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## Reminiscing Tarkunde

Surendra Mohan

I came to know Tarkunde during the early 1950's when I was a student in the local DAV College. He used to visit the town frequently to meet M N Roy or take part in the activities of the Radical Humanist group. Among other towering leaders of the group included Prof. Parekh. My colleagues in the *Samaa/wadi Yuwak Sabha* and I used to invite them to deliver public lectures so as to counter the communists and the *Jan Sangh*. The favourite topics would be cooperative economy and devolution of political power on which there were no differences between them and socialists.

I met him also in the two RH camps held in Mussoorie in 1956 and 1957. There were lively exchanges between Prof. Parekh and Prof. R.S. Yadav of Meerut on the issue of party-less politics as the latter was in favour of establishing a political party of the Radical Humanist. This issue remained contentious between Tarkunde and me till his sad demise; but it was generally a friendly banter. After leaving Dehradun, I met him in New Delhi on the occasion of the foundation of the Renaissance Institute. When I went to attend the meeting, some friends pointed out that I was involved in party politics. Tarkunde laughingly said that according to him, I was 50 % in their group. Our friendship grew during the Emergency. His fearless advocacy of human rights of the detainees had made him a hero for all democrats. When during those days, the PUCLDR was founded, we started to work together, and our common link was not only our past contact, but also closeness to JP and S M Joshi.

The PUCLDR was a non-starter as the parties which had joined in founding it had come to power, the *Lok Dal*, the Congress (O), the Jan Sangh and the Socialist Party in the Janata Party's governments in the Centre and the States and the Left Parties in West Bengal. After Mrs. Gandhi's return to power and the Janata Party joining the opposition, apprehensions of the suppression of civil liberties by the new regime made Tarkunde, Kuldip Nayar, Rajni Kothari and Krishan Kant to revive the PUCLDR. However, in the meantime the CPI (ML) groups had been running it. Tarkunde had no allergy for them and had, in fact, appointed a team to investigate into the atrocities committed on them in Andhra Pradesh by the regime headed by Vengal Rao, during 1973 and 1977. But, Tarkunde made it a rule that political parties would not be allowed to capture a new organisation. It was named PUCL, while our colleague, Govind Mukhoty, an eminent lawyer, headed the PUCLDR.

The Foundation Conference of the PUCL was held in New Delhi in October, 1980. The Left Parties which ruled in West Bengal wanted that the State unit of the PUCL should be under their charge. This was a proposition that no civil rights' group could (*on page 7...*)

# CAN WE FALL ANY LOWER

## RAJINDAR SACHAR

The whole drama of confidence seeking vote in the parliament on N. Deal reminded me of what transpired during 2000 U.S. Presidential election between Gore and Bush. During the counting, the votes cast in State of Florida had assumed decisiveness for victory. Gore wanted all the votes to be recounted as short sample had shown that many invalid votes had been counted in favour of Bush, and a total recount will put Gore, as the winner. Bush naturally opposed. The matter landed in the Supreme Court. The matter was heard by all 9 judges of U.S. Supreme Court. 5 judges stopped further recounting (the other 4 dissenting) resulting in Bush being declared elected. It was shocking to the public - more so as later scrutiny of votes under public information revealed that had recounting been allowed. Bush would have lost. The disillusioned minority judges castigated thus:

"It is confidence in the men and women who administer the judicial system that is the true backbone of the rule of law. Time will one day heal the wound to that confidence that will be inflicted by today's decision. One thing, however, is certain. Although we may never know with complete certainty the identity of the winner of this year's Presidential election, the identity of the loser is perfectly clear. It is the Nation's confidence in the judge as an impartial guardian of the rule of law." (emphasis supplied)

I believe that similarly watching the going on in the Parliament the average person's reaction would be the same with regard to the credibility and political morality of the politician - hardly any one will believe that voting has been influenced by any brilliant speeches or rational arguments in favour of or against the N. Deal.

It is openly said that money power

and all kinds of allurements have determined the decision of the legislators. What shivers run through one when you are told that the price of a legislators vote had gone up to Rs.25 crores coupled with the bizarre story of one crore currency notes being flouted in Parliament as the alleged part of bribe money.

Such is the unabashed effrontery, that neither of the major parties saw any embarrassment in wooing leader of small group with promise of a Chief-Ministership by one or a Central cabinet post, by the second when both these offices were denied to him by these very parties because he was involved in a murder case (though later acquitted) or involved in cases of corruption for selling his vote years back.

Though till the last all TV Channels were showing a margin of one or two votes in favour of the government, the actual margin turned out to be of 19 votes (as predicted by managers of the UPA). Still more surprising is that BJP which claims to be a disciplined and rides on moral pedestal had 8 of its members vote for UPA. Other parties members also cross voted. Can one honestly say that these worthies had sudden pangs of conscience -such an excuse if given even to children would invoke an immediate response "Tell that to the marines".

I am not saying whether these allegations are true or not - but does not the bizarre manner in which this debate and voting on such crucial matter took place, leads to the resultant loss of faith in the political system.

Of course the opposition especially the left must share blame for the situation developing thus. The main contours of the deal were always known - why is it that the left did not make a crucial issue of it two

years back when there was no doubt that apart from other pitfalls, the deal would make us a privy to any unilateral action USA takes against Iran. It is not difficult to make a guess. The left was basking in the reflected glory of exclusive briefing being given by the highest in the government and also tamely tolerating the mock threatening gestures by the left to withdraw its support. The gentlemanly silence by Prime Minister made the arrogance by left unbearable as is now spelt out by P.M. in his reference to left "They wanted me to behave like a bonded slave". But the left in its own dreamland chose to ignore reality and continued with its arrogant posture till suddenly it fell flat when it found its closest ally Mulayam Yadav become its fiercest enemy. But by then it was too late - the result - an ugly loss.

In the wake of shady deals witnessed, some are suggesting a change in election law so that only national parties defined in terms of votes obtained at All India basis (say 5-7 %) should be allowed to contest Parliament seats. This would be undemocratic and would also be unconstitutional as violative of equally clause of Article 14. If this had been the law we would not have had stalwarts like Nath Pai, Kamath, Madhu Dandwate, Chittu Basu and Madhu Limaye adorn and effectuate our parliament proceedings. As it is BJP, a so-called national party has had the maximum defections.

The CPI (M) has further wounded itself by expelling Mr. Som Nath Chatterjee the Speaker from the party. It seems obvious that politburo of CPI (M) does not appreciate the position of the Speaker; even if he does not resign from the party at the time of becoming a Speaker. We know he is one of oldest (*on page 4...*)

# Mixed Bag Human Rights in India

Balraj Puri

India was a signatory to Universal Declaration of Human Rights adopted by the United Nations in 1948, just a year after its independence.

It signified new republic's resolve to follow the path of democracy which would ensure human rights to its citizens despite doubts expressed by leading statesmen of the developed democracies about the success of such an experiment in India. For these was at that time hardly any precedent of a newly liberated colony attempting doing so.

India's venture was unique in many other respects also. For democracy was adopted in many countries after completing the phase of industrialization. India embarked upon the course of industrialization with the launching of first Five Year Plan in 1951 and soon after held general election on the basis of adult franchise, to all citizens and genders. Many advanced western countries introduced women suffrage and voting rights to all citizens (to blacks in America) after India did. Again, India has the largest diversities in the world — of religious, languages and races — united under a democratic set up.

India's democratic autonomous institutions like independent judiciary, Election Commission, National Human Rights Commission, Auditor General, Information Commission under rights to Information Act, free media and multi party system further guarantee human, rights of individual.

Except the brief interregnum of emergency from 1975 to 1977, Indian democracy has maintained a fairly high standard. India has been freely choosing and changing government in the states and at the centre.

## Threats to Human Rights

Yet threats to individual freedom

are no less formidable. Religious intolerance, caste tensions, regional chauvinism, terror threats, detentions without trial, poverty amidst plenty crime against women, custodial deaths, corruption in public life and attendant evils are some of the threats to human rights of the citizens. Though judiciary is independent, litigation is too costly and time consuming to be within the reach of a person with humble means. That three crore cases are pending in the courts reflect on inadequacy in the number of judges and in the system of justice. Communal riots like those in Gujarat show how insecure are minorities despite our loud professions of secularism. Inter-communal and inter-caste marriages often result in killing of the couple. In some cases even the parents are involved in what are called honour killings. The brute form that regional chauvinism can take was demonstrated by recent attacks on North Indians in Mumbai organized by Raj Thackeray's Maharashtra *Navnirman Sena*.

Drastic laws have not been able to curb menace of terrorism which also needs radical socio-economic and political measures. Out of 77,000 persons arrested under TADA (Terrorist and Destructive Activities Act) alone, only 800 was put on trial and out of them mere 725 were convicted (Hindu 28 May 2008). There are other drastic laws like AFSPA (Armed Forces Special Powers Act) under which courts have no jurisdiction over wrongful acts of the armed forces. Detentions under such laws may be even more arbitrary. Nobody can say how many of them are actually criminals or innocent. But most glaring cases of unjust detentions include those of

human rights activists.

