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## Governing Plural Societies KG Kannabiran

We all know that the politics of the bomb is ghastly and quite often meaningless. I think hurriedly got organised panel discussions on the TV is no answer to this kind of violence. A panel discussion on the electronic media leaves out many loose ends and these may lead to confusion and are very often judgmental. This is what I found in the discussion on the electronic media in the matter of M F Hussain. We have to devise means and methods to hold a dialogue with the "terrorists" and then alone it can be contained. Condemnation of a terrorist attack is a ritualistic exercise which may not take us any where near the solution. A studied examination may raise many questions about our apprehensions as to who the assailants are. Firstly, are they the real assailants? Why will Islamic terrorists bomb their own mosques and places of worship? Why will they bomb Muslim and Dalit living places? The involvement of *ieds* (indigenous electronic devices) invariably leads to the arrest of Muslim youth. This reminds me of a joke which illustrates what I am having in mind. I am sure many friends have heard it. There were two women one young and one old, and three men, one an American, one German, and one Briton. As the train passed through a tunnel all the five heard a smack of a kiss and the sound of a slap. There were four versions of the incident but only the Briton knew that he loudly kissed his palm and slapped the German. This is exactly how I feel about it. In the whole of the Gujarat or the riots in Maharashtra the majority community used only indigenous weapons- no fire arms and no *ieds*, the explosives, the fire arms and other weapons that cause explosion or use chemicals to give it a lethal quality, have been used by terrorists. Lots of Muslim youth are indiscriminately arrested and the entire lives and their parents are reduced to one continuous nightmare. This problem cannot be resolved by periodical knee-jerk reaction.

We should, I believe, commence from the manner in which people are governed. I do think we have not learnt to govern plural societies. Governance of these societies calls for a whole lot of adjustments. Starting a debate on the governance of plural societies is called for. It may be long drawn out but it is necessary. The awareness that people are making an effort might make these invisible assailants to hold their fire. Some more terrorist laws, some more death sentences for some other terrorist offences, and a few more judges willing to play the role of the judge Jeffris a regressive legal structure making a mockery of the constitutional values is not going to cure the malaise. We must recognise that terrorism is not the result of an insane man's delusion. It is a delusion against an impervious perpetration of unjust practices, uneven administration of law. A strong government may not always be a good government. If we want to stop this we (on page 17...)

**PUCL Membership**

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# V M Tarkunde - Relentless Pursuer of Human Values

## Jai Narayan Sahaya

I came to know Shri V M Tarkunde in the course of what has come to be known as JP's movement. From my school days (in the thirties) I had an attraction for M N Roy. I had read his *Historic Role of Islam* as a school student and, in fact, in an article of mine in my school magazine I had quoted it. I had also read his short treatise on mathematical theories in which he had differed with Sir Sulaiman. I had also attended the meeting in the end of 1939 at the Patna Gandhi'Maidan (then Bankipur Lawn) As a part of his campaign for the Congress Presidential election which he was contesting against Maulana Azad. Dr Rajendra Prasad, the then President of BPCC was the Chairman of the Reception Committee and Shri T Parmananti its Secretary. I have not forgotten two things of that meeting. Shri Roy started his speech in Hindi, when a group of college students shouted that he should speak in English, But he rebuked them in English that his Russian used to be more faulty when he used to speak in Russia, and if they wanted to hear a good figure of speech in English they should rather go to their English teacher, and then resumed his address in Hindi, though, at the end, he also spoke for a few minutes in English. I also heard him saying in that very meeting that he considered himself second to none but the greatest man of the world, Comrade Stalin. When I came close to Tarkunde, I did ask him about this. His reply was that though he had differed with communist approach and parted from the communists, he had a certain personal weakness for Stalin. Though I could not appreciate the approach of Roy and Committee of Radical Oongressmen towards World War Two, I was otherwise impressed by his personality and when I read the

