at home and they had to earn their bread. In this region of Andhra Pradesh an agricultural male labourer gets Rs. 50 while a woman's daily wage is Rs. 40. I asked: "Haven't you got any relief from the government?" The answer was in negative.

According to the local custom if a death takes place in a house, for next six months no one is allowed to stay there. Front side of late Ratnam's house is covered with a plastic sheet; temporarily neighbours have accommodated her family members. But for the coming six months where will they live? How will they find resources? No body knows.

I enquired whether there was any special *panchayat* meeting to condole the passing away of the

elected member. The reply came "No". Any black flag on the *panchayat* office? No. I enquired with the villagers why they did not take the early warnings seriously? Their answer was: this village so far has been peaceful; moreover, nobody expected this to happen to a woman.

This is the price a woman had to pay for entering public life. Because of the power of women through the new window of opportunity provided by the *panchayat*, unheard of, unbelievable things are happening. We all argue that the new generation of *panchayats* is the nursery of leadership. But what is the ground reality? Basic Human Rights – Right to Life – is denied for the poor and marginalized and above all for woman. For exercising their extraordinary power, women have to shed their blood.

While we are celebrating the 60th anniversary of the shining and rising India, let us pay our homage to the many Dhoola Ratnams, Achymmas, and Veerababus who are laying down their lives in Bharat.

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Hungry World of Dalits in Poorvanchal

Vidya Bhushan Rawat

The so-called War against Hunger started at the 1997 Rome Summit where world leaders pledged to support programmes to eliminate hunger and alleviate poverty to half of that time's below the poverty line people who do not even earn 1 US Dollar a day. That time the number was estimated to be 864 million and half of them were in South Asia. It is strange that since 1997, these world leaders have started forcing the third world countries to comply with the norms that are essentially anti poor. Social security is an old word of socialist era and considered to be out of date in India. The *Hindutva* government that time was going crazy over the India shining approach just ignoring a vast number of masses who were dying of hunger and starvation. In fact, those of us who were bringing these issues to the public domain were discouraged. Media did not want to broadcast and publish the stories which spoil the taste of their subscribers in the morning.

Background of the Work on Hunger

That way 2004's general election was a watershed. It was an election fought on the false premise of India shining. Despite hunger and starvation deaths in various parts of India particularly Orissa, Rajasthan, Chhattisgarh, Maharashtra, Madhya Pradesh, Jharkhand, Andhra Pradesh and Uttar-Pradesh nothing moved much in the government front. People's Union for Civil Liberties filed a petition in Supreme Court in 2002 against the hunger deaths in 7 states. The Supreme Court issued notices to these states and their anti poverty programmes and as a civil society follow up of the entire case National Right to Food Campaign took birth. The Supreme Court issued various directives to the governments particularly in relation to Public Distribution

System, BPL Cards, Widow and aged pension schemes, Integrated Child Development Programmes. The hearing continue but the real changes do not occur.

The campaign was launched on the premise that Food Corporation of India's go downs were overflowing with grains (in fact grain got rotten) while people were living in abject hunger and poverty was a shame to India.

In the 2004 elections therefore, when the UPA government came to power in Center, it looked as if it has learnt a few lessons from the past government. A National Advisory Council was formed with eminent names like Jean Dreze and Aruna Roy were made members under the chairpersonship of Mrs Sonia Gandhi. The government decided to renew the anti poverty programmes. Since funds were never a problem with the government's finance ministry, it went out to woe the rural masses. Campaign was launched for a bill like the Maharashtra's Employment Guarantee Programme so that every one gets employment. The government's bosses also felt that this programme could be a good idea to implement their own liberalization and privatization process and 'purchase' the people with one hundred days employment.

One hundred districts were selected for National Employment Guarantee Scheme for the first phase. Now new districts have been added to the list but violence continue in rural India. A large part of India is under the Naxal influence and it is growing day by day. People are still dying of hunger despite millions of dollars being pumped by the aid agencies and the government. We must ponder over this situation otherwise India's poor will revolt

one day and trash everything that we call democratic.

Conditions Prevailing in Uttar-Pradesh

It is rather unfortunate that despite a clear verdict of the masses against the concept of privatization and economic liberalisation, the rulers do not want to change their track. Earlier after the elections we saw over throwing of the government in Haryana, Punjab Andhra Pradesh and Uttarakhand. The biggest turn around was Uttar-Pradesh. While the analyst might claim that it was Mayawati's Brahmin-Dalit combination that got her victory, it would be simply generalizing the facts if we ignore the fact the UP people also voted against Uttar-Pradesh Shining and policy of private crony culture of Mr Mulayam Singh Yadav and his government.

Therefore, when Uttar-Pradesh was shining, just a few months back, I was getting lot of information related to hunger and starvation deaths in the Eastern Part of Uttar-Pradesh. During the past five years in particular, having spend a lot of time with activists and villagers, I realized that the aid agencies, the government and the so-called civil society organizations are far removed from the grassroots reality. Even the media was not reciprocating it at the national level while the local papers were reporting incidents of hunger deaths.

Four districts of Poorvanchal (Eastern Uttar-Pradesh) namely Maharajganj, Kushingar, Deoria and Gorakhpur witness the dance of death every year. Two of these district Kushinagar and Gorakhpur were selected for the NREGA programme while Maharajganj has also been selected for the same from this year. All these districts saw a large number of deaths due to hunger and malnutrition despite

all these programmes. The pattern was similar yet nothing happened. When we decided to move on a Padyatra in these districts, it was in fact a reiteration of our earlier stand about the failure of not only aid agencies and government but also civil society. Let us investigate some of these programmes and international campaigns.

18 tribal children died in Raup village of Sonebhadra district in 2004 and the National Human Rights Commission issued notice to the state government. A very senior activist Late M.A. Khan would always question the 'national' campaigners who would come for a day in Sonebhadra and disappear after 'attaining' everything. These national organizations destroyed the local initiatives by creating division in them. Khan died an unsatisfied man, a man who would have got huge funds to support his work on hunger yet remain penniless till he breathed his last. A mobile library in his own self, Khan's work was used by many for their projects in the area.

What irked Khan was that Sonebhadra has a large number of NGOs with 'National' outlook. These days apart from being from the 'press' get you exclusive sitting at most important places, a tag from human rights also give you strength to manipulate things. With international human rights organization jumping in local fray and acting as a party, the human rights have become abusive term. Agencies write letters on every individual cases of 'dowry', 'rape' 'sexual harassment' and everything under the sun. These organizations are not running any systematic campaigns but are totally depended on the fancy of a few individuals who not only manipulate things but also pretend as if they are the sole protectors of the civil liberties in their area and their life is under the 'threat' from the landlords. The agencies who support such propagandists forget

to ask their own background as a majority of them have established background and it is rare that they would speak against their own family and caste men. Activists from Uttar-Pradesh are rather smarter in this. They claim to have been fighting against 'caste' system but do not give any idea to local communities and people as what is the panacea for it. These are provided to international masters only who present them to their donors as their 'work' in India. Most of these international fellows have got strong support from their own communities, as it is rare they would speak against their own community. Hence if you are a Thakur, you will bring the cases of Brahmins, Yadavas, Kurmis for oppressing the Dalits terming them as 'feudal lords', while if you happen to be a Brahmin, the cases would be different, so will be the case with Kurmis and others. Everybody try to save the interest of their own community making the other community oppressing the Dalits. So, the downfall of Uttar-Pradesh is in the nepotism and propaganda that these human rights fellows unleash through internet and emails.

The National Right to Food Campaign became a tool to further their own interest and you do not know how many of them exist in Uttar-Pradesh. The politics in the NGOs is more rampant in Uttar-Pradesh. In the name of so-called advocacy and lobbying they make every criminal case as a human rights violation case and if their activists are involved in local feud, it is termed as a threat to their life.

Development Need Community Centered Approach

Aid agencies flocked to Sonbhadra, Varanasi, Kusingar, Bhadohi, Bundelkhand and other such 'poor' district to 'eliminate' hunger yet despite all this people continue to die of hunger. In Kushinagar district's Koilaswa village became the hub of activities for aid agencies. Number of

community organizations were created and their only visible work was 'wall writing' related to the rights of Mushahars. One must ask these agencies and their partners as where has the money gone and why even a village with about 500 Mushahar families still have largest number of hungry people and unsafe huts. This village saw 18 children dying of Kalajwar several years ago. Most of the Mushahars here live in huts. Very few of them have got the NREGA card to get some work. None of them can claim to have got even 10 days work under NREGA. Last year, when I visited to this village, a large number of huts were burnt due to fire but this year some of these houses were being constructed under Indira Aawaas Yojna. The *Sarpanch*, the secretary of the *Panchayats* is corrupt say the people but where are the organizations working. Why do they not organize people and take them to the district magistrate and show them the condition of the NREGA schemes in the area. The fact of the matter is that we claim to create a civil society in the poorest areas. My question is whose civil society it would be?