Lynching of suspected criminals by the mob is becoming very common as the people are losing faith in police and justice system. Another factor that encourages crimes is easy availability of small arms which are used by even young students against fellow students or teachers at the slightest provocation.

India is one of the fastest growing economies of the world with rate of growth hovering around 9% and the number of billionaires are added every year. Yet 30,000 poor farmers under debt committed suicide in Maharashtra within a decade out of 1.5 lakh who killed themselves across the country, according to a study by Prof K Natraj, of the Madras Institute of Development Studies. He has analyzed data recorded by the National Crime Records Bureau (NCRB) from 1997 (Hindu 14.11.2007). Uncontrolled spiral of inflation is increasing the gap between the rich and the poor.

While legally socially and politically, women have made many strides, having occupied the post of the Prime Minister, the President and the leader of the ruling alliance, there has also been rise in crime against them. There are a number of reasons for it including greater media attention and reporting of such crimes, increase in number of working women, unsuitable working hours, unescorted travelling, inefficient and insufficient policing and smaller number of women police.

## Positive and Negative Record

The promise that India had initially shown in the field of human rights and the type of democratic institutions it had evolved, had won international recognition. For these reasons it was elected a member

of Human Rights Council of the United Nations, which had replaced the Commission on Human Rights on 19 June 2006, by securing 173 out of 191 votes of the United Nations General Assembly, the maximum number of votes.

All the member of states are to be covered within the four year Universal Periodic Review (UPR). In the first session of the council in April 2008, the UPR listed both positive and negative record of India. Among the positive points it **noted** "widespread international appreciation and admiration for the sweeping proactive legal and administrative provisions for the promotion and protection of the full range of human rights, whether in terms of outlawing egregious forms of caste discrimination, or affirmative action programmes in favour of historically disadvantaged parts of the population and vulnerable sections such as women, children and the disabled."

On the negative side, India's non-conformity with international human rights benchmarks received more concentrated exposure during the UPR (Universal Periodic Review) than ever had in the past. It raised pointed questions about India not ratifying the convention against torture, not being party to the Convention on the Rights of Migrant Workers and their families, on refugees and stateless persons, the ILO Convention on the abolition of child labour on the rights of indigenous and tribal people, and the government's persistent refusal to cooperate with the council's special procedures with respect to torture, and treatment of human rights defenders, summary and arbitrary executions, sale of children arbitrary detentions, child prostitution and child pornography and arbitrary detentions. Most persistent were questions about "the lack of implementation of India's comprehensive constitutional and legal framework for protecting human

rights.

In a similar vein, Human Rights Watch, the leading human rights organization of the USA, concedes that India is a vibrant electoral democracy and takes note of the various measures for the protection of human rights, including training of government officials, armed forces, prison officials and legal officers. But while welcoming the government efforts, HRW still believes that human rights violations are rampant. According to it, serious abuses are being committed in many states where there is a violent campaign by Maoist Naxalite groups. Further the government is ignoring the crime of forced disappearances from past conflicts in Punjab and Nagaland, it said. It further holds security forces responsible for rights abuses in Jammu and Kashmir, Assam, and Manipur.

According to the Human Rights Watch, "India urgently needs to reform its policing system. Junior police officials operate in abysmal working conditions which make them more likely to succumb to corruption and brutality. Senior officers, on the other hand, complain of interference from politicians.

Amnesty International, in its 2008 annual report, has said that despite economic boom, in India 300 million still live in poverty. The report shows how India is replicating the US model of fighting terror with human rights violations in Jammu and Kashmir, North Eastern states, Gujarat, Naxalite affected states of Chhattisgarh, Madhya Pradesh, Bihar and Jharkhand; The report has also mentioned Nandigram violence in West Bengal. The report, however, noted that India signed the International Convention for the Protection of All Persons from Enforced Disappearance in February.

The experience in Kashmir and elsewhere amply underlines the vital fact, human rights violations harm the interests of whosoever indulges in

them, security forces or the militants.

It needs to be realized that higher standard of human rights is in the best national interest. To be a world power that India is aspiring, it cannot depend on its hard power i.e. economic industrial, technological and armed strength alone. The role of soft power, which depends on cultural, moral and political values, including democratic and human rights of the people, is being universally recognized. India need not search for any model elsewhere. It should aspire to be a model for others.

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*(from page 2)* member of CPI (M) alive - and we also notice the irony that the decision making comrades were possibly in kindergarten or nursery classes when Mr. Som Nath Chatterjee was an established leader of CPI (M). CPI (M) has ignored the well established position of a Speaker, even if he continues to be a formal member of the party - everybody has praise for his fair, non political approach. The Speaker represents the whole house, as Pt. Nehru, while unveiling the portrait of Speaker Patel on 8 Mar. 1958, said; "The Speaker represents the house. He represents the dignity of the house, the freedom of the house and because the House represents the freedom and liberty. Therefore, it is right that that should be an honoured position a free position and should be occupied always by men of outstanding ability and impartiality."

Would polit bureau in deference to the public opinion withdraw its expulsion order? Of course unanimous advise to the Speaker is to carry on his duties as a Speaker for the full term. There is unanimously at his impartial functioning and raising the level of debate. But for him the proceedings of No Confidence would have ended in a fiasco.

It is a matter of deep satisfaction that Mr. Som Nath Chatterjee needing the advice of public has firmly stated that he does not intend to resign and will continue to discharge the duties of the speaker.

# Poor Policing in Haryana: Internal Complaint Mechanisms Don't Exist

Pushkar Raj and Shobha Sharma

The rape and suicide of a young mother of two children recently in Rohtak is a grim reminder of the state of policing in one of the most advanced states of the country. Haryana has recently passed a new Police Act replacing the Police Act of 1861. This new Act flies in the face of the Supreme Court directives that lay down effective accountability mechanisms for the erring police men in khaki. Several disturbing trends emerge from the incident.

The hapless woman was allegedly raped by two policemen two months back. It was a heinous crime under the Police Act and regulations. The victim tried lodging an FIR with the local police station, tried to meet the Superintendent of Police, but no action was taken. She had to travel to Chandigarh to meet the Inspector-General of Police to get her FIR registered after one and half months. This was not the end of her ordeal. The policemen accused of raping her began to threaten her and made her life miserable to the extent that she decided to terminate her life.

It is really a disgrace for a police force that a woman who has undergone the agony of rape should have to travel to Chandigarh just to get an FIR registered. It is also a sad commentary on the state of the political leadership. The Chief Minister is reported to have said that this would have not happened if she had approached him with her complaint.

In other words, the only recourse the state police and the state government extend to those who are humiliated, harassed, tortured, or raped by the Haryana Police is to approach the Chief Minister for relief. It seems there is no institution in the state save the office and persona of the Chief Minister!

What does it tell us about the Haryana police? Just that its internal complaint mechanisms do not exist

and a victim of gross police atrocity and human rights violation does not have ' any effective method of seeking redress. This, despite a historic judgement of the Supreme Court in Prakash Singh and Others vs. Government of India case that stipulated that states should legislate new police laws which, among other things, ensure effective police accountability for its wrong doings.

The judgement directed that there must be independent Police Complaints Authorities at the state and district levels to look into public complaints against police officers in cases of serious misconduct, including custodial death, grievous hurt or rape in police custody.

The state level authority is to be chaired by a retired judge of the High Court or Supreme Court to be chosen by the state government out of a panel of names proposed by the Chief Justice. It must also have three to five other members (depending on the volume of complaints) selected by the state government out of a panel of names prepared by the State Human Rights Commission, the *Lok Ayukta* and the State Public Service Commission.

Members of the authority may include members of civil society, retired civil servants or police officers or officers from any other department.

The district level authority is to be chaired by a retired district judge to be chosen by the state government out of a panel of names proposed by the Chief Justice of the High Court or a High Court Judge nominated by him or her. It must also have three to five members selected according to the same process as the members of the state level Police Complaints Authority.

In response to this, what has the new Police Act delivered to the people of Haryana? The new Police Act sets up only a state-level single-member complaint authority headed by a

retired judge or retired civil servant without any effective powers. For all practical purposes, it is a body for namesake as its recommendations are non-binding. So people remain where they are at the mercy of some good policemen if they ever come across them or the politicians who have arrogated all the power to themselves.

So envisage being poor, powerless, illiterate, and the victim of rape or other atrocity by the Haryana police: there are no grievance redressal mechanisms within the police which will take note of your complaint with any seriousness or take any kind of disciplinary action against its officers. Nor does there seem to be any worthwhile, effective and independent oversight body such as a Police Complaints Authority, even though the new Police Act sets up one on paper. There is no need for a State Human Rights Commission as the Chief Minister himself stresses: "We have no human rights violations."