*People's Plan* in reply to *BOlllbbay Plan* of Indian industrialists, on behalf of the Radical Democratic Party, the impression became deeper. I later learnt that Shri Tarkunde had made valuable contribution to the preparation of the People's Plan. Thus when I came in contact with Tarkunde, through *Citizens for Democracy* and *People's Union for Civil Liberties and Democratic Rights* (as it was originally styled), instinctively, I felt drawn towards him and endearings became deeper and deeper till his very end. He was not fettered by doctrines, his breadth of vision and wide outlook knew no limit and thus he was a true Humanist and undoubtedly a Radical one, for he had no patience for inhumanity of all hues and shades, and was a relentless crusader against the same. It was this which brought me, an unflinching believer in the Gandhian values and approach, for humans to be humans in fullness, close to one who though ever striving for the redemption of man, was a "non-believer". Indeed, though he did not believe in God as a super being controlling life on earth and for that matter on all other planets, yet he had no objection and, in fact, wanted to make common cause with 'believers', so to say, in struggle and effort for ushering in harmony in human society on the basis of intrinsic human values. Were not Gandhiji and Prof Ramchandra Rao "Gora", so close, despite Gandhi, was an unfailing believer in God, as indwelling spirit in the entire creation, and Prof Gora, a non-believer with full conviction, their 'belief' and 'non-belief' being no barrier between them. As a matter of fact, Tarkunde wrote a circular letter to a good number of people including myself in November 1993, inviting them to become members of indian

Radical Humanist Association. A para of the said letter is quoted below:

"In this connection, we should keep in mind that we have always been liberal in regard to admission of members to IRHA. Our constitution says that any person who is in "general agreement" with the principles of radical humanism can become a member. We have also insisted, as M. N. Roy often said, that our philosophy must always be open to being re-examined in the light of advancing scientific knowledge. Any person, therefore, who is a genuine democrat and has a radical and rationalist approach should be invited to cooperate with our work and join our organization."

This was one of the issues which was to be deliberated upon at the Patna session of the IRHA either in 1994 or 1995 (I do not exactly remember). Tarkunde was to stay at *Mahilaa Charkhaa Samiti*, where J.P. used to reside. But at the last moment he told me that he had decided to stay at A. N. Sinha Institute Guest House, where others would be staying, as there were some issues which needed to be discussed and thrashed out. Late Shri Shibnarayan Ray had also come, and needless to say, the issue of 'believers' being allowed to be members of the IRHA was one of the issues on which there was difference. The conference ultimately decided to keep the door closed to "believers".

In this very context, I recollect another incident. In 1978, JP had been approached by Asghar Ali Engineer and others for an enquiry against the "zulum" of the Syedna, Head of the Bohra Muslims. At the instance of JP Shri Tarkunde entrusted this enquiry to Justice Nathwani. When the enquiry had made considerable progress, a delegation in support of the

Syedna came to Patna, and lobbied with a number of our friends, and they were persuaded to issue a statement favouring dropping the enquiry that was going on. After the said publication, they also met me and, in talk, expressed surprise and anguish with a non-believer like Tarkunde. My reply to them was that though Tarkunde does not believe in 'God', I consider him much closer to God than myself.

There was difference in the IRHA towards the JP movement and quite a number of members in the IRHA did not approve of Tarkunde's closeness to JP. But Tarkunde remained unruffled in his devotion to the cause of democracy, which is synonymous with "humanocracy", and in furtherance of the said objective, he worked both through the IRHA as well as outside it with the same zeal and vision. As I could understand him "reason" was not merely intellectually ratiocination or dry logic nor it was refusing to hear the call of conscience, which alone is pure reason, undiluted and

untainted by limitations of human weaknesses. Vog Bashistha says, "Trees live and so also live birds and animals, but he truly lives who lives by reason" (*eousu gh thoft*). There is another example of his conscientiousness. Once he was staying in the Gandhi *Sangrahaalaya*, Patna. In the evening, we had been invited to dinner by Dr Razi Ahmad, the Secretary-Director of the *Sangrahaalaya*. Before going for dinner, he confidentially told me that he had the habit of taking two spoonful of some alcoholic drink with water before dinner, and enquired if it could be improper to do so in his room, for it was the premises of Gandhi *Sangrahaalaya*. I knew he was no "drinker", he believed in temperance or continence, though total abstinence he considered impractical. My reply was that he could do so in his own room in the guest house. He did so and then both of us went to the dinner. This shows his regard for norms and sensitivity of others, even when he did not see eye to eye with them.

Though he did not profess Gandhism (if there is anything like that), he had no hesitation in working with Gandhians for human liberation, and so with all others. He was an untrammelled soul; in the language of ancient seers, he saw himself in others and others in himself.

I know he is not away from us, only if we sincerely and earnestly cherish the values which informed his life. But in one respect there is a real ethereal loss to me and to those who come to me for help. Whenever an institution or a person who was in genuine legal distress and needed to knock the door of the Apex Court, but was not in a position to do so for want of money, they came to me, my instant and unfailing remedy was Shri Tarkunde and his response used to be always positive in full spirit. He once told me that about fifty percent of his cases in Supreme Court were free.