How come the work being done on Mushahars, Scavengers do not have persons heading from these communities? It is here the aid agencies have defaulted. They promoted Dalit groups in the name of Dalit identity but rarely bothered to check further whether the same kind of identity which different caste groups are demanding have been accepted by them. When we talk of scavenger or Mushahars or Rajbhars why is that it is the people from other communities leading the movement and not from them. The argument that these communities do not have 'leadership' skills is racist and brahmanical in nature and need to be questioned.

It was this long thought that came in mind trying to analyze the

caste scenario with poverty that I realize that developmental agenda would have to be community based. Fifty years programmes of development never reached the people. The targets were not specified clearly. They were vague and not according to the demographic set up of the villages. Hence Mushahars, Bansfors, Rajbhars, Pasis and Chamars remained at the margin. Though people might argue that after Mayawati's ascendance to power, *Chamars* have been 'empowered', this notion itself is wrong. The community, no doubt, is politically assertive, yet economically, very marginalized in the Eastern Uttar-Pradesh and Bundelkhand.

Humanism Needed

Hunger is not natural but man made with deep socio-cultural dimension. When the major district of Poorvanchal, the rural poor do not possess enough grain to cook two time a meal, the forces of rightwing Hindutva are equally powerful. Just when Navratris are finished, the Goddess Tarkulha Devi's temple witnesses thousands of goats being slaughtered to please the goddess. And it is not just one goddess, such temples exists all the districts. Kushingar is famous Buddhist center as Buddha preached here for 20 years and died at the end. Japanese, Thai, Barmese, Korean temples are present here. More and more religious groups are coming here to spread their wings. Not only the famous Gorakhdham *Peeth* headed by BJP MP Mahant Aditya Nath have made great inroads among the communities but not on working against hunger but hatred. You can find posters of *Hindu Yuva Vahini* everywhere. At a place during our *Padyatra* when I asked to a villager, as 'to which community he belonged to?', the emphatic answer was that only.

'Hindus' live here. Which clearly indicate that they were not keen on speaking on poverty on hunger but on anti Muslim

rhetoric's. In Deoria, we went to a village called Mundera Mishra where a large number of fishermen community live apart from the powerful Brahmins. As soon as we started talking about anti poverty programmes, about the ration cards and other such schemes, the people from Brahmin community came and started altercating with us. 'As long as you will allow the Muslims to eat everything that our country produces, we can not alleviate poverty'. I was shocked to hear this as there were no Muslims in the village and we were talking about issue of fishermen, ration card and anti poverty programmes in the village.

Walking towards Rudrapur from Deoria, we met with a group of boys catching rats. They belonged to Rajbhar community. As mentioned earlier three communities of Mushahars, Rajbhars and Chauhans are living in pathological hunger and forced to eat rats. The children who should have been going to school actually were grazing the cattle's on a rainy day. None of them go to school. The food situation in their house was difficult. They caught several rats and took us to a school to roast them like Kababs. One could see the glee in their faces as they enjoyed their lunch after such hunger. One wonders where the aid agencies have gone. Rajbhar and Chauhan community does not come under the Scheduled Caste category but their condition can not be regarded as better than the Dalits. Yes, they are MBCs and are forced to live in isolation and ostracisation. It was village Sarora where I did not see a single Rajbhar house which could be *pucca*.

On the road we met a Rajbhar tractor driver who was not very happy with the turn of events in Uttar-Pradesh. Clearly, his thoughts were not with *Behenji* and were saddened with the demise of the Rajbhar party of Om Prakash Rajbhar. I asked them as why

don't they organize community for their socio-economic-cultural benefit. Why we need to politicize all the issues when the basic issue of hunger and poverty have not yet resolved.

Tragedy in Uttar-Pradesh was that while people were politically assertive may be they have sold their conscience to their caste identity but beyond that nothing is moving. Normally, nobody questions their political leaders for the work they are not doing. People do not seem to be interested in listening to other communities. If you belong to same community they become over enthused. This actually has resulted in a generation of middlemen who sale the community for small pie.

In the Vindhyaawalia *bastee* of fishermen, I did not find a single house to be *pucca*. The fishermen have lost their habitat because of soil erosion brought out by the river Chhoti Gandak. In the absence of fishing people migrate to other states particularly to Goa for sand mining. We saw many of those exploited hands during our visit. It was shocking to see how the mining has not only made them entire generation of fishermen slave to several diseases including skin problems and breathing problems.

In many Mushahar *bastees* children do not go to school. At one village out of nearly 300 children, I could speak to only two who claimed they were going to school. The schools are quite far and most of the time the parents have no money to pay the school fee and hence are unable to send them. Moreover, the exploitation is so much that children once scolded by the teachers seldom go back. Local liquor is a daily routine. Most of the women are involved in making liquor. During summers *Tadi* is favorite drink. Even the children drink it for Rs 5/- a glass. They remain hungry during the entire day.

Japan government and world bank are working on Maitryee Project in Kushingar which will displace about several hundred small farmers as it need to acquire over 600 acre of land to build biggest Buddhas of Bamiyan type. It is very unfortunate that while Kushinagar and all these nearby areas are witnessing Tandava of hunger for the past 10 years, none of the so-called religious groups ever bothered about their fate. Superstition is very high in the region and poverty is linked to fete and the bad karma of the previous birth, therefore justifying the current structure of injustice and exploitation.

That is one reason why during our *padyatra*, we made it a point to raise the issue of right over people's resources and for dignity and freedom. Our campaign was not just limited to land redistribution but against the exploitative nature of our society, our caste system and ritualistic religious values which dehumanize the people.

Environmental Dangers

It is strange that the environmental degradation and its impact on communities such as fishermen and farmers have rarely been raised in Poorvanchal. Perhaps because during the past few years environment has become a subject for the urban elite to discuss where they can think of throwing the tribal communities away from the forest. But, in Poorvanchal, the issue is real and the threat as ever. All the major rivers of Poorvanchal, Rapti, Chhoti Gandak, Gurra, Amy etc are thoroughly polluted. They have turned to gutter as the sewage water of the distilleries and sugar factories flows into them. There is no anti pollution measures and one wonder what is UP Pollution Control Board is doing. In Kaptanganj and Ramkola towns of Kushingar district the local sugar mills and distilleries are throwing huge chemical waste in the river

Gandak. The sewage water spills into the fields thus destroying the crops. In fact many times there have been agitations against the same in Ramkola where farmers are genuinely agitated over the destruction of a vast track of their land. The drinking water is contaminated and most of the people in area suffer from various diseases. In March 1999 an agreement was signed in the presence of district magistrate along with farmers and UP Sugar Corporation Ltd under which the sugar mills had to develop sewage water treatment plant and would pay compensation to the farmers. It was also agreed that in Mathura Nagar area of Ramkola over 7 people had died during 1999 with drinking contaminated water. Things have not changed yet after so many years. One can see the burnt field with stinking smell which make any one sink.

About 6 kilometer away from Chaurichaura is famous Sardar Nagar owned by Sardar S.S. Majithia whose terror also run in the village. Without any treatment plant the sewage is drained into river Gurra, a tributary of Rapti. Farmers are agitated over it and fishermen have lost every thing, as there is no fish catch these days. Now, the village people are planning to approach the court. When our Padyatra approached the Sardarnagar distillery and was taking photographs and video shoot of the area, the company stalkers started haunting us: "Why have you come here? Who are you? Show us your identity card?" I told the person that we are on a Padyatra and are looking the environmental hazards of the sugar factories and other mills in the area. And that people are complaining and they have a right to seek redressal. The person threatened us not to take further photographs. 'We have certificate from UP Pollution Control Board' he said and I retorted back as why he was worried then?

Sardarnagar factories do not have sewage line. A large number of sweeper who live in the vicinity have been working on contract labour for the past 20 years and their salaries have not gone beyond Rs 3000/-. They were shown the door when they question for more salary and bonus etc. It is no secret that manual scavenging is prevalent inside the campus of the sugar mill and distillery as the toilets are *kuchcha*. While the company may make the pollution control people fool by saying they have now flush toilets, the fact is that in spite of that, these toilets and their pits need to be cleaned annually and it is the local Hellas (Muslim Scavengers) and Bansfors who are doing the cleaning work.

Apart from chemical waste in the rivers, the other threat to the rivers of Poorvanchal is from the mechanized sand mining. Rivers particularly Chhotigandak has gone deep down with sand mining and it is adding to the woes of farmers every year during the monsoon as often it change the track and erode the different area. Many localities, villages have been permanently submerged because of this soil erosion by river Gandak, and Ghaghara.

They are considered to be the most dangerous rivers. In Gorakhpur district river Rapti often play havoc and people still tremble narrating the horrific tale of flood in 1999 and 2002 when hundreds of villages disappeared. Thousands of hectares of land is now turned sandy and farmers have no other choice but to migrate and become labours.