This is an ironic statement from a Chief Minister who has signed the new Haryana Police Act Statement of Objects and Reasons which explicitly says, "...a need has been felt to redefine the role, duties and responsibilities of the police to make it efficient, professional, effective, responsive, accountable and people friendly so as to meet the emerging challenges of policing, good governance and human rights.

The present functioning of police is governed by the Police Act of 1861 and the Punjab Police Rules, 1934 and this set up of police is not up to the expectations of the people. Hence there is a need to replace the old Act to cater to the prevailing needs and expectations of the society." It is time the Chief Minister acted with integrity to ensure that the objects upon which the legislation was created are translated into reality on ground.

# Frequently Asked Questions about Nuclear Power

R Srivastsan

## *1. What is nuclear power?*

Nuclear power or more precisely, nuclear energy is energy released from the nucleus of atoms. Unlike energy from steam which is released when water boils (at the molecular level) and unlike energy from combustion of gas (at the level of a chemical reaction), nuclear energy comes from a much deeper level of material.

## *2. What are the kinds of nuclear power known?*

There are two major sources of nuclear power known, fission and fusion. Fission occurs when an atom splits in two different smaller atoms, and releases some energy in the process. Only atoms of specific elements are unstable and undergo this splitting, and they are called radioactive isotopes. Fusion, occurs when two atoms join, or fuse, and release energy in this process. Here too, only some elements can practically be fused to produce energy.

Fission energy is in practice, extracted from Uranium which is rare in nature and it is possible to do so from Thorium too, which is more abundant.

Fusion energy has not yet been stably extracted through a controllable reaction for commercial use. The smallest fusion reaction occurs when two Hydrogen atoms fuse to form a Helium atom.

## *3. How is nuclear energy different from conventional energy?*

Nuclear energy is different from conventional energy in the manner in which heat is produced. The excess energy when the atom splits is released as heat. This heat is harnessed by technology to produce electricity.

## *4. How does nuclear power generation work?*

When the atom splits and heat is generated, this heat is transferred to

either water or gas and extracted from it. In India, the technology uses an intermediate medium (sometimes water) to absorb the fission energy from the radioactive substance. This intermediate medium then heats water which is then converted to steam used to run a conventional turbine driven generator that produces electricity for use in the electricity grid.

## *5. How is nuclear power different from nuclear weapons?*

In nuclear weapons, either atomic splitting or atomic fusion is uncontrolled and releases vast amounts of energy in a very short time resulting in a massive explosion capable of mass destruction. When nuclear power is used for peaceful purposes the energy release is controlled and harnessed to produce electricity.

## *6. What is the source of radioactivity?*

The source of radioactivity is the isotope that provides nuclear energy through fission. Fusion reaction does not seem to result in the release of radioactive isotopes (yet).

## *7. What are the dangers of radioactivity?*

Radioactivity weakens and disrupts chemical bonds in a manner that results in the failure of the structure and function of organic materials. Thus biological tissue is destroyed and its ability to reproduce itself is also often destroyed. When life is exposed to radioactivity, the organism dies, relatively fast (in a matter of days) if the dose is massive, and relatively slowly (taking months) if the dose is less massive. However, beyond a specific dosage, any radiation is fatal and the only question is how long one has to live and- suffer.

## *8. What is the safety of a nuclear power plant?*

When it functions normally, a nuclear power plant is fairly safe since

the radioactivity is limited within the containment chamber and is absorbed through shields to ensure that nothing escapes. The intermediate heat transfer medium is shielded from the radioactive material adequately and the water that is ultimately heated usually does not come in contact with the radioactivity. This safe water/steam runs a turbine that operates a generator to produce electricity. From the turbine onwards, the power generation is conventional and well known -there are no radioactive hazards in the electricity that is produced and transmitted since the radioactive substance does not travel with the electricity.

## *9. What are the dangers of a nuclear power plant?*

a. The main danger of a nuclear power plant occurs when the control and moderation of the radioactive core generating the primary energy fails. Then uncontrolled radioactive generation can cause a meltdown, resulting in the failure of containment. This will then discharge vast amounts of radioactive energy in the atmosphere around the nuclear facility, without necessarily an explosion, but leading to death and long term maiming of all forms of life in the vicinity. Reproductive capacity is also affected. The radius of destruction depends on the magnitude of failure. Three Mile Island in the USA and Chernobyl in the USSR are examples of what can happen when a reactor fails.

b. Less serious danger occurs when there is a leak of radioactive material from the containment area. In that case the personnel and sometimes innocent bystanders face death due to undetected nuclear radiation. Here again the extent of damage and destruction depends on the

seriousness and extent of the nuclear leak.

c. A third potential danger that is unavoidable is that posed by the wastes of nuclear power generation. Since the plant cannot work with low levels of radioactivity, it is necessary to remove and destroy spent nuclear fuel. However this fuel still remains dangerously radioactive and its disposal given the chemical stability of radioactive materials is extremely difficult. This is a problem that is yet to be tackled with political will and is due to become critical in the decades to come, when the radioactive material in the existing plants begin to fall in their yield below sustainable limits.

d. A fourth potential danger is the waste material that is released from the uranium mines, from the plants that convert ore to metal, and finally the factories that enrich uranium to increase its radioactive isotope, in order to make it suitable for use in power generation or bomb

production. Radioactive wastes can kill many an unwary rag-pickers.

*10. What is a fast breeder reactor?*

One of the difficulties of nuclear power technologies so far in use is that the fuel comes to the end of its use cycle and has to be disposed. Waste disposal and the production of fresh uranium to continue running the plants are two major problems. Fast Breeder Reactors, which are in the experimental stage, generate fuel fresh fuel as part of the power generation process, thus attempting to solve the perennial problem of source material alongside the process of producing power.

*11. What is the use of Fast Breeder Reactors?*

Theoretically, I am not sure why though, if it is possible to have technologies of normal Uranium based nuclear power plants, fast breeder reactors and finally Thorium based nuclear power plants, it would be possible to eliminate nuclear

wastes. This is because spent material from the first plants would go into the fast breeders, which will then alongside power production, also produce fuel for the Thorium based plants, whose waste material in turn would go back to the normal Uranium plants, and onwards to the next cycle.

*12. What is fusion power?*

Fusion power is the generation of power by a fusion reaction: the most elementary fusion reaction occurs when two hydrogen atoms fuse to produce helium and release energy. This energy is much more than fission energy and has no radioactive hazard except at the moment of generation. Hydrogen is also an abundantly available material and thus there are no source constraints. However methods to control fusion reactions have not yet been devised and fusion power is not yet a practical possibility.

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*(from page 1...)*

accept; the independence of the PUCL from the control of the Government was essential. In the meantime, these Parties became antagonized from Tarkunde because he had led a protest rally against the invasion of the Soviet Union on Afghanistan. They made a big issue out of it. The senior socialist leader Madhu Limaye tried to intervene. A meeting was hosted by him in which the leaders of CPI (M) and the PUCL were present. However, the CPI (M) refused to budge from its undemocratic position.

There were other civil liberties' groups in certain States as West Bengal, Maharashtra and Punjab. On the proposal of Tarkunde, President of the PUCL, it was decided to cooperate with all of them. On his insistence, I requested my dear friend Dr Y P Chhibbar to give up working

with the Janata Party and take up the PUCL work. He was appointed Executive Secretary of the organization and in charge of the office which was located in his residence, as it is now as well. In 1985, at its Jabalpur Conference, he was elected General Secretary along with Prof. Dilip Swamy.

In 1982, Tarkunde wrote an editorial in the Radical Humanist, the monthly magazine edited by him, in which he advocated radicalisation of the PUCL. A few months before that, the PUCL and the CFD had held a conference of grassroots groups from all over the country in Hyderabad. It was a unique experience and made all the leaders of the PUCL feel that common cause with these groups was extremely necessary to defend civil liberties on the ground as also to defend the civil rights of these groups. A decision was taken then to hold State-level conventions of the same

nature. Tarkunde himself participated in some conventions.

A hardworking person, Tarkunde could strain himself to any limit, for a cause. He and I attended a conference of a group fighting against economic deprivation, in Dhulia (Maharashtra). That was in 1982 when he was 75 years old. After the convention, group discussions started and went on for so long that the train by which we were to return to New Delhi was missed. Tarkunde's presence in the Supreme Court next day was extremely important as a case had been listed for hearing by the Court. There was no alternative except traveling to Mumbai by car in the night and take the morning flight from there to New Delhi. I was only 56 then, so it did not matter much, but, for Tarkunde, it was certainly arduous. However, he bore it and was able to attend

to his work in the Supreme Court. But, this was nothing unusual for him. He never hesitated to take onerous journeys to far off towns and villages for causes related to civil liberties and human rights. He visited Bodh Gaya in Bihar where the *Chhaira Yuva Sangharsh Vahini* had launched a peaceful agitation to break the big *zamindari* of over ten thousand acres of the *Mahant* of the temple, in order to lend his complete solidarity with them. In Tamilnadu, however, he faced harassment at the hands of the police and was manhandled, but he resisted it peacefully, without losing his cool.