I conclude with the prayer that his glow may never fade in us. □

Press Release: Raipur

## Organizations & Individuals Across the Globe Join the Group Fast

Against the Black Laws and for Release of Dr Binayak Sen, Ajay TG, and Others  
 The People's Union for Civil Liberties (Chhattisgarh Unit) **release a list of more than 70 organizations from** about 25 states of India, Pakistan, Bangladesh, UK, USA, and other nations who have endorsed the campaign for the release of defenders of human rights like Dr Binayak Sen, Ajay T G, and Drs, who have been detained under the draconian law called The Chhattisgarh Special Public Security Act 2005 and Unlawful Activities Prevention Act 1967 (Amended in 2004).

16<sup>th</sup> June, 2008 at Raipur around 2 pm to express solidarity with Dr Binayak Sen (Medical Doctor), Ajay T G (Film Maker), both members of the PUCL, and many others detained under the draconian Chhattisgarh Special Public Security Act 2005, and the Unlawful Activities Prevention Act (1967) amended in 2004.

While Dr Sandeep Pandey (Meghasay Award Winner & Social Worker), Com. Prem Narain Verma (Chhattisgarh Mukti Morcha), Prem Prakash & F' I (b th f rom. ASHA PARVIAR) began their 10-day fast to ensure that human

rights of marginalized people are not trampled upon and human rights defenders continue to work fearlessly, seven social & cultural activists

from Chhattisgarh Mukti Morcha, Pithora region of Haipur district joined in solidarity in a chain-hunger strike for 24-hours. They include Naveen Kumar, Leeladhar, Janki, Jugmati, Sandhya, Hemant Giri and Budhyarin.

He also released the list of some of these organizations. - Rajendra K. all, President, Chhattisgarh PUCL, 17-06-2008 □

In a press release issued today, Adv Rajendra K. Sail, President, CG PUCL informed the 10<sup>th</sup> day group fast began on

# The Same Colonial Act, Just Different Masters: The implications of Continued Existence of Police Act of 1861

Megha Kapoor

*'The risk uncertainty and insecurity of a people is an ideal ground for setting up or structuring a draconian legal structure before these conditions could drive people to organise themselves to confront the system that produced this chaos.'* - K G Kannabiran, June 2007

## 1. Introduction

Any discussion on the pressing issue of police reform in India eventually gravitates towards the pressing need to replace the antiquated, colonial Police Act of 1861 (1861 Act) with legislation that is consonance with the constitution and the democratic values that now govern the nation. The aim of this essay is to illustrate the harmful effects of the continued reliance on the 1861 Act and specifically the nexus between the legislation and the pervasive nature of illegitimate political interference *within* the establishment of the Police. It also seeks to highlight the complete lack of logic in keeping with this colonial legislative structure and the reasons as to why such an Act that came about pre-independence in the 1800's is still operative in India in 2008. This essay will go about this in the following way:

Section 2.0 identifies the critical changes India has undergone since independence in 1947, most importantly the transformation of the nation into a democratic republic. One of key pillars of an independent, democratic India (or of any democracy) is the strict adherence to the Rule of Law. Section 2.0 juxtaposes these advances with the purpose, background and intentions of the 1861 Act. The primary issue being that this is an Act that was introduced and drafted by the British to arbitrarily control the people, stifle any dissent and serve the interests of the colonisers.

Section 3.0 delves into the function of s 3 of the 1861 Act, which randaes the power of superintendence of the police with

State Governments and critiques the provision primarily in its ambiguous treatment of the term 'superintendence'. Section 3.0 also puts forwards the numerous concerted efforts to bring about legislative reform - all to no avail. The most important being the National Police Commissions (NPC's) recommendations that were put forward thirty one years ago in 1977, and still remain relevant and more urgent today.

Section 4.0 argues the disconcerting, yet only plausible reason that the 1861 Act remains in existence is that it serves the interests of whatever political party is in power at the time. The ambiguity of the term 'superintendence' makes it an indispensable tool for bending the police to do the politicians bidding.

Section 5.0 examines how the cancer of the illegitimate political interference with the Police has affected the nation. One of the major implications has been the erosion of the Rule of Law, substituted with the rule of politics. Another is the neglect of human rights and protecting these fundamental rights as top priority for the Police, which has manifested in gross human rights abuses and general ignorance of human rights in policemen's attitudes. The most apparent implication is the complete loss of police credibility in the eyes of the public - the common man has little to no faith in the police administration. Another impact of rife political interference is the subversion of the chain of command within the police, with officers actively seeking contacts and to build allegiances outside of the police.