Prevailing Hunger and Malnutrition:

Navami is 25 years old. He has three sons and two daughters. Living as an encroacher on the road, he has turned saffron these days after a cow hit him on his leg. The family went to a local *Jholachaap* doctor for the treatment who has in fact

destroyed his feet. He has become virtually disabled and is barely able to walk. Navmi's father lives about 200 meters away from his *Jhopadi* in the Mushahar *Bastee* of Bishanpurwa village in Premwalia *Panchayat* of district Kusingar. Bishanpura is predominantly a Dalit habitat in which a substantial chunk of Chamars and Mushahars live. *Chamar* because of the politicization process in the past 15 years are relatively better organized and aware of their conditions but Mushahar because of their lesser numbers as well as worst economic conditions remains on margin. At a distance of about 8 kilometer from the town Kasaya, Bishanpura present two different world, one of the upper castes, mobile backward communities and the other of Mushahars and Chamars.

Though the village activists claim that the condition of Mushahars in this village was relatively better than anywhere else but a visit to their thatched hut reveal the truth. It is not just the war against a corrupt society but cultural practice which has subjugated them for years. Entering at many houses, I found people cooking snails. At many houses the morning break fast was not ready yet.

Like many others, Navami does not work and his physically challenge father earn livelihood for him. His wife Akali is at the later stage of pregnancy. Looking at her, one wonder, how healthy would be the child when born. 'We keep fast for most of the days as Navami is not able to work', says Akali. She adds that he is not interested in the family, as he has now become a saint. "But how come despite being a saint, you became pregnant, I ask. Don't you think that it is also your duty to minimize your burden? Her small hut does not have anything. They do not possess any ration card. None of them know about National Rural Employment Guarantee

Scheme under which every unemployed male or female in a village would get a minimum of one hundred days work. Now the UP government has increased the minimum wages to Rs 82/-. But see the irony Navami has none of these cards. It would not be surprising if in the absence of any government aid he and his family starve. One can imagine as what would be the fate of his unborn child. Navami's elder daughter is at the field behind their hut doing some work. I ask her about whether she has eaten any thing. The answer is in the negative. She inform me that the family does not cook and that she and her brothers remain hungry. By the time, we were conducting our interview with her, Akali was going to beg the left over food for their lunch.

Leelawati Gupta is a young widow living in a small hut in Deoria district. Her husband died of tuberculosis about eight months ago. Gupta was a Halwai who could not afford the family of five children. The family left for Siligudi in the hope for better future. The debt compounded and therefore the local debtors took over the house of the family in lieu of their debt. Gupta died of tremendous pressure. The family did not have anything to eat. A good Halwai family turned into a completely workless family. There was nothing to eat for the children.

Today, Leelawati's eldest daughter is also left by her husband. She live along with small daughter at her mother's hut. Half of the week, they keep fasting. No help came from any quarter. Leelwati moved from one place to other but of no help. They did not have a ration card to procure food items. There was no help from any where. The children for not going to school but working. Four months after the death of her husband, the *Panchayat* thought of her giving her a BPL ration card. She sales the rice from the village and earn around Rs 35 a day but that too in

kind form. There is no other source of income. The young daughter left by her husband is equally baffling her. The family is on the brink of collapse and may use escapist tendencies to survive.

Idrish Ansari has a small *rehari* of eggs. With a small gas stove, he make omelet for the customers and also sale boiled egg. In the small town of ... one does not know whether he would be able to take care of his family of 9 children. He has got a small house under the Indira *Aawaas Yojna* but that house cannot accommodate all the family members hence 7 of them sleep in an under construction under ground floor of a house owned by a local landlord. Idrish has a buffalo as well as horse for marriage parties. But these days when the parties hire cars and electronic items, the bridegroom in horse is becoming rare day by day. The resources are scant day by day. Idrish does not possess a ration card and his condition show that the family and children are going to face very difficult time in next few months if the help does not come.

In the Deoria town we visited the urban slums. In the Ambedkar Nagar *bustee* we met a number of Bansfors. The families are living in miserable condition. I met many children and none of them go to school. Most of the people work part time and have no source of income. The women and children are involved in manual scavenging. In the family of Six children, I find them eating *Sattu* for their lunch. One of the child was epileptic. He was unable to open his eyes. The wife presented a miserable picture. There was no food. No government scheme has reached the village. There was no ration card to procure subsidized rice from the market. It was surviving on the edge and one can rarely describe them to narrate. The child in the family was in danger if not takes care properly. They are three families and the

card of Above the Poverty Line is issued to their mother. It was a tragic site as how the sweeper community is facing not only indignity but also ostracisation and starvation. The people claiming to work on hunger are rarely reaching them.

36 families of Bansfors are living in miserable condition on the road at civil lines. They weave basket and barely earn Rs 30 per day. Most of them used to sleep on the road till one day the district administration decided to shunt them away to another place without thinking whether human conditions prevails in that area or not. A number of women still cry, as they have no other source to live.

Hungry Swachhhakaars

Hunger is everywhere. The only difference is that your eyes and heart need to be sensitive enough to hear those pains and miseries. NGOs have turned hunger into a project for their own self without ever evaluating their own work. It is rare to speak about urban hunger since most of these cases occur in rural area but the Sweeper community in many of these places is suffering in silence. Manual Scavenging is going well without any stoppage. How do you stop without providing alternative to the people? Most of the families were eating *Sattu* and children do not go to school. No government scheme reach them and very few of them had got ration cards.

In Rudrapur, I found a happy scavenger mother telling me how her 9 years old daughter Arti takes care of the family every day. Arti was grinding *Masaalaa* when I met her. Afterwards, her mother took me to her hut and showed that their girl can cook. It was shocking when I ask why were they imposing family burden on a young child. Arti's father was a Rikshawpuller and their earning was not enough to sustain the family. They were not able to send their children to school.

We visited many homes and saw their condition. Writing about hunger make you some time repeating things but then it is the issue and we need to focus more on them. In most of the municipalities including Laar, Rudrapur, Deoria, Gorakhpur, Chaurichauraa, Mau the condition need to be assessed carefully. That manual scavenging is going on uninterrupted because the government has failed them to provide any help and the organizations of civil society used their plight for their own purposes without making community feel that there is a discrimination and they should stand up against the same is a national disgrace and we all must take the blame.

In most of the municipalities, many of the *Baalmikis* were kept under contract labour by Mulayam Singh's ordinance. In towns like Laar, they had not got their salaries till date after their appointment forcing the people to reengage them in manual scavenging.

Right Over Resources cannot be Compensated by NREGA and PDS System

It is ironical that campaigns to eliminate hunger are not talking in terms of livelihood. If situation has to be seen in this perspective, most of the Mushahrs are dying because they are landless. They used to depend on forest but that too has been out of reach for them now, as forest department is getting murkier day by day. Rajbhars are another community which is totally landless and live in complete isolation. Their power of vote can not change much of the *Panchayats* local political equations. We have seen how the NREGA and food for work programmes are being appropriated by the powerful communities of the village. Fishermen are dying of hunger because they have lost everything. Their lakes are drying up and sewage water has killed the fishes.

Other communities like Chamars, Pasis, Chauhans, Mushahars are totally landless and therefore workless. They are just political in terms of their caste identities but their political class seems not be interested in raising these issues of livelihood. Even the workers of their community do not seem to be working on socio-cultural revival of the community. Identity is fastly becoming a tool for the political Dalals to mobilize people for their own nefarious goals. This culture of considering communities as pocket borrow will have to be changed in Uttar-Pradesh and that could only happen if the agencies work wholeheartedly on an emergency basis with community's social organizations. Advocacy and Lobbying for greater 'national' cause can not be bigger than the local cause of the communities. Uttar-Pradesh does not have infrastructure. Schools are without teachers and toilets. The public distribution system is in complete mess in Uttar-Pradesh. This is accepted by the advisers of the Supreme Court in their report. Most of the eligible people never got the entitlement and again the power elite in the rural structure grabbed all these opportunities. But it is also a fact there is nothing in the PDS which any good person would like to purchase. Most of the people never get kerosene, and sugar on their cards. In fact, the activists are now asking that it need to be like supermarket where people should be allowed to procure all other items like stationary, books, masalas, and ration on a subsidized rate.

Government need to focus on education, electricity and drinking water only then Uttar Pradesh will shine for all. For the civil society organizations, it would be better not to consider people as showing their strength in Lucknow and Delhi but do some concrete work at the village level, sharing their agonies and making them feel as part of civil society but not as their

leaders but developing leadership qualities in each of these communities. Hunger will not end unless we challenge the very basis of karma theory and bring people out of the religious rituals, which make them bonded to thugs and tantriks. Hunger will not end unless the government and organization

feel that it is really not an issue of charity but right over resources. Give the fishermen better rivers and lakes and they will not ask for NREGA. Protect the farmers from the onslaught of the spoiling factories and they will do wonders. And finally do fill your promises to redistribute land to all landless

communities and I bet they will shine for us all. If we do not learn lesson from other parts of the country and violence growing there, the day will not be far when we will witness same war in Uttar Pradesh and peace would be the biggest victim. □

(from page 1...) only uphold the lawful decisions, and can not keep silent in face of illegality.

In this enunciation of respective jurisdiction of different instrumentalities of State, it worth quoting the observations of French Philosopher Baron De Montesquieu who said that “when the legislative and executive powers are united in the same persons or body, there can be no liberty because apprehensions may arise lest the same monarch or senate should enact tyrannical laws to enforce them in a tyrannical manner..... Were the power of judging joined with the legislature the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislature. Were it joined to the executive power, the judge might behave with all the violence of an oppressor”.