The CFD under his stewardship decided to work for making the right of employment a fundamental right. M.A. Rane, the prominent Radical Humanist and close colleague of Tarkunde, then approached friends in the HMS and the All India Railwaymen's Federation (AIRF), as in both these trade union organisations, there were several sympathisers of his ideology. Since I was close to the leaders of these organisations as well as Tarkunde, it fell upon me to be the National Convener of the Campaign. Together, we held several conventions, and in 1988, a massive rally before Parliament. On Tarkunde's advice, some other groups like the Indian Trade Union Congress, *Bandhua Mukti Morcha*, the Radical Humanist Association, the Centre of Democratic Socialism and *Lok Samiti* were included. Kuldip Nayar was most supportive. Excellent support came from Prof. Ruddar Dutt and Prof. Dilip Swamy who wrote our manifesto. The policy of the Campaign was to not involve political parties and their leaders. However, Tarkunde made one exception: Prof. Madhu Dandavate. As things turned out, the latter was appointed Union Finance Minister next year and produced two Bills to make the right of work a fundamental right through the implementation of the Grantee

Schemes. They were presented by him in the National Development Council and the National Integration Council. Since the Government was ousted in November the same year, there was nothing he could do.

The Hindu-Muslim divide and the Pakistan-India hostility troubled Tarkunde very much. Also, the atrocities of our Security Forces in Jammu & Kashmir and the Northeast. He visited these areas on several occasions in order to investigate. He also helped in founding *Hind-Pak Dosti* in cooperation with the Pakistani jurist and humanist Dorabji Patel. Moreover, holding joint cultural festivals attended by persons from all religious communities was another activity in which he was in the lead. When the Jamait-i-Islami wanted to set up an organisation to work for communal amity, he immediately agreed to cooperate with it. However, he was of the firm view that unless faith in religion was removed, communalism cannot be eradicated. He said this in a speech in the Forum for Communal Amity in 1990. When the distinguished CPI leader C. Rajeshwar Rao spoke, he said that while he too was an atheist like Tarkunde, he thought that a religious person could be non-communalist. I agreed with the latter position.

The pleasant manners of Tarkunde, his humility and humanity and the willingness to help were proverbial. I requested him to take up certain trade union cases in the Supreme Court and he was always obliging. He took up certain criminal cases on my request, but then, he wanted me to be absolutely certain about the fairness of the cases. In all these cases, whether trade union or other, my friend S.C. Malik was of invaluable assistance to him. However, Tarkunde and I differed on our respective outlooks on economic issues. He was not at all happy with the public sector, nor with my opposition to globalisation, privatisation and liberalization. But,

when I wrote a 'Letter to the Editor of the Radical Humanist', opposing his economic views, he gladly published it in the magazine. His broadmindedness was quite instructive. Although a strong critic of Gandhi, he stood steadfast with Gandhians and worked closely with Siddharaj Dhadha and Prof. Thakurdas Bang of the *Sarva Sewa Sangh* and N. Radhakrishnan of the Gandhi Peace Foundation.

## Organisational Queries

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the Life members and Patron members as compared to Annual members. The three types of membership, i.e., Yearly, Life, and Patron, do not represent a hierarchy of membership. All members are equal. Life membership and Patron membership simply afford an opportunity to those who desire to contribute some extra money to the PUCL to strengthen its financial position. No membership carries any privilege. All members shoulder the burden of fulfilling the aims and objects of the PUCL. The PUCL does not issue any identity cards to its members as they are not supposed to take initiative independently.

- Y P Chhibbar, General Secretary

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## Poem: Identity Card - Mahmoud Darwish

Dear Friends,

Darwish Mehmoood whose poem is being forwarded to you was a Palestinian freedom fighter and the voice of Palestinians. He was their national poet and had been jailed by Israel twice and externed by them. - **Surendra Mohan**

### “Identity Card”

Write down!  
I am an Arab  
And my identity card number is fifty  
thousand  
I have eight children And the ninth  
will come after a  
summer  
Will you be angry? Write down! I  
am an Arab  
Employed with fellow workers at a  
quarry ! have eight children  
I get them bread Garments and  
books  
from the rocks... I do not supplicate  
charity at your  
doors  
Nor do I belittle myself at the  
footsteps of your chamber  
So will you be angry?

Write down!  
I am an Arab  
I have a name without a title  
Patient in a country Where people  
are enraged  
My roots Were entrenched before  
the birth  
of time  
And before the opening of the eras  
Before the pines, and the olive  
trees  
And before the grass grew My  
father... descends from the  
family of the plow  
Not from a privileged class  
And my grandfather... was a  
farmer  
Neither well-bred, nor well-born!  
Teaches me the pride of the sun  
Before teaching me how to read  
And my house is like a watchman's  
hut  
Made of branches and cane Are  
you satisfied with my status?

I have a name without a title!  
Write down!  
I am an Arab  
You have stolen the orchards of  
my ancestors And the land which I  
cultivated  
Along with my children  
And you left nothing for us  
Except for these rocks...  
So will the State take them  
As it has been said?!  
Therefore! Write down on the top of  
the first  
page:  
I do not hate people  
Nor do I encroach  
But if I become hungry  
The usurper's flesh will be my food  
Beware...  
Beware...  
Of my hunger  
And my anger!

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**Punjab PUCL:**

## **Report on Conference and Seminar on Human Rights - Challenges and Perspective**

Punjab and Chandigarh Branch of PUCL jointly held a Conference and Seminar on Human Rights - Challenges & Perspective, which was inaugurated by Justice Rajindar Sachar, Former Chief Justice of Delhi High Court and Former President of PUCL. The Conference was well attended. While inaugurating the Conference and Seminar, Justice Sachar touched various aspects of violation of human rights. He shared his deep concern with the audience that poverty is the biggest violator of human rights and stressed the need to bring social justice in the Country and for the establishment of egalitarian society and also the living standard/conditions of poor should be improved. Justice Sachar also brought to the notice of the participants, the suicide cases of farmers in Punjab, which are shocking and who need protection of the State.

Shri A J Philip, Senior Associate Editor, *The Tribune*, Chandigarh, presided over the Conference and

Seminar. He stated that in spite of 9% growth rate in the country the percentage of people below poverty line is high which is a cause for concern. He stressed the need for awareness among people about the basic human rights and pointed out that poverty, disease and unemployment should be removed. He lauded the efforts of PUCL for protection of human rights in the Country.

Dr Varinder Kumar, Former Chairmen, Department of Laws, Punjab University, Chandigarh, Dr Dharminder Goel, Former Head, Department of Philosophy, Punjab University, Chandigarh, Mr. K B Vohra, IPS, DGP (Retd.) Orissa State, Mrs. Madhu P Singh, Advocate and Prof H S Mehta, Former Fellow, Punjab University have also addressed the Conference and Seminar. Among others, Justice S S Kang, Former Chief Justice, Jammu and Kashmir High Court and Former Governor of Kerala and Shri A D Nagpal, National Secretary, All India

*Hind Mazdoor Sabha* also attended the Conference and Seminar. Shri Mohinder Jit Singh Sethi, Advisor, PUCL, Punjab and Chandigarh Branch welcomed the speakers and participants, and Shri Roshan Lal Batta, President, PUCL, Punjab and Chandigarh Branch presented vote of thanks to the distinguished speakers and participants in the conference and sought the cooperation of the participants in future.

The following office bearers were appointed in the Conference and Seminar: Shri Roshan Lal Batta - **President**; Shri Avtar Singh Khaira - **Vice President**; Ms Madhu P Singh - **Vice President**; Shri Ravi Kant Sharma - **Vice President**; Shri Narinder Singh Sitta - **General Secretary**; Ms Geeta Sharma - **General Secretary**; Shri Rajiv Godara - **General Secretary**; Shri Ashok Nirdosh - **Treasurer**; Shri Mohinder Jit Singh Sethi - **Advisor**. (*The proceedings of the Conference were widely covered by the English and Vernacular dailies.*)

### **Open Letter to the Hon'ble Chief Justice and his Companion Judges of Supreme Court of India Radical Change in Civil Procedure Code Required**

There is a civil suit pending since 33 years and the facts of the case are given below too briefly.

'R' was provided immovable property worth Rs.600/- whereas 'B' was provided worth Rs.14000/- and 'V' was provided worth Rs.7000/- and several other brothers and sisters as well as father and mother was provided worth Rs.2500/- vide partition deed registered in 1932. All of them are father, mother and their children of one rich family having immovable and movable properties (amount given is approximate). Out

of 4 daughters 3 were provided the property and one was not provided. One son 'K' was not provided property. Another one 'S' was not provided property because the reason was that he was deaf and dumb. Though 'R' was provided property a reversionary right on it to his elder brother 'B' was written in the partition deed. Please note that 'R' & 'K' were married male children on the date of the partition deed registered in the SRO. 'S' after the Register of Deed, married. The property was ancestrally attained by the father's

(No. 1 in the partition deed) father who died inter-state. Hence the property was ancestrally governed by Mithakshara law. It is written in the deed itself that property is ancestral.