Judicial activism has always invited controversy from the Executive, but at the same time it has invited kudos from the public who being so callously sidelined by the Executive find some solace from restraining hand exercised on them by the judiciary. But judiciary also evidently can not run riot. It needs to be remembered as said by Alexander Hamilton one of the founding fathers of the American that “the exercise of judicial review “only supposes that the power of the people is superior to both (court and legislature).

But then as Chief Justice Rehnquist of USA Supreme Court said “Judges, so long as they are relatively normal human beings can no more escape being

influenced by public opinion in the long run than can people working at other jobs”.

As aptly put by Chief Justice Patanjali Sastri, (1952) where he said “Before proceeding to consider this question, we think it right to point out, what is sometimes overlooked that our constitution contains express provision for judicial review of legislation as to its conformity with the constitution. If, then, the Courts in this country face up such important and none too easy task, it is not out of any desire to tilt at legislative authority in a crusader's spirit, but in discharge of a duty plainly laid upon them by the Constitution. This is especially true as regards the ‘Fundamental Rights’, as to which this court has been assigned the role of a sentinel on the ‘qui vive’ While the court naturally attach great weight to the legislative judgment, it can not desert its own duty to determine finally the constitutionality an impugned statute. We have ventured on these obvious remarks because it appears to have been suggested in some quarters that the courts in the new set up are out to seek clashes with the legislatures in the country.

Now that matter is to be heard shortly and hoping it will by a constitutional bench, we must withhold our comments till after the decision.

It should be noted that the present judicial activism has been brought about as a consequence of the misfeasance of politicians. It will be a pity if ever a climate was created against the exercise of judicial activism, because such eventuality may lead to the loss of faith in law as an instrument of social change and justice.

But I can take solace that this will not happen, because as the injunction of ‘The Holy Quran’ says “Justice is an unassailable fortress, built on the brow

of a mountain which can not be overthrown by the violence of torrents, nor demolished by the forces of armies”. □

Letter on Sexual Harassment:

Visitor, Delhi University

Ms Pratibha Patil, (President of India), Visitor, Delhi University, Rashtrapati Bhawan, Delhi – 110001

Madam,

I had written a letter to Shri A P J Abdul Kalam, the then President of India, in his capacity as the Visitor of Delhi University on May 6, 2007, about the cases of sexual harassment at Delhi University. I am enclosing a copy of the letter and its enclosures for your ready reference.

In the meanwhile another case has been reported in the *METRO NOW* published from Delhi, dated August 8.

We are firmly of the opinion that the administrative machinery as well as the academic hierarchy of the University has not grasped the spirit of the *Vishakha Judgement* and still believe in hushing up the cases or pressurising the victims to compromise with their dignity. We believe that a mere enquiry from the Visitor may alert the University towards its responsibility to safeguard the dignity of women on the campus. Warm regards. Sincerely Yours. – **Y P Chhibbar**, Ph D, General Secretary, 8 August, 2007 □

Chhattisgarh Update:

Human Rights Activists Continue to be Targeted by the State Government

1. Subash Mohapatara of FFDA Arrested & Released

The BJP Government is hell-bent in harassing the human rights activists in its campaign to silence the voices of dissent and democracy in the State.

In yet another bizarre incident, Mr Subash Mohapatara, Director, Forum for Fact-Finding, Documentation and Advocacy (FFDA), was arrested on 17th July, 2007 on a complaint filed by the clerical staff of the State Human Rights Commission (SHRC). The Police was prompt in registering a case against Mr Mohapatara without even verifying the facts of the incident, simply because a letter was also written by the Secretary, SHRC to the SP, Raipur attaching the complaint by the clerks. Mr Mohapatara was charged under Sections 186 (obstructing public servant in discharge of his public functions), 353 (assault or use of criminal force to deter a public servant from discharge of his duty), 294 (Obscene Songs), & 506 (Criminal Intimidation).

On being informed telephonically by Mr Subash Mohapatara immediately after his arrest, I myself went to the Gol Bazar Police Station. In the mean time, I had informed others, including lawyers, to reach there.

The Gol Bazar Police SHO showed me the complaint written by the SHRC Clerk, and the letter from the Secretary, SHRC. On enquiry, he informed me that Mr Mohapatara was detained u/s 151, and would be produced in the Court the next day. In the mean time, Mr Mohapatara was taken to the Kotwali Police Station, about 300 meters from Gol Bazar Police Station. On enquiry, I was

informed that he was taken to Kotwali Police Station as the lock-up at Gol Bazar *chawki* was not appropriate.

While coming out of the Gol Bazar Police Station to go to the Kotwali Police Station, I was quietly informed by someone that Mr Subash was taken for interrogation by the "NAXAL SQUAD". Thus, after reaching the Kotwali Police Station, I insisted upon meeting the high-officials to find out the reason for Mr Subash being brought there. The SHO feigned ignorance and said that it was for keeping him in the lock-up at Kotwali.

Since a large number of social and human rights activists had reached the Kotwali PS by then, it appears that the police officials backed out from their earlier plans, and agreed to release Mr Mohapatara on personal bond, as the offences were bailable. He was later released at 10:30 pm in my presence.

It is quite significant to note that the complainant in this case is the clerical staff of the SHRC. Mr Mohapatara had been filing petitions against the crimes committed on the citizens by the police, and the Chhattisgarh High Court has held guilty a number of police officials. The SHRC has also acted with lukewarm attitude in a number of cases filed by Mr Mohapatara.

Instead of recognizing the tireless and self-less crusade of the FFDA and Mr Mohapatara for the preservation and promotion of human rights, the SHRC has taken a rather unprecedented step in treating him like a common criminal. The charges are obviously false, and have not been investigated by the police concerned before arresting him. The pressure from the SHRC is clearly demonstrated in the letter

that the Secretary, SHRC has written about this incident to the higher officials.

According to Mr Subash Mohapatara, the facts of the incident are as follows (as per the statement issued by FFDA):

"On 17 July 2007 at 03.00 P.M. Mr Subash Mohapatara reached the office of the Chhattisgarh State Human Rights Commission, near Chhattisgarh Government secretariat, Raipur to file the reply asked by the Commission regarding the case of exploitation of a *dalit* student (case no. HRC/DRG/132/2007). He met the joint secretary of the state commission Mr Dillip K Bhat. Mr Bhat asked him to bring the particular file from the concerned clerk Binod Agarwal. Mr Mohapatara reached the table of Mr Binod and asked him to provide the file HRC/DRG/132/2007 as sought by the joint secretary. Mr Binod replied, "you are filling many cases and you do not pay anything to us. Now you have to pay INR 2000/-. You should know the practice here. If you do not give us INR 2000/-, it is impossible to search the file. We have 6000 files in the office. I do not take personally all the money. It is distributed among all. I am not asking the money on my own. It is directed by Bhat Sahab (Mr Dilip K Bhat, Joint secretary)". Then, Mr Mohapatara moved to Mr Bhat, and asked why he should pay money for filing the complaint. Mr Bhat replied, "if you do not pay, all the cases will be dismissed". Mr Mohapatara replied, it is completely illegal to pay money and it is not possible for him to pay money. Suddenly, a group of seven including Ravishankar Sharma, Binod Agrawal, Megharaj, Praveen (typist) came and thrashed from my neck and tried to snatch away my chain from the

neck. Mr Mohapatara was trying to leave the place to avoid any further incident, as asked by Bhat these seven people forcefully detained me for 30 minutes in Bhat's chamber.

At 3.45 P.M., two police officers without name tag came to (later identified as Mr Bhoi and Mr U R Sahoo of Gol Bazar police station Raipur) forcefully took Mr Mohapatara into Gol Bazar police station and put me into *hawalat* (jail inside police station) without showing any arrest warrant and/or any charge. They also took away my cell phone and purse. They did not allow Mohapatara to inform to his colleagues and/or relatives. He was detained in Gol Bazar Hawalat for 3 hours, and Mr Mohapatara was taken to City Kotwali police station for interrogation for naxalite connection. He was detained there for up to 9 P.M.

In the meanwhile, Advocate Brijesh Bilthare, Raj Kishore Dahariya, Rajendra Sayal (Chhattisgarh PUCL President) and his colleagues reached the City Kotwali police station.

The police charged 294, 353, 186 and 506 of IPC based on false FIR made by Mr Binod. Police did not make any investigation.

Nearly 9.15 P.M., Mr Mohapatara was further taken to Gol Bazar Police station and released on bail at 10: 30 P.M."

2. Statement of the Chhattisgarh PUCL: Harassment of Mr Subash Mohapatara, FFDA

"The Chhattisgarh PUCL has strongly condemned the conduct of the clerical staff of the State Human Rights Commission, Chhattisgarh (SHRC) in falsely implicating Mr Subash Mohapatara in criminal cases. It calls upon the SHRC to withdraw such complaints and apologize to Mr Subash Mohapatara, who is known for his peaceful and non-violent

means in fighting for human rights of citizens in Chhattisgarh with considerable success.