'S' died in a suspicious circumstances and the whereabouts of his wife and two children God only knows. 'K' also died in the same manner leaving behind him the wife and a daughter 'P', who filed suit to declare the partition deed as null and void. It is in Court now. During the lifetime of 'R' his elder brother

'B' sold the reversionary interest to another brother V for a meager amount for litigation purpose. After the death of 'FV', 'V' filed suit to vacate 'R's wife and children from the ancestral house of her husband where she was residing more than 50 years after marriage and she is entitled to get preexisting right.

The Hon. Sub Court and the Advocates were to consider the following before the admission of the suit.

1. Whether the petitioner 'V' will be inherited his brother 'R's share after the later's death on the document made by 'B' before 13 years of the death of 'R'?

2. Whether the suit property is ancestral and if so, how such a partition against the Laws of Land will be made and the same will be registered?

3. Whether the reversionary interest on 'R's share can be survived while he was a married man and father of a male child 'G'?

4. Whether the sale deed on reversionary interest will be valid?

5. Whether the suit is sustainable legally?

**Answers:**

From the facts of the case itself it is clear that the partition deed is fraud. All sons have equal rights and to divide the property by metes and

bounds. Daughters have no right. The movable property of such a rich family has not been shown, hence deed is not valid. (Refer to the judgement of Hon. Justice Gajendra Gadkar in 1952) 'K', 'S', and 'R' are sons and they have rights as of 'B' and 'V'. 'R's son and 'K's daughter have birth right on the date of partition deed registered. 'B' cannot assign the reversionary right to 'V while 'R' is alive as per SPEC SUCCEESONIS. Hence the suit is not sustainable. Now 'R's wife and son 'G', 'V and wife, and 'B' expired.

The suit is still in Sub Court for disposal on merit. The suit property of 'R' has been waste and building is being collapsed. Is there any provision in CPC to provide 'R's Thavazhi to get damage against loss they suffered since years? In a judgement on appeal of 'P' the Hon. Justice of Kerala High Court, it was held, "Hence without prejudice to the right of the Appellants if any available to them on Law only this appeal is to be dismissed". Appellants are 'R's and 'K's children who dispute the validity of partition deed and sale deed. The Hon. Judge admitted the facts of the case, hence such judgement.

What I mean here is that without going through everything in details on the first day of admission of the suit,

the same was admitted and it was being moved UP and DOWN in several courts wasting the time and energy of the Lawyers, Clients and Courts. There may be, several such cases dragging on technicalities of Law. Hence a change in the CPC is highly necessary. - **Vijayan M Iyer**, P.O. Pavaratty Trichur Kerala, 27-06-08 (*The language of this piece has not been edited.* -**Chief Editor**)

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## Jammu & Kashmir Miscellany

Balraj Puri

**Press Statement:**

Balraj Puri Convenor PUCL J&K State, has appealed to the Shri Amarnath Yatra Sangarsh Samiti to express its disapproved of the attack on former deputy chief minister Mangat Ram Sharma as such actions against political opponents would weaken their cause and harm Jammu's interest. He also urged the Samiti to enquire into causes of the reported migration of 80 Gujjar families from Samba and border areas to Sunjawan. He also appealed

to all secular elements as also the administration to assert in preventing threats to Muslim minority and transported to Poonch and Kashmir. - 22-08-08

**Press Statement:**

Balraj Puri PUCL J&K State expressed deep sorrow over the suicide of Dr Balwant Rai for the cause of land transfer to Shri Amarnath Shrine Board and sympathized with the bereaved family. He, however, appealed to the devotees to the cause to avoid such

an extreme step and contribute to the cause through other means.

He was deeply concerned over some incidents of communal tension in places like Kishtwar, Rajouri and Poonch and urged Hindu and Muslim leaders of Jammu city, where they have set up exemplary communal harmony, to visit the northern areas of Jammu and defuse the situation before it taken an ugly form. For he believed that nothing would be worse for the cause of Jammu

than any tendency towards its division on religious lines.

Puri appealed to the *Sangrash Samiti* to allow regular functioning of the banks, post offices and courier services to avoid inconvenience to the people and not to cut off Jammu from the rest of the country.

**Press Statement:**

Balraj Puri, Convenor PUCL J&K State, has expressed his deep anguish over killing of 7 persons, including Hurriyat leader, Sheikh Abdul Aziz, and injury to a large number of people in the firing on Muzaffarabad bound march by the security forces and expressed his sympathies with the bereaved families. It is obvious, he said, that the fruit growers were not satisfied with the assurance of the Home Minister about complete lifting of the blockade on Srinagar-Jammu highway and safety of the goods and truck drivers.

He urged the governments of India and Pakistan to take early decision on opening of Srinagar-Muzaffarabad road as also of Poonch-Rawalakot and Jammu-Sialkote roads for regular trade and commerce.

**Press Statement:**

Referring to the call of the Convenor of the Shri Amarnath *Yatra Sangash Samiti* (SAYSS) to the Congress, The National Conference and the POP to join its struggle, Balraj Puri said that to make the call meaningful, the Samiti should be prepared for a dialogue on the basic issue with the other parties so that a consensus on a minimum common programme could be evolved on short term as well as long term objectives among them.

One of the pre-requisites for such a consensus, in his view, was that it should aim at positive demands of Jammu and not be directed against the interest of people of any community or region, whatever differences we might have with their leaders or the government.

**Press Statement:**

Expressing serious concern over deteriorating communal situation in Poonch, social activist Balraj Puri deplored the role of the police for its complete inaction while shops of both communities were being burnt and looted in the town. He demanded that strict security be possible to the buses going from Jammu to Poonch. He also called upon leaders of the region to pay special attention to the situation in Poonch and try to ease it. - 24-08-08

**Press Statement:**

Balraj Puri, Convenor PUCL J&K State, has condemned attack of militants in Chinore area killing innocents' civilians and keeping hostage children and women for 19 hours. He also demanded enquiry into lapses of security forces in presenting infiltrators from crossing international border and reaching a civilian area where they committed inhuman acts. -29-08-08

**Press Statement:**

Balraj Puri, Convenor PUCL J&K State expressed concern over media black out in Kashmir, after suspension of publication of local papers, following beating up of some media persons and dishonouring of the curfew passes by the security forces and non-distribution of outside papers. He also criticized official ban on local TV Channel which, according to him, is illegal as was held by courts on similar ban in Jammu. In the absence of media, he said, alternative media in the form of rumours and gossip become the only source of news. He further criticized the raid on the house of Shuijat Bukhari, the Bureau chief of the Hindu and harassment of his family.

He, however, endorsed the concern of the Editors Guild over the partisan, biased and inflammatory reports and opinion pieces in some of the media in Kashmir and Jammu, under the threat of the agitating groups.

**Press Statement:**

Balraj Puri, Convenor PUCL J&K State, has expressed deep concern over recurrent accidents on Kishtwar-Batote highway, in which precious lives are lost. The latest accident on September 4, in which, he said, 23 persons are feared to have died. This reflects, he added, poor priorities of the development policy of the government. He urged the government to correct its long term strategy, giving higher priority to the road connectivity in the hilly areas of Jammu and meanwhile set up trauma treatment centers to provide medical facilities to the injured, apart from prompt compensation to the bereaved families. - 05-08-08

**Karnataka PUCL:**

**Anti-Emergency Day**

Karnataka PUCL along with about 5<sup>A</sup> activists from *Samata, Karnataka Rajya Coolikarara Sangha, NAPM, Raitha Cool// Sangha* staged a *dharna* in front of DC's office on 25th June 2008 to mark the Anti-Emergency day. A memorandum was submitted demanding: 1) Immediate unconditional release of Dr Binayak Sen and others in Chhattisgarh; 2) Disbanding of *Salwa Judum* in Chhattisgarh; and 3) Scrapping all the black laws. Slogans were raised against the undeclared emergency in the-country. - **V Lakshminarayana**, General Secretary, Karnataka PUCL

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## Press Release:

# Anti Reliance SEZ *Panchayat* at Gurgaon

Farmers from five villages near Gurgaon - Khandsa, Narsingpur, Mohammedpur, Gadauli Khurd and Harsaru - are opposing the transfer of 1,395 acres of land to Reliance Industries by Haryana State Industrial and Infrastructure Corporation (HSIIDC) for setting up a SEZ in the region. Farmers have been up in arms against SEZ to be set up over an area of 25,000 acre from Gani Harsuru to Badli at the Farrukhnagar-Jhajjar Road. The proposed Kundli-Manesar-Palwal expressway is also to pass through the same area. The total proposed investment is about \$30 billion with more than 10,000 acre for "infrastructure, residential, leisure and entertainment and commercial establishment" with only 6500 acre outlined for industries.

Previously, on the 8<sup>th</sup> of July a *Jar, hastakshep-Campalgr* against Fascist Designs, team had visited the SEZ and filed its report. On the 13<sup>th</sup> of July 2008 another fact finding team comprising of; Ish Mishra, Sachin and Ramesh went to attend a farmers *Panchayat* called by Haryanr *Kisan Mazdoor Bhoomi Bachao 6 angharsh Samiti*. About 500 delegates from different areas, villages and districts of Haryana attended the *Panchayat*. According to the villagers, the situation remained the same, since the 30<sup>th</sup> of June, when Reliance started construction at the site. The police barricades have only been partially removed causing great inconvenience to the villagers, creating a curfew like situation. The heavy police presence was creating a general sense of fear among the villagers. At Harsaru village, there were heavy earth moving machinery, cranes and work for construction of the wall continued amidst heavy presence of private security guards and the police who prevented all villagers from using the public road.

The police cases against 33 people who are leaders or farmers protesting the SEZ were also still in force.

Capt. Satvir Singh said that such dialogues with the administration were of no use just as it was pointless to blindly follow laws which were solely created and enforced by a small section of the Indian people to further their own interests. He strongly felt that this *Panchayat* should not have been held in Gurgaon but at the site itself where Reliance was constructing its wall. He stressed that this government was bent on using the armed might of the state to work as a broker for corporate houses and all the current ruling political parties ranging from the UFA, NDA to the CPI(M) are working solely for their own selfish interests and of the rich and the powerful and the only way to make them listen is by speaking to them in the only language they understand - people's power. He stated that the only path was for a militant farmers resistance. He warned the people from trusting the ruling class parties which might even come out in support, keeping their votes in mind, but would eventually carry on the same anti-people policies once in power. He urged them to overcome their fear of the police and of being arrested and come out in huge numbers and prevent the any further construction by Reliance Industries.

Shri Ish Mishra of Delhi University spoke about the ongoing peasant struggles in other parts of India such as Nandigram, Singur, Kalinganagar, POSCO and Raigarh and the commonality of the attack by corporates on peasantry across the country and how through militant struggles the people have been able to protect their lands. He also reminded and warned the gathering about the tales of lies and deception

of the ruling class parties such as the BJP, which had promised to "throw Enron and WTO into the ocean" after coming to power, but did just the reverse and would do the same with the farmers. Shri Mishra also spoke about how the current political parties are increasingly forfeiting our sovereignty, forgetting about the needs of their own people, while slavishly furthering the interests of the US and other developed nations.

Several other farmers and youth leaders such as Dharambir Kataria, Bhai Rakesh, Shri Parmanand Jhanda, leaders from Bhagat Singh Morcha, also spoke. Shri. Ishwar Jhamb of Jumula village put forward the idea of scrapping all SEZs and converting them into Special Agricultural Zones while Shri Jagat Singh compared the current ruling class politicians to Nadir Shah who only came to loot and insisted that this loot can only be stopped by the people. The speakers outlined the dangers of the increasing monopolistic control over India's resources by a mere a dozen corporate houses and also pointed out the huge losses to the state exchequer through tax exemptions to the SEZs which would eventually also destroy domestic industry. They also expressed their apprehension at the fact that if Reliance builds its mega city, then there would be no water left for irrigation and non for the people of Guragaon and its neighboring villages. Many speakers felt hoodwinked, that; when the Haryana government issued notification for land acquisition under the Land Acquisition Act, there was no mention of any SEZ's or of the land being sold to private players but quickly sold it to Reliance at a huge profit, even before the ink had dried on the final settlement papers. According

to them, the Haryana government is acting more as a property dealer than an administrator. Many expressed resentment for being cheated in this deal; because when the government used the antiquated Land Acquisition Act 1894 to acquire land at a mere 20 lakh per acre, whereas in neighboring villages, Reliance was buying land directly from farmers at between Rs.4-5 crore per acre. Many also condemned the state police to be reduced to working as private security guards to protect corporate interests at the taxpayers cost.

The *Panchayat* condemned the Hooda government and its use of police force to suppress people's protest and insisted that the democratic rights of the affected villages be restored and the police

force withdrawn immediately. All speakers stressed on lending their support to the affected villagers and also in steering clear of the machinations of ruling political parties. They were very clear in stating that the government should not misread their agreeing for a dialogue as a sign of weakness- or be prepared to face the actual militant and angry mood of the farmers. The *Panchayat* decided to send a memorandum to the Governor through the DM at Gurgaon. Hundreds of angry farmers marched to the DM residence shouting slogans of "Down with Reliance-Government hustlers" "Long Live Farmers-Workers Unity" "We Will Fight We Will Win" "Down with Hooda Government" and many others.

The memorandum demanded:

1. Remove Police from the villages immediately and withdraw all cases against protestors
2. Scrap Mukesh Ambani SEZ and Scrap SEZ Act
3. No to agricultural land for commercial use.

Failing to meet their demands, the *Panchayat* warned the administration that the agitating farmers would come out on the streets.

Janhastakshep reiterated its stand to support the farmers protesting against the Reliance SEZ for fulfilling their rightful democratic demands. -**Prof N K Bhattacharya**, Convener, 13-7-08

## Press Release

### Harassment by AP Police

We strongly condemn the action of the police in implicating Lateef Mohd Khan, General Secretary of the Civil Liberties Monitoring Committee (CLMC) in a very serious criminal offence, namely Cr.No. 198/2007 of Gopalapuram P.S., an offence of criminal conspiracy, waging war against the Government of India, Sedition, etc.

This is a case registered by the police on 15<sup>th</sup> June 2007. Though it is registered under serious provisions of law, its only basis is some CDs allegedly containing violent speeches. Nothing else has been found in the alleged investigation undertaken in connection with this FIR. But the list of accused has increased and is increasing endlessly. It began with the arrest of one individual, Mohd Abdul Sattar 'u 'suspicious circumstances' near the Secunderabad Railway Station on 15<sup>th</sup> June 2007, but it has become a catch-all case in which the police go on adding whoever they wish. After filing a charge sheet against two persons in the first instance and another 19 persons later, the police have now increased the list to 64. Since it is a conspiracy

case involving alleged spreading of hateful and seditious ideas, anybody can be shown as accused at any time. They can be arrested and tortured as has happened with many of the accused in the case, and further 'confessions' can be extracted to implicate more people. It would have been a farce if it did not involve the life and liberty of people.

We have from the beginning said that this case is a mere tool of harassment intended to cover up for the failure of the police to uncover the actual conspiracy and the actual perpetrators of the Mecca Masjid, Gokul Chat and Lumbini Park bomb blasts. It is a shameful abuse of power.

Lateef Mohd Khan has actively protested against this abuse of power. He has drawn the attention of the Press and the Government to instances of illegal detention and torture. He has assisted the family members to file habeas corpus petitions in the High Court. He has talked to the jailed accused and brought into the open their tales of torture. He has assisted every enquiry including that by the State Minorities

Commission into these atrocities. He has also filed a suit for damages along with eminent human rights activists Teesta Setalvad and Harsh Mandhar against the police for the torture inflicted on the detainees.

As a gesture for this effort Lateef Mohd Khan has himself been shown as accused No.42 in the same offence. This is allegedly based on the confession of Yaser (Mohd Muqeemuddin) who has been arrested recently. That alleged confession in fact does not make out any case against Lateef Mohd Khan but they have nevertheless shown him as accused. This is nothing but an attempt to silence his voice.

We strongly condemn the action of the police and express our solidarity with Lateef Mohd. Khan and the CLMC. We demand that the police delete his name from the case.

- **K Balagopal**, General Secretary, *Human Rights Forum*; **D Suresh Kumar**, Joint Secretary, *Andhra Pradesh Civil Liberties Committee* | **V Narayan Reddy**, Organising Secretary, *Organisation for Protection of Democratic Rights*, Hyderabad, 30-07-08

Letter:

## Fight against Corruption

To,  
Shri Ranjiv Dalai IPS  
Hon'ble Director General of  
Police, Haryana  
Chandigarh

Subject: Murderous assault under high level conspiracy well unit strategy upon physically handicapped and scheduled caste postal employee, R S Rathi, Sub-Postmaster Model Town, Rohtak, and his family members by antisocial bad elements after forcible entrance into the house of victim, Rohtak police is not arresting the assailants and conspiring hoodlums/hooligans.