The Chhattisgarh PUCL also deplores in strong terms the conduct of the police in entertaining such false complaints without even conducting a preliminary investigation. The attempt to interrogate Mr Subash Mohapatara while in custody by the Chhattisgarh Police's so-called NAXAL SQUAD has raised doubts about the motives of the Government.

Since Mr Subash Mohapatara has been organizing several fact-finding missions to investigate the extra-judicial killings, crimes committed by the state in the name of Salwa Judum, use of children as soldiers by the state and Salwa Judum, etc., it is quite clear that the Chhattisgarh Government considers him and his organisation as an eye-sore and is trying to remove them from the scene through un-democratic and illegal means. The fact that many of the reports brought out by the FFDA have clearly established the complicity of the State Police and Politicians in such crimes against citizens and indulgence in human rights violations is reason enough to believe that the State Government is targeting the FFDA under its draconian laws and repressive acts. The recent judgment of the Chhattisgarh High Court in the custodial death of a tribal, Ram Kumar Dhruv, in which the CBI enquiry was instituted, and criminal cases filed against police officials is also another cause for the Chhattisgarh Police to consider FFDA and its Director, Mr Subash Mohapatara as a threat to their illegal, undemocratic and criminal activities.

On behalf of the CHHATTISGARH PUCL we call upon all peace loving and democratic citizens and organisations to join forces in resistance to the repressive laws and actions of the State

Government, and struggle for the establishment of the rule of law in the State." – **Rajendra K Sail**, President, Chhattisgarh PUCL.

3

Letter:

Update on Dr Binayak Sen - Bail Rejected by High Court!

Dear friends

I was not surprised by the order the implication of Binayak was to discourage human rights activity in Chhattisgarh. The charge is vague and apart from the fact that he used to meet Mr Sanyal too frequently there is no other ground. The inference is drawn from the frequent visits to the jail, that by itself cannot lead to the reasonable belief in the existence of a conspiratorial offence either to commit crimes or any other terrorist offence. The evidence should lead to the reasonable belief that he has become a part of the conspiracy. To implicate an innocent person on flimsy evidence has always been the process of defeating political dissent. Such foisting invariably leads to distancing persons from the human rights activists and silencing criticism of political atrocities. This is an old game played in new pastures. We must also know Binayak explanation for these visits. The accusation appears too ridiculous because for every visit to the jail permission has to be sought in writing to expect a civil liberty's activist to indulge in clandestine activity is out of the question. The strongly guarded jail has always been a sieve for passing on messages. But such things don't happen in so open a manner. The inability of the police to detect leads them very often to foist cases. This is one such case. Carry the matter to the Supreme Court. Please contact Rajindar Sachar and seek his guidance. – **K G Kannabiran**, President PUCL, 24 July 2007

4

Extended Meeting Resolution: Harassment and Victimization Condemned

The Chhattisgarh PUCL called an extended meeting on 29th July 2007 between 2-7pm at the Gass Memorial Centre, Raipur. Representatives of various progressive and left political parties, peoples organizations, NGOs, human rights organizations as well as intellectuals and advocates had been invited to this meeting convened on the issue of suppression of social activists and repressive laws, and about 100 persons attended the same. Prominent among the speakers, apart from the PUCL post bearers, were Senior Advocate Shri Kanak Tiwari, Shri Subhash Mohapatra (Forum for Fact Finding and Documentation), Shri OP Singh (CPI), Shri Janaklal Thakur (Chhattisgarh Mukti Morcha), Shri Bharat Bhushan Pandey (CPI-ML), Shri Praveenbhai Patel (Tribal Welfare Society), Ms Zukelha Zabin, Shri JP Dewangan (Adivasi Mazdoor Sangathan), Dr. Lakhani Singh etc. The following are the resolutions passed by the meeting after detailed deliberations:

1. The meeting condemned the harassment and victimization meted out to social activists and human rights defenders in the State by filing false cases against them. In particular:

A false and fabricated case for obstructing public servants, abuse and intimidation has been lodged against Subhash Mohapatra, Director, Forum for Fact finding and Documentation, by an employee of the State Human Rights Commission only because Shri Mohapatra had filed more than 400 complaints of human rights violations in the SHRC and has also obtained relief for some of the victims by filing cases in the High Court and Supreme Court for

instance, the historical directions in the case of custodial death of an *adivasi* Ramkumar Dhruv in Thana Suhela.

A case of encroaching on village forest has suddenly been made out on the Vanvasi Chetana Ashram, Dantewada run by the Gandhian social activist Shri Himanshu Kumar for the past 16 years. Government programmes such as the Rajiv Gandhi Shiksha Mission, *Sampoorna Swatchhata Abhiyan* and Mitani programmes were being supported by the VCA. It appears that this false and fabricated case has been instituted since Shri Himanshu had raised certain uncomfortable questions regarding the implementation of Salwa Judum and also condemned fake encounter of two *adivasis* in nearby village Balud.

A case of abuse and intimidation under the SC-ST Prevention of Atrocities Act has been gotten filed against two lawyers of the CPI Shri Amarnath Pandey and Shri D P Yadav in Ambikapur, district Sarguja at the behest of SP Balrampur SR Kalluri. It is well known that Shri Pandey had taken up the issues of the fake encounter of one Narayan Khairwar and the custodial rape of one Ledha Bai, and writ petitions regarding the same have been admitted in the High Court and notices issued to senior officers including Shri Kalluri. Amarnath Pandey and Indradev Nag, Secretary Bauxite Khadan Shramik Sangh were themselves victims of attempted encounters, in respect of which also, a writ petition is pending in the Bilaspur High Court.

The meeting condemned the acts of the police and administration in entertaining such patently false cases with ulterior motive.

2. Various concerned persons reported on the efforts of the villagers around Lohandiguda, district Bastar to record their objections and demands in respect of the proposed Tata Steel Plant.

The meeting resolved that the mandatory provision of the PESA Act that a genuine, free and fair consultation with the Gram Sabha is a prerequisite for implementation of any project, particularly involving land acquisition, must be strictly implemented. The manner in which Gram Sabhas have been held, and objections summarily dealt with by the district administration in respect of the Tata and Essar plants does not at all comply with such requirements.

The meeting reiterated the PUCL's longstanding demand that all efforts should be made by the district administration to ensure that the *adivasis* presently lodged in camps, taking refuge in jungles or across the borders of the state, as a consequence of the govt. sponsored anti-insurgency programme "Salwa Judum", be rehabilitated back in their villages. Concern was expressed at the proposal to convert camps into permanent revenue villages which would result in irreparable loss of land rights (promised under the recently enacted Forest Bill) of thousands of *adivasis* possibly to predatory mining companies. The PUCL reiterates its condemnation of violence by Maoists against *adivasi* villagers participating in Salwa Judum and appeals that they should facilitate rehabilitation. It also reiterates its demand to disband the "Salwa Judum" and register crimes in respect of all allegations of murder, rapes, arson and loot committed by the Salwa Judum, police and paramilitary in the past two years.

3. The meeting strongly condemned the police firing of 28th July in Mudigonda, district Khammam, Andhra Pradesh killing 8 villagers who were agitating for land rights and patta under the leadership of the Communist Party of India (Marxist).

It also condemned the recent arrest and manhandling of Sushri Medha Patkar and 200 non-rehabilitated dam oustees at

Badwani by the Madhya Pradesh police on 26 July when they were squatting on government land in protest.

The meeting registered its protest at the arrest of activist Saroj Mohanty of the Prakritik Suraksha Sampada Parishad, Kashipur, which was spearheading an agitation of local adivasis against the Bauxite giant Utkal Alumina Limited, in a false and fabricated case of dacoity.

From these cases as also the cases in Chhattisgarh, it appears that the State and Central Governments are hell bent upon suppressing all kinds of democratic dissent particularly in the adivasi areas where land is being acquired for companies and projects.

4. It was resolved that the PUCL would issue a call to all democratic and left political parties, mass organizations, NGOs, progressive intellectuals to join in a joint dharna on 14th August 2007 at Raipur on the following issues:

a) Reiteration of our longstanding demand for the repeal of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005; and the release of our General Secretary Dr Binayak Sen and all other citizens of Chhattisgarh incarcerated under the same.

b) Withdrawal of all false and motivated cases lodged in respect of social activists Subhash Mohapatra, Himanshu Kumar, Amarnath Pandey, DP Yadav, and others.

c) Genuine, free, fair and democratic consultation with all groups of persons (and their representatives) being affected/displaced by proposed projects, companies, SEZs and SIZs in the state.

The PUCL post-bearers also reported on the developments in the case of Dr Binayak Sen. Preparations are on to move a bail petition in the Supreme Court. Also, as the period of 90 days after the filing of the FIR (6 May 2007)

comes to a close, the charge sheet is likely to be filed. Finally the meeting was closed thanking all present for their participation despite all attempts of intimidation and harassment, and the vicious campaign of the State Government to malign the PUCL as "Naxalite supporter". – **Sudha Bharadwaj**, Executive Member; **Rashmi Dwivedi**, Vice-President; **Rajendra Sail**, President

5

Protest Demonstration at Raipur on August 14

Dear friends,

On August 14, the eve of Independence Day, PUCL activists and representatives of democratic organizations gathered together for a twelve hour dharna at the Budha talab grounds at Raipur, Chhattisgarh. The demonstrators were demanding the repeal of black laws like the Chhattisgarh Special Public Safety Act and the release of PUCL general Secretary, Dr Binayak Sen, who has been in detention for the last three months.