Respected Sir,

With due respect I beg to say that I was assaulted along with my family members after forcible entrance into my house on 19-05-2008. We were all admitted in the civil hospital Rohtak on 19-05-2008. I remained in the hospital for four days. Our statements were recorded by police in the emergency ward of the civil hospital Rohtak on 19-05-2008. Police is protecting the assailants and is not arresting the accused persons involved in this conspiracy and Criminal assault. The nexus of police, Hooligans, assailants and politicians has made our lives miserable. We are being forced by the police to compromise with the accused. The accused persons and the police is adopting dilatory and tentacle tactics to implicate me in false cases, after counter complaints (counter allegations of various *modus operandi* are being leveled upon me, which are totally false, frivolous, malicious or vexatious, manipulated, fabricated and after thought concocted stories. The Rohtak police entertained the counter complaints of accused persons who appeared before the District Police Chief Rohtak on June 21, 2008. (After 32 days of incident) My genuine complaints are being hushed up. I am

enclosing here with my complaint dated May 23, 2008 and reminder dated June 05, 2008 addressed to the Chairman NHRC New Delhi. I met Shri Hanif Kurshi, IPS Senior Superintendent of police Rohtak on June 07, 2008 in person in his office. Thereafter, Shri V Kamraj, IPS, Honorable Inspector General of police Rohtak range Rohtak on June 14, 2008 along with my typed complaints (copy enclosed). But to no effect. Where as accused Smt. Sunita Nandal met the District Police Chief Shri Aalok Mittal, IPS on 21.6.2008 in which complaints she has leveled false and malicious counter allegations upon me on 21-06-2008 (after 32 days of incident); in this heinous and nefarious complaint she (Smt Sunita Rani) has assassinated my character willfully, whereas I am of about 60 years old senior citizen and hail from scheduled caste community and I am also physically handicapped person with more than 60% permanent disability of upper part of right hand. The accused people are giving false and frivolous information to the public servant (police) so that the public servant can use his lawful power to the injury or annoyance of the victim, a member of schedule caste community. Her false and manipulated, fabricated, concocted and after thought counter complaints are being looked into, which false counter complaints are entertained by the Rohtak Police, because this lady is very influential and belongs to upper caste. This action will be totally in contravention of the Scheduled caste and scheduled tribes (Prevention of atrocities Act, 1989 read with the protection of Human Rights Act 1993 and PDA Act 1995). The honorable chairman of the National Commission of

Scheduled Castes, Lok Nayak Bhawan New Delhi has since issued a notice bearing file no Haryana/80/2008 APCR dated at New Delhi 3-6-2008 (P/S copy in closed). This news appeared in the national newspaper *Hindustan Times* dated June 19, 2008 (P/S copy in closed). After going through the newspaper the accused persons appeared before Shri Aalok Mittal, IPS District Police Chief, Rohtak and submitted before him the gales, malicious, frivolous and vexatious counter complaints in order to implicate me in some or the other false case in contravention of scheduled caste and scheduled Tribes (prevention of atrocities) Act 1989 read with protection of Human Rights act 1993 and PDA Act 1995. It is humbly prayed that the accused persons be first ordered to be arrested in accordance with SC/ST Act 1989 read with the person with disabilities (equal opportunities, Protection of rights and full participation) Act 1995 and its rules of 1995 and its rules of 1996. The victim (R S Rathi) is being harassed and mentally tortured by the discriminatory attitude of the nexus of police and accused persons which are hand in gloves with each other to implicate me in false case. The accused persons ordered to be arrested immediately.

Thanking you, Your Sincerely.

**D.A. Enclosures**

Copy to:

1. Shri Bhupender Singh Honda  
Honorable Chief Minister, Haryana,  
Chandigarh
2. Justice Shri Rajendra Babu,  
Hon'ble Chairman, National Human  
Rights Commission, Faridkot House,  
Copernicus Marg, New Delhi 110001
3. Shri Boota Singh, Hon'ble  
Chairman, National Commission for  
Schedule Caste, Lok Nayak Bhawan,  
Khan Market, New Delhi 110003 with  
reference to his

commission cases File No. Haryana/80/2008 APCR at 3.6.2008. His honour is requested to order enquiry through the police of schedule caste commission, New Delhi. As I have no faith in Haryana Police which will inflict upon me.

4. The Hon'ble Chairman Parliamentary Committee on the Welfare of SC/ST 137, Parliament House, New Delhi, Lok Sabha Secretariat (SC/ST Branch) Parliament House Annexe, New Delhi - 110001. Case File No. 8 (251) SC/TC/2008 dated June 17, 2008. He is requested the enquiry through

Letter:

## Appointment of a Police Officer as a Member of the State Human Rights Commission

To  
The Governor, Bihar,  
Raj Bhavan  
Patna

Subject: Regarding appointment of a police officer as a member of the State Human Rights Commission

Sir,

According to a news item published in the *Rashtriya Sahara*, Patna (20.6.2008) and the *Prabhat Khabar*, Patna (20.6.2008), there is a proposal to appoint one Mr R.R. Prasad, a former DGP, as a member of the State Human Rights Commission (henceforth referred to as 'the Commission') u/s 21 (2c) of the Protection of Human Rights Act (henceforth referred to as 'PHRA'). Out of the two members of the Commission one has to be a judge of a High Court or a District Judge (serving of retired) and another person, "having knowledge of or practical experience in matters relating to human rights".

It goes without saying that under the Protection of Human Rights Act what is required of a member is not mere knowledge of or experience in matters relating to human rights but commitment to it.

Parliamentary Committee because Rohtak Police will not provide me justice.

5. Shri V Kamraj, IPS, Hon'ble Inspector General of Police, Rohtak; Rohtak Police Range Rohtak. This is in continuation of my complaints dated June 14, 2008 when I appeared before you in your office. Sir, I want enquiry either through some independent agency or through some honest and efficient IPS officer like your goodself.

6. Shri Alok Mittal, IPS Senior Superintendent of Police Rohtak. This is in continuation of my previous

complaints w.e.f. 19.05.2008.

7. Dr Y P Chhibbar, General Secretary, PUCL, 81 Sahayoga Apartments, Mayur Vihar-I, Delhi 110091.

8. Shri R L Batta, Advocate (Punjab & Haryana High Court) Kothi No. 2096, Sector 15-C, Chandigarh 160005 for further necessary action please, in the Punjab and Haryana High Court.

9. Spare copies. - Rishal Singh Rathee, Sub-Postmaster Model Town, Rohtak - 124001

Appointment of a police officer to the Commission who has no proved record of being a Protection of Human Rights while in service would be a blatant violation of the spirit of the PHRA and a move to thwart its objective. In the context of Bihar, appointment of a common police officer is particularly inimical to the objective of PHRA, as the Bihar Police Act u/s 26 provides that complaints of the violation of the human rights will be enquired to by the Commission. It appears that a police officer is being appointed to look after the interest of the erring policemen rather than the people. We are constrained to come to this conclusion because Mr R.R. Prasad has been a run of the police officer, who has never been known to show any concern for the violation of human rights by his subordinates. It is not natural to expect him to champion the cause of human rights after a lifelong record of compromising with its violation.

We would also like to point out that under the PHRA [Section 22(1)], you have discretion in the matter of appointment of the Chairperson and members of the Commission and the

people expect you to use it in the interest of human rights. It is not without reason that they (the Commission) are not appointed on the advice of the Council of Ministers but on the recommendation of a Committee (which includes Leader of the Opposition and is chaired by the Chief Minister). Whereas you are not free to make appointments without obtaining the recommendation of a Committee, you are not bound by its recommendation. As a consequence, whereas you are not blameworthy for acts done as Governor on the advice of the Council of Ministers, the people would hold you responsible for the appointment of a police officer as a member of the Commission unless the appointee has a record of being a protector of human rights while in service.

We would request you kindly to use your discretion and refrain from accepting the recommendation of the Committee to appoint Mr R R Prasad and persuade the Committee to recommend a person committed to defend human rights. Thanking you,  
Yours faithfully. - **Dr Prabhakar Sinha**, 24-06-08

## Harassment by Gujarat Police

- PUCL condemns the way Mr Yusuf Sheikh, a human rights and social activist of Vadodara, member of PUCL was summoned and interrogated by the Vadodara Police in a non-transparent manner.
- The PUCL reiterated the need for an in depth and impartial enquiry into the tragic bomb blast cases that occurred in Ahmedabad last month.
- While PUCL understands the need for summoning and questioning people, it strongly feels their human rights should be respected.
- PUCL demands that the Police pursue the investigations constitutionally, professionally and stop terrorizing the Muslim community in the act of hunting down terrorists.

An emergency meeting of the PUCL-Gujarat was convened at Vadodara to take stock of the situation arising out of the indiscriminate arrests and illegal detention of Muslim youth in the Ahmedabad-Surat blast investigation cases.

The PUCL reiterated the need for an in depth and impartial enquiry into the tragic bomb blast cases that occurred in Ahmedabad last month. However the PUCL team expressed concern that in the name of investigation, several persons from the Muslim community are harassed and their constitutional and fundamental rights violated. Many Muslim youth have been summoned for investigation, detained on vague and arbitrary charges and their families not even informed about their whereabouts thereafter. It is shocking that people are summoned verbally and not in writing, which is contrary to recent order of the Bombay High Court.

The PUCL condemns this unconstitutional manner of investigation which is bound to deviate the investigation from fair and impartial lines thereby preventing the police from arriving at the truth and arresting the real perpetrators of the bomb blasts.

The PUCL also condemns the harassment of human rights activists and vocal leaders of the Muslim community - this reminds of the way the Gujarat Police operated in 2002.