Beginning at 12 noon, the dharna continued at this site until 9 pm, and was addressed, among others, by Kavita Shrivastava (National Asst General secretary, PUCL), Rajendra Sail (President, Chhattisgarh PUCL), Saura Yadav (CPI- ML), Bharat Bhushan Pandey(TUCI), Suresh Bhatt (PUCL Bihar), Janaklal Thakur(Chhattisgarh Mukti Morcha), Basant Sahu (CMM and PUCL), Advocate Sudha Bharadwaj (CMM and PUCL), and Dr Ilina Sen. The participants numbered around 250. Many participants sang songs, and raised slogans like 'Lareng, Jeetenge', 'kala Kanoon radd karo', and 'Dr Binayak Sen ko Riha Karo'.

After 9 pm a more compact group staged a silent candle light vigil with banners and posters at Jai Stambh Chowk, the centre of Raipur city. The vigil lasted until

the stroke of midnight and the dawn of independence day. During this time, it was heartening to see many ordinary people come forward to read the posters and banners, and ask for the printed handouts that were being distributed.

This powerful protest gave us all courage to go ahead in struggle, but unfortunately was blacked out entirely by the establishment media. This letter is to share the news with you.

In solidarity. – **Rajendra Sail and all members**, PUCL Chhattisgarh, 17 August 2007.

6

Press Release: 14th August Observed as Defend Democracy Day at Raipur, Chhattisgarh

The People's Union for Civil Liberties (PUCL) Chhattisgarh observed 14th August, 2007 as the Defend Democracy Day at Raipur, capital of Chhattisgarh. About 350 persons sat on a peaceful Dharna from 12 noon till 6:30 pm at Budha Talab, Raipur, singing songs, shouting slogans, and sharing incidents of growing State Repression in various parts of the State, especially targeting the rights-based groups and social movements for justice and democracy.

The 12-Hours Vigil from 12 Noon to 12 Midnight ended with a candle-light demonstration in the heart of the city at Jaistambh Chawk, in which about 55 persons participated representing about 14 people's organizations and political parties. The protestors displayed banners and posters, and distributed leaflets demanding the repeal of The Chhattisgarh Special Public Security Act 2005, and unconditional release of Dr. Binayak Sen, General Secretary, Chhattisgarh-PUCL, who has been illegally detained under the draconian laws (including UAPA

2004) since May 14, 2007. Hundreds of citizens passing by interacted with the protestors and many of them expressed sympathies and support for the PUCL demands. Other demands included:

- Judicial Enquiry into fake encounters, fake surrenders in Chhattisgarh implementation of the guidelines provided by the NHRC in this regard, and action against erring police officials;

- Withdrawal of all false and motivated cases lodged in respect of social activists Subhash Mohapatra, Himanshu Kumar, Amarnath Pandey, DP Yadav, and others arrested under the draconian laws;

- Genuine, free, fair and democratic consultation with all groups of persons (and their representatives) being affected/displaced by proposed projects, companies, SEZs and SIZs in the state.

During the Dharna, speakers after speakers expressed concern at the growing state repression in a State committing crime against its own citizens, and called for unity of all democratic and left political parties, mass organizations, NGOs, progressive intellectuals, enlightened Citizens to Defend Democracy, Fight for Freedom & Resist Repressive Laws in Chhattisgarh. Special mention was

made about the State Government's action in curbing the activities of Doctors Beyond Boundaries (Noble Prize Winners & recognized for their unique contributions in the conflict situations) in Dantewara district, where about 70,000 tribals have been forced to leave their villages and live in Relief Camps due to violence unleashed by the Salwa-Judum, a government sponsored campaign against CPI-Maoists. Concern was also expressed at the State Government's proposal to ban NGOs from operating in the areas actively controlled by CPI-Maoists. Strategies for action were suggested for mobilizing public opinion against such dictatorial acts of the Government, on the basis of which an Agenda for Defending Democracy would be prepared by the CG-PUCL.

Prominent among those who addressed the Dharna were: Kavita Shrivastava (National Secretary, PUCL), Suresh Khare (Bihar PUCL), Dr. Ilina Sen and Adv Sudha Bhardwaj (CG-PUCL), Harprasad Agrawal (Sarvodaya), Com Tejram Sahu & Com Saura Yadav (CPI-ML), Com. Janak Lal Thakur (President, Chhattisgarh Mukti Morcha), Basant Sahu & Lakahn Sahu (CMM), Com Bharat Bhooshan Pandey (TUCI), Shashi Sail (National Alliance of Women), Harshlata Kanwar (Chhattisgarh

Mahila Jagriti Sangathan), and Rajendra Sail, President, CG-PUCL. Ms. Kumud Nandgave of Chhattisgarh *Bal Sharamik Sangathan* steered the programme, while child labourers sang freedom songs and staged a play. People's Poet, Kala Das Dahariya and his team also sang revolutionary songs from time to time.

Other organizations and individuals who prominently participated in the 12-hours vigil included the Com. O P Singh of Communist Party of India, Jacob of Richariya Campaign, Jan Swasthya Sewa, National Alliance of Women (NAWO), Indian Social Action Forum (INSAF), Sabla Dal (Domestic Worker's Union), Mukti-Niketan (Pithora), Nagrik Sadbhawna Manch (Mahasamund), Ratneshwar Nath of Ekta Parishad (Kanker), Adv Gautam Bandopadhyaya of Nadi Ghati Morcha, Surendra Solomon of Chhattisgarh Vikas Party, Freelance journalists Prafulla Jha and Baba Maya Ram.

It has been decided to carry out concerted campaign and protest demonstrations in each and every district headquarter of Chhattisgarh in the coming months. – **Rajendra K Sail**, President, Raipur, 17 August, 2007

□

PUCL Karnataka:

Encounter Raj in Karnataka

The serene green valleys of Western Ghats in Karnataka, has of late become a hub of *Naxal* activities, as the CPI Maoists have tried to build their base area in this region. Though the *Naxal* movement's presence in Karnataka was confined to the northern districts for more than decade, the movement against the Kudremukh National Park in the Western Ghats brought the movement to this region. The killing of Saket Rajan by the state

police in a supposed encounter, in 2005 in Mudigere *taluk* of Chickamagalur district has intensified the clashes between the state and the Naxals.

The latest so called encounter between the state and the Naxals in Menasinahadya, a small hamlet in the Western Ghats resulting in the death of 5 people, has further intensified the situation. On 10th July, 5 people Gautham, Paramesh, Ramegowda, his wife kaveramma and Sudaresh were

killed by the police, which the state government terms as an encounter with the naxals. While Gautham was supposed to be the secretary of CPI Maoist, Paramesh was the General Secretary of an organization fighting against the National park at Kudremukh. Sudaresh was also a member of the cultural team of the organization who were organizing street dramas to educate the tribal population against the evils of National park. Ramegowda and his

wife were considered supporters of the *Naxal* groups.

Though the government says that Paramesh and his gang were hiding in Ramegowda's house and were killed in an encounter in the early hours of 10th July, the interim of a fact finding team of PUCL, SICHREM and other Progressive groups seems to have found that the encounter was a fake one. While Gautham was known to belong to CPI Maoist, the other four were innocents and were active with tribal movements against National park. The team has opined that there was no retaliation from the supposed Naxal group and they have been killed, after they were ready to surrender to the police. The two children of Ramegowda couple have become orphans in this milieu and by declaring the episode as encounter; the government has absolved itself of any moral responsibility towards these children.

Before this, a state corporation Bus was torched in Augumbe, a town near Sringeri and there were

reports of Naxals looting the house of one Mr Keshav Hegde in the vicinity of Sringeri. Though CPI Maoist secretary Gangadhar has stated in a press release that they were not behind these acts, these events were a premise for the police and the state to swoop down upon the Naxal activists. Earlier the home ministry had to face widespread protests against the publication of a list of Naxal activists and its supporters, which included many intellectuals, writers, artists, professors and Social activists. Though the government has withdrawn the list, the state continues its hounding operation across the state.

The Kudremukh National park is being imposed upon the tribal population who are apprehensive of losing their land and livelihood. A long struggle is going on in the region against the national park. The latest encounter has stirred the conscience of Human rights groups in the state and even the people of tribal areas have protested against the killing of innocent citizens in the name of

curbing naxalism. The police and state authorities had face the ire of tribal masses in Menasinahadya.

The *Sangh Parivar* and BJP, which is a partner in ruling coalition, is playing its own dubious role in the whole episode. While BJP is finding its roots in the Western Ghats, they are finding the penetration of Maoists as a major threat to their survival. The state government too, instead of finding lasting solutions to the problems plaguing the tribal population through some developmental plans, seems to be treading the path of repression and violence. The supposed encounter of 10th July seems to prove that the state government is in a hurry to eliminate the Naxals.

The human rights groups of the state would be conducting one more investigation in to the episode and feels it is high time the state is made accountable for its actions. – **Divakar N**, Secretary, PUCL Mysore; **Dr V Laxmi Narayana**, General Secretary, Karnataka, 21 July 2007.

Letter:

Appeal to the President of India for Remission of Sentence and Early Release of Srilankan and Indian Prisoners

Mrs Pratibha Patil, Her Excellency, President of India, Rashtrapati Bhavan, Delhi

Madam President,

I am the President of the Peoples Union for Civil Liberties and we are presenting this Memorandum for invoking Your Excellency's power of pardon and commutation of sentence under the Constitution. The Petition is with reference the Sri Lankan Tamil Convicts awaiting their execution of death sentences in the Tamil Nadu prisons and the details are as follows:

I

Rajiv Gandhi's Assassination's Case:

1. Sriharan @ Murugan: Arrested in 1991 sentenced to

Death in 1998. From the time of arrest till death sentence on 28.01.1998 solitary confinement. After conviction in the death cell. Total period spent in prison is nearly 16 years. (Solitary confinement) (Sri Lankan Tamil)

2. Suthenthira Raja @ Santhan: Arrested in 1991. Sentenced to Death in 1998. From the date of arrest till the date of death Sentence (28.01.1998) Solitary confinement. Total period spent in prison is nearly 16 years (Solitary confinement) (Srilankan Tamil)

3. G. Perarivalan @ Arivu: Arrested in the year 1991. Sentenced to death on 28.01.1998. From the date of arrest till the date of death

sentence, solitary confinement. Total period spent in prison is nearly 16 years. (Solitary confinement) (Indian-Tamil)

The convicts who are sentenced to death are put in a death cell, which is solitary confinement.

The trial court sentenced all the 26 accused persons to Death.

The Supreme Court confirmed death sentence for 4 prisoners. Among these 4 prisoners (A1) Nalini's death sentenced was commuted to life imprisonment by the Tamil Nadu Government. And the above mentioned 3 prisoners are awaiting execution. While confirming death sentence for 4 prisoners, the Supreme Court exonerated 19 other accused and

altered the death sentence into life imprisonment for 3 prisoners. After Nalini's death sentence was commuted by the Government of Tamil Nadu, now there are 4 life convicts in this case and their details are as follows:

II

1. Nalini: Arrested in the year 1991. Sentenced to death on 28.01.1998. Confirmed by Supreme Court in 1999. Commuted to life Imprisonment by Government of Tamilnadu in 1999. From the date of arrest till dated confined in Solitary Confinement. Total period spent in Solitary Confinement is near 16 years. (INDIAN – Tamil).

2. Jay Kumar: Arrested in the year 1991. Sentenced to death on 28.01.1998. Death sentence altered to life imprisonment by Supreme Court in 1999. From the date of arrest till date confine in Solitary Confinement. Total period spent in Solitary Confinement is nearly 16 years. (Srilankan – Tamil- Married to an Indian, who is living in Chennai with her only son.)

3. Robert Payas: Arrested in the year 1991. Sentenced to Death on 28.01.1998. Death sentence altered to life imprisonment by Supreme Court in 1999. From the date of arrest till date confined in Solitary Confinement. Total period spent in Solitary Confinement is nearly 16 years. (Srilankan – Tamil).

4. Ravichandran: Arrested in the year 1991. Sentenced to Death on 28.01.1998. Death penalty altered by Supreme Court to life imprisonment in 1999. From the date of arrest till date of confined in Solitary Confinement. Total period spent in Solitary Confinement is nearly 16 years. (INDIAN – Tamil).

Section I - Are the Persons Sentenced to Death:

We are requesting the government to consider commutation of death sentences of three of them and after such commutation direct their release

for the reason that they have, awaiting to be executed, spent 16 years in Solitary Confinement. They were first arrested in the year 1991 and kept in Solitary Confinement till they were sentenced to death and after the sentence they were lodged in death cells and continue to be there.

The persons sentenced to death made an appeal to Ms Sonia Gandhi wife of Mr Rajiv Gandhi to recommend their case for commutation to the Government for they felt they felt that they should obtain her pardon first as she was the most affected.. and she, being the most affected in that gruesome assassination has consented to write to the President requesting commutation of death sentences to one of life. Their appeal to Mrs. Sonia Gandhi discloses the repentance and the remorse they felt for their deeds and Mrs. Sonia Gandhi very gracefully responded to that appeal by writing to the Hon'ble President in the following terms:

"Your Excellency Mr President, the Supreme Court of India has confirmed the death sentence on four persons who were responsible for the assassination of my beloved husband Rajiv Gandhi.

Our Family does not think that the four held responsible for the heinous murder of my dear husband must be hanged. My son, my daughter or myself do not wish that the four murderers be hanged.

In particular, we do not at all wish Nalini, mother of an eight year old child, to be hanged. I am aware how my children miss their father and we do not want another child to lose its parents together and get orphaned.

As you are well aware, my children Rahul and Priyanka and myself are suffering untold mental agony day in day out due to the loss of our beloved Rajiv. But neither my children nor myself would like the persons responsible

for my husband's tragic end to be hanged.

Hence I humbly request you to stop their hanging and grant them pardon when they seek your clemency.

*Kindly Yours,
SONIA GANDHI
05.12.1999"*

The letter of Ms Sonia Gandhi clears the way for an un-prejudiced and unbiased consideration of the mercy petition before you, Madam President. Solitary confinement is frowned upon by the civilized world and the International Body is of the view that such confinement cannot be for long periods. They are also of the view that solitary confinement, as a form of punishment in prison discipline should be eliminated. What is happening in India is that petitions for pardon are pending for disposal for long periods and the convicts are held in death cells For whatever reason such solitary detention in a death cell would be violative of Article 21 and the Rule as such would be arbitrary and violative of Article 14 though they are confined in a death cell as per prison Rules. It is possible for the Government to relieve such persons from the horror of spending day after day for years in a death cell waiting for death or commutation. The mistake of the Government in their failure to set up norms in respect of persons waiting for disposal of their mercy petition one way or another does not diminish the agony of waiting endlessly for the impending death. That should be one of the factors that should be taken into consideration for purposes of commutation.

The President may not take into account the facts which cumulatively made the Court come to the conclusion that this case is a rarest of rare cases warranting a sentence of death. Pardoning power of the President transcends the legal principle which goes to make a judgment. Death penalty

as a form of punishment is imprecise and so is likely to be arbitrary is demonstrated by this case itself. Admittedly the trial is a political trial and that does make the trial of the case, to put it euphemistically less partial than is assumed. The Sessions Judge who tried them came to the conclusion that all the twenty-six accused were guilty of murder beyond all-reasonable doubt and therefore sentenced them to death. The investigation arraigned twenty six persons before the court charging all of them with murder. They were all prosecuted under T A D A where the procedure was anything but fair. When the matter came up for Appeal in the Supreme Court the latter found only four were guilty of murder deserving confirmation of death sentence and the sentences on three of them were altered them to life sentence and 19 were acquitted. They acquitted all of them of Terrorist Offences. They were punished under the Indian Penal Code. Madam President How does one account for such wide disparity in the judgment of the trial court and the Apex Court? The fact that they were acquitted under TADA did not benefit the accused in any and in that did not make any difference. By an interpretive exercise the court held the confessions made to the police officers were to be held to be admissible. The uninformed public pressure and public expectations have played their role in the sentencing policy in this case. Only Sri Lankan Tamils have been sentenced to death. We are not questioning their conviction but we are trying to point out why we feel that Madam President should exercise powers of pardon.

Mrs Gandhi's letter earlier extracted should inform the exercise of Presidential Pardon. The suffering she and her children have undergone on account of her husband's assassination should not be replicated in these convicts'

families. We draw Madam President's attention to the sentences written with reference to Nalini. "I am aware how my children miss their father and we do not want another child lose its parents together and get orphaned. It should be the ruling principle for commutation in this case and for abolition of death penalty altogether.

We are opposed to death penalty as human rights activists. We believe that democratic governance should be life promoting and not life stifling. I quote from Albert Camus from "Resistance Rebellion and Death" "But beheading is not simply death. It is just as different, in essence from the privation of life as a concentration camp is from prison. It is a murder, to be sure, and one that arithmetically pays for the murder committed. But it adds a rule to death, a public premeditation known to the future victim, an organization, in short, which is in itself a source of moral sufferings more terrible than death. Hence there is no equivalence. Many laws consider a premeditated crime more serious than a crime of pure violence. But what then is capital punishment.

But the most premeditated of murders, to which no criminal's deed, however calculated it may be, can be compared?

This II Section deals with accused persons whose sentences of were commuted to life sentences, by the Supreme Court. The Tamil Nadu Government commuted Nalini sentence of death. and that was during the tenure of Ms. Fatima Beevi (retired Supreme Court Judge) as Governor of the Tamil Nadu State..