PUCL condemns the way Mr Yusuf Sheikh, a human rights and

social activist of Vadodara, member of PUCL was summoned and interrogated by the Vadodara Police in a non-transparent manner for 3 days on 29<sup>th</sup>, 30<sup>th</sup> and 31<sup>st</sup> July 2008 and on August 23<sup>rd</sup>-24<sup>th</sup> in an old decrepit building (old police station in Karelibaug, Vadodara), till 2 a.m. in the morning.

While PUCL understands the need for summoning and questioning people, it strongly feels their human rights should be respected. PUCL demands that the Police pursue the investigations constitutionally, professionally and stop terrorizing the Muslim community in the act of hunting down terrorists.

We would like to put on record that the Supreme Court in its recent interim order dated 22<sup>nd</sup> September 2006 in Writ Petition (Civil) No. 310 of 1996 clearly observed: "...The petition refers to a research paper 'Political and Administrative Manipulation of the Police' published in 1979 by Bureau of Police Research and Development, warning that excessive control of the political executive and its principal advisers over the police has the inherent danger of making the police a tool for subverting the process of law, promoting the growth of authoritarianism, and shaking the very foundations of democracy.

The commitment, devotion, and accountability of the police have to be only to the Rule of Law. The supervision and control has to be such that it ensures that the police serve the people without any regard,

whatsoever, to the status and position of any person while investigating a crime or taking preventive measures.

...Similarly, we can only express our hope that all State Governments would rise to the occasion and enact a new Police Act wholly insulating the police from any pressure whatsoever 'thereby placing in position an important measure for securing the rights of the citizens under the Constitution for the Rule of Law, treating everyone equal and being partisan to none, which will also help in securing an efficient and better criminal justice delivery system.'

For People's Union for Civil Liberties, Gujarat: **Vadodara:** Rohit Prajapati, Prof J S Bandukwala, Chinu Srinivasan, Trupti Shah, Johanna Lokhande, Shobha Shah, Ashok Gupta, Reshma Vohra, Yusuf Sheikh, Amrishbhai Brahmabhatt, Hamidaben Chandul, Kantibhai Mistry, Dipti Bhatt, Amrish Mehta, Trupti Parekh, Krishnakant.; **Ahmedabad:** Girish Patel, Hiren Gandhi, Sophia Khan, Prasad Chacko, Hozefa, Meera Rati, Deepak Solanki, Rajni Dave; **Dediapada:** Swati Desai; **Anhad:** Shabnam Hashmi; **Rajpipala:** Anand Mazgaonkar, Fr Xavier Manjooran, Rajpipala Social Service Society, Vedchhi: Jyotibhai Desai, Teesta Setalvad, Communalism Combat & Citizens for Justice and Peace, Cedric Prakash, PRASHANT-A Centre for Human Rights, Justice and Peace, Fr Francis G Parmar. - 25-08-08

## Letter to the Editor:

Dear Chhibbar,

It happened to Binayak Sen in Chhattisgarh; it happened to TG Ajay in the same state, it happened to Hasn Masoor President Karnataka unit. It has happened to Pratima Das, a High Court advocate and is charged with the usual sections which deal with offences against the State and produced before the Court charged with these offences and she must be out on bail. Whether she is on bail or not is irrelevant. The objection is to arrest falsely under these offences in such a cavalier like fashion. Wagig war is a serious charge very lightly by the post independent India. Despite one fifty years of freedom struggle the Britishers have made these charges so lightly as the Indian Government and the state governments have after independence. War is the concern of the union and not the concern of an

## Police Oppression

ill informed Inspector or Sub inspector who may be the station house officer of a police station. After the 44th Amendment of the Constitution apart from making Article non derogable the Constitution has also mandated that Emergency provisions cannot be invoked unless the security of India or any part of the territory is threatened by war or external aggression or armed rebellion and that being the Constitutional position the validity of the Chapter pertaining to offence against the State has to be questioned. Whereas a proclamation is required of the President for tackling war like situation, a sub-inspector or his superior is not authorised to take steps. Any other interpretation is likely to lead to ridiculous and laughable situations. The State has no powers to declare of any magnitude whatsoever. It requires serious consideration and

human rights defenders will be arrested preventively and their organisations banned. This has to be litigated at every level. This has to be argued before the District and Sessions Court, at the High Court level and at the Apex court level and that is how one discredits State and that should be the par of the campaign. It should be taken to ICC on the ground systematic targeting of human rights activists is crime against humanity and even an attempt should be a crime under criminal law. I believe and have practiced insurgent Jurisprudence.

Patima is a lawyer and she herself should argue the case but always competently and after consultation. I would like a feed back. Expecting one. **-KG Kannabiran, 16-09-08**

## Update on Dr Binayak Sen's Trial:

### Questions on Dr Binayak Sen's Trial

- Is the Trial Fair?
- Are Provisions of Cr.P.C. followed in "letter" and "spirit"?
- Why is Chhattisgarh Police getting desperate?
- Why the delay tactics?

Raipur, 15th September, 2008:

The last dates of trial of Dr Binayak Sen, General Secretary, Chhattisgarh PUCL were September 8th & 9th 2008. Strangely, nothing happened on these days, as the hon'ble Judge, Mr. B S Saluja, Additional District Judge (Fast Track Court), Raipur had gone on "Training". So, the accused were brought from Raipur Central Prison only to sign on the Order Sheets.

The next dates are October 13, 14 & 15, 2008.

During the past few months, concern has been expressed by almost everyone attending the

Court's proceedings as to the seriousness of the prosecution in conducting the Trial. Some Observers have expressed these concerns in writing. We are circulating here two Notes and Letters on Trial Observations.

One, by Kavita Srivastava, Secretary of National PUCL, and General Secretary, Rajasthan PUCL, who has been closely following the Trial Proceedings.

Two, by Dr Abhay Shukla, a member of the CORE GROUP OF NGO's of National Human Rights Commission (NHRC).

These provide deep insights into violation of national and international standards set up for a Fair & Just Trial. We must not forget that Dr Binayak Sen is also a "defender of human rights".

It is also very strange that the

prosecution is behaving in such a manner while it is well known that the Trial is a matter of public attention, Even the European Union had sent two observers July 2008. Mr. Bruce from the French Embassy, Mr. Bart from the Netherlands, and Adv. Ms. Navaz Kotwal, a lawyer from Gujarat who was assisting the Team. We are told that their reports are presently being circulated amongst the EU Working Group on Human Rights.

The Commonwealth Human Rights Initiative (CHRI) has also appointed an Observer for the Trial of Dr Binayak Sen. The Chhattisgarh PUCL in its meeting held on 24th September 2008 has taken serious note of the Trial being conducted in the manner it is. Several questions have been raised: Is the Trial Fair? Are Provisions of Cr.P.C. followed in "letter" and "spirit"? Why is

Chhattisgaiti Police getting desperate? Why the delay tactics?

*This letter was not mentioned in the list of documents seized from Binayak's house, is not mentioned in the search memo, is not mentioned in the police charge sheet framed one year back, and does not have Binayak's signature on it unlike all the other seized documents. It appears to be a forged, planted document which has mysteriously appeared in the 'sealed' packet, over a year after Binayak's house was searched.*"- Excerpts from the Letter on Trial Observation by Dr Abhay Shukla, Member, NHRC Core Group on NGOs

The Chhattisgaiti PUCL has issued an Invitation to several Human Rights Organisations and Individuals to send Observers to the Trial of Dr Binayak Sen, as it is becoming clear that the State Government of Chhattisgarh is using all kinds of unethical and illegal means and manipulations to delay and derail the Trial of Dr Binayak Sen. The Director General of Police (DGP) of Chhattisgarh Government had even mentioned it to one of the Journalists that the Government may not have evidence to get a conviction, but they were going to keep Dr Sen in jail for a long time.

The linkage of Dr Sen's trial and attempts at pressurizing Ajay T G (another member of the CG PUCL Executive Committee) comes out clearly in the write-up by Kavita Siivastava, who has had several interactions with the police officials of Chhattisgaiti Government.

The nefarious designs of the Chhattisgarh Police have been exposed in falsely framing Ajay T G, against whom, the prosecution failed to file a Charge Sheet even today i.e. even after 130 days from his arrest. Although it is mandatory for the Police to file the Charge Sheet within 90

days. Ajay T G was released on bail in the absence of police filing the Charge Sheet. It is now that the DGP, Chhattisgarh Police keeps telling everyone who dares to meet him in this regard that they are preparing "supplementary charge-sheet" against Dr Binayak Sen.

We do hope that these two Notes & Letters on Dr Binayak Sen's Trial Observations will provide deep insight into the mechanisms of the State in using draconian and antidemocratic law called The Chhattisgarh Special Public Security Act 2005 against innocent citizens, human rights activists, etc.

We invite all human rights organisations, social movements, intellectuals and people's organisations to join us in keeping a vigil on the Court's proceedings.

Look forward to meeting you during the next Trial Dates: October 13, 14 & 15, 2008. -**Rajendra K Sail**, President, Chhattisgarh PUCL

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