Apart from the Presidents and the Governors Prerogative to Pardon the Code of Criminal Procedure also provides for remission of sentences periodically. Chapter XXXII of the Code comprehensively deals with these matters. Sections 432 to 435

in sub group E are the relevant provisions. Rules made under these provisions should normally apply to all convicts unless some special reasons are mentioned excluding certain category convicts in the Order notifying premature release of convicts. Under Section 435 if the offence was investigated by an agency constituted under the Delhi Police Establishment Act 1946 such convicts can only be released after consultation with the Central Government. The four persons in section II belong to this category. The convicts instruct us, that they are familiar with notifications issued by the State Government for early release, and they assure us that there was nothing to show that there was such consultation and that it was rejected. Convicts sentenced for offences under Indian Penal Code normally are similarly placed and the categorization on the basis Investigation teams that conducted the investigation. Can never be the criteria for discrimination. When prisoners are similarly placed with a condition that some of them can be considered for early release only in consultation with the Central Government failure to consult leads to invidious discrimination and violate Articles 14 and 21 of the Constitution. This is to point out how discrimination, not justifiable in law, is operating in the case of these convicts. People convicted of capital crimes have been released but our cases have not been considered. All of them have completed around sixteen years and suffered solitary confinement from the time of arrest till the Supreme Court in appeal commuted their death sentences.

Therefore these prisoners request Your Excellency Madam President to:

(a) To commute the death sentences of persons in section (I) and release them as they completed the required 14 years imprisonment consider their cases for immediate release;

(b) Consider the cases of the lifers listed in section (II) for immediate release by the exercise of the pardoning powers vested in Your Excellency.

This request may be granted to these Sri Lankan and Indian Tamil Convicts lodged in the prisons of Tamil Nadu on the occasion of celebrating one hundred and fifty

years of Independence of our country. – **K G Kannabiran**, National President, Peoples Union for Civil Liberties, 3 August 2007. □

Letter to Editor:

Is there any Rule of Law in Andhra Pradesh?

It is surprising that the Congress Government in Andhra Pradesh has registered an FIR against Taslima Nasreen for the alleged offence under section 153(a) of Indian Penal Code for allegedly hurting the religious sentiments of a section of Muslims, for her past work and not for anything she said at the meeting in Hyderabad. In fact there was an attack on her in Hyderabad by the persons allegedly belonging to or supporting the Majlis-e-Ittehadul Muslameen (MIM), who are supporters of the Congress Government led by MLAs belonging to MIM. Taslima was the victim when missiles were thrown at her and other persons who were

present and threats issued. When she locked herself in an ante-room there was an attempt to break open the room and kill her as she said in her statement at Kolkata. Instead of giving her protection, the police put her in a car and drove her straight to the Airport for flying to Kolkata. MLA leaders of MIM, who have taken oath to be bound by the Constitution, are reported to have said "We are not bothered about our MLA status. We are Muslims first. And it is our responsibility to test those who have said anything against Islam in whichever way possible". What happened to their oath accepting the Constitution which protects freedom of thought and speech and mandates the

rule of law and order? But for the brave acts of the organizers of the meeting and journalists present at the time of release of the Telugu translation of her book "Shod", (which describes discrimination against females in Bangladesh and else) this would have ended differently. Using of violence as a measure of disagreement to another point of view or trying to articulate your point of view through violence is wrong, whoever uses such violence? Surely there are better means of protest in a democracy especially by elected representatives. Those who commit offences under the law of the land are often allowed to do so without the full consequences being visited upon them by the laws of the land. – **M A Rane**, Mumbai, 10th August 2007 □

Copy of the Letter to Gujarat Governor:

Investigation into Misuse of Office

The Honorable Governor, Gujarat State, Gandhi Nagar.

Honorable Sir,

People's Union for Civil Liberties, as you very well know sir, is an all India organisation committed to rule of law and acts against all miss uses of office. As Governor of the State you are also Chancellor of Gujarat University. We want to bring to you kind notice the gross misuse of office done by the vice chancellor Dr. Parimal Trivedi. The case filed by Dr Pradeep Prajapati, the dean of arts faculty against the selection of the spouse of Dr Parimal Trivedi as a lecturer in education for the post graduate department of education has been granted a stay by the vacation judge of the Gujarat High Court. This is only tip of the ice berg. There are many more skeletons in the cupboard

of the present vice chancellor. The act committed by Dr. Parimal Trivedi is more heinous than the one committed by the voice chancellor of M.S. University. This is misuse of office for personal profit. If the Vadodra case calls for your kind intervention, the Gujarat University case definitely calls for your active and immediate intervention. Sir, as a chancellor of the University, as the act of the University provides, you have power to investigate in to gross misuse of office by the present incumbent. We the representatives of the various bodies of civil society request you to take necessary action and appoint a competent investigation officer and bring out the result of the investigation in specific time period.

The newspaper reports show that a pro vice chancellor has been

appointed at Gujarat University. This should not provide a chance to Dr. Trivedi either to go on leave or resign without facing consequences of the investigation.

Sir, we also congratulate Dr. Pardeep Prajapati, for showing courage and conviction of upholding rule of law in higher education. We also request you to grant him an audience for getting many more facts about violation of rule of law at Gujarat University. – **Gautam Thaker**, Secretary, PUCL, Gujarat; **Mansukh Salla**, Gujarat Kelavani Parishad; **Dwarikanath Rath**, Movement for Secular Democracy; **Dignat**, Editor, *Jal Seva*; **Dr. Illaben Pathak**, Former Prof. of English, Secretary, AWAG, **Prakash Shah**, Editor, *Nirikshak*, Prof. Indira Hirway, Centre For Development Alternatives. □

Letter:

An Appeal for Commutation of Death Sentences

Dear Madam, President of India,

This is an appeal to the President of India to commute all capital sentences that are pending as mercy petitions or otherwise before you and the forthcoming mercy petitions for such

commutation of capital sentences, on the following grounds amongst others:

1. No State has a right to take the life of a human being it being against the right to Life, a basic human right. In the world 87 countries have abolished the death penalty and 38 countries have in practice done away with it.

2. Today the trend in criminology is to reform the convict and not to be vindictive. An eye for eye is no solution to any human problem.

3. Article 5 of the Universal Declaration of Human Rights, 1948, adopted by the General Assembly of the United Nations states as follows. "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Our constitution is based on the declaration of human rights and other basic covenants passed by the United Nations from time to time, which have been adopted by India. In my humble opinion, there is no doubt whatsoever that a death sentence, whether by hanging or by injecting lethal injections as done in some of the States in USA, are hot by article 5, i.e., cruel, inhuman and degrading treatment or punishment.

4. No Human Being however, high, even the judges of the highest court in any country are infallible. Evidence may be found out later for reversing the conviction and by that time it would be too late as a death sentence already carried out is irreversible. Several such cases have occurred in history. The most famous is the case of a Jewish Artillery Officer Alfred Dreyfus in the French Army, who was Court-martialed in 1894 for alleged treason. He was sentenced to life and not death and was sent to a distant French Island in South Atlantic in exile. Thereafter the Court martial tried the assistant of Dreys for the same offence, but acquitted him. Both cases were examined carefully by Emile Zola, the great French novelist, who on January 13. 1888 wrote an article in French Daily addressed to the President of France under the famous title "I Accuse" pointing out that on the evidence Drefus was innocent and his assistant was guilty. The article created a great stir in France as well as all over Europe in spite of the fact that there was a great bias against Jews in Europe. In fact as a result of the letter by Emile Zola there was a strong public opinion in favour of Dreyfus. The Court Martial put Zola in trial on a charge of criminal libel. In order to avoid punishment. Zola had to flee in exile to London. Ultimately as a result of public

pressure, conviction against Drefus was reconsidered the court martial and he was acquitted and his assistant was convicted. There was several other cases where, after execution of death sentences, people have where found out evidences to show that the convict was not guilty.

5. Even if the judges may be right in convicting the accused on the evidence presented before them, the prosecuting agencies might have flawed in collecting the adverse evidence due to incompetence, negligence or bias.

6. There are no statistics that in the countries where the extreme penalty is abolished, there is an increase in commission of heinous crimes, or to support that in countries where the death sentence is retained, there is no repetition or similar cruel crimes. It is very wisely put by Henny Fore saying that "capital punishment is fundamentally wrong as cure for crime as the charity is wrong as cure for poverty".

7. Even if the Courts are justified in awarding, the death sentence on the ground that it is the rarest

8. Even if the Supreme Court in a country confirms such an extreme sentence, under our constitution it is the prerogative of the Executive to commute the death penalty to life imprisonment, for existing exigencies that were not relevant before the court. Of course the act of the Executive is subject to judicial review, order to prevent selective acts on the part of the Executive. Now that the execution of the death sentence against Afzal Guru is questioned on the ground that he did not a fair trial, I am not pleading not only on half of Afzal Guru that all other convicts sentenced to death and which cases are pending before you or still to come up before you for commutation. –
M A Rane, Mumbai

Copy to: Dr Manmohan Singh, the Hon'ble Prime Minister of India, Delhi
□

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