## 2. India's Evolution since Independence and the Colonial Context and Purposes of the 1861 Act

India has in its recent history since independence in 1947, undergone definitive and foundational political, social and economic changes as a nation. First and foremost, it became an independent country after colonial rule. Most importantly, it has become a social democratic<sup>1</sup>, secular republic with an independent judiciary. In 1950 India adopted a constitution, which, remains one of the most rights based one in the world. This constitution is the supreme law of the country. India adheres to a system based on the Rule of Law, according to Dicey, in such a system there is an absolute supremacy of laws as opposed to the influence of arbitrary power, equal subjection to all citizens to the laws of the land and equal protection of laws.<sup>2</sup>

India is one of the founding members of the United Nations, as well as, amongst the first signatories to the *Universal Declaration of Human Rights*. The Indian Constitution incorporates a number of the rights and guarantees provided for in the Declaration and promises that they will be administered to every citizen without discrimination. India has a very active and free press. In the last ten years the Indian economy has been making leaps and bounds, with current indications predicting that GDP growth may reach as high as 10% within the year.<sup>3</sup>

However, despite these advances, a country that overthrew the British yolk remains satisfied

with colonial legislation who's only arguable objective was and is to subjugate the population and defend the establishment. The Police in India have not been subject to any of the changes that have occurred since independence. The organisation, management and functioning of the Police is essentially based on the Indian Police Act 1861. When India became independent all states drafted their respective Police Acts largely based on the 1861 Act. The legislation was largely influenced by the First War of Independence or Mutiny (according to the British) of the Indian Army in 1857. Although there are some who claim the Act was introduced to check the violent abuse of power by the Daroga, and bring him under magisterial supervision,"

The Act was formulated with the specific purpose of providing protection to the British rule with no consideration for the rights of the people. The British, naturally at that time wanted to establish a police force that would suit the purpose of crushing dissent and any movement for self government.<sup>5</sup> Therefore, the Act established a police force that adopted 'a method of 'regime policing': a ruler appointed police, which was pro-establishment and had no place for the citizen.

The government of India (GOI) and its police today are obliged to respect political diversity and guarantee a climate of peace in which people feel secure in the exercise of their rights and the protection of their freedoms.<sup>6</sup> Because these sentiments are not reflected in the legislation governing the police, it has contributed to the police remaining outside the loop of prevailing democratic values. It is also the primary reason for the police being perceived as the handmaiden of the political elite rather than as an organisation that provides essential services through

ensuring peace and security to citizens.

### **3. The Issue of 'Superintendence' and the Previous Efforts to bring about Reform**

By its very nature, policing is a highly controversial and extremely important aspect of governance. Its relation to politics is both close and complex. There is no room for ambiguity in the principle that democratic governments and individual politicians cannot use their authority over police to promote specific personal or political interests, or corrupt or illegitimate means." Within the existing legislative framework the police function under the direct executive control of the state government. Section 3 of the 1861 vests the power of superintendence of the police in the state government.<sup>8</sup> Aside from this general power of superintendence the State Government is also vested with power to 'impose any limitation on the powers of the Inspector-General of Police<sup>9</sup> and suspend, dismiss or fine any police officer deemed negligent or unfit.<sup>10</sup>

Though Section 3 of the 1861 Act provides for superintendence of the State Government over the police, nowhere in the Act is this term clearly defined. The function of such legislative vagueness is that it permits and has permitted any sort of influence over the police to be camouflaged as "superintendence". Furthermore, the 1861 Act does not establish institutional or other arrangements to insulate the police from undesirable and illegitimate outside control, pressures or influences. The Act also does not recognise the responsibility of the government to establish an efficient and effective police force outline objectives and performance standards for policing or independent mechanisms to monitor and inspect police performance. All of these reasons

have meant the 1861 Act had made it easy for others to abuse and misuse the police. While some minor changes were effected in various states to improve policing after independence, these did not satisfy the above imperatives. These changes were cosmetic changes in state legislation, not reforms in any real sense, as politicians did not want to make the police independent from their influence.

In an important Resolution passed by the GOI on the 15<sup>th</sup> November 1977, calling for a comprehensive review at the national level of the police system after independence. it was established that there urgently needed to be an examination into the development of the principles underlying the policing system. including the method of magisterial supervision."

The need to insulate the police from political and other extraneous interference was listed as an important recommendation in the National Police Commissions (NPC) second report." The NPC said there was an "urgent need for fundamental reform" and that this change needed to be brought around statutorily with the establishment of a State Security Commission (SSC).<sup>13</sup> The NPC's eighth report in May 1981 called for the 1861 Act to be replaced with a new piece of legislation to change the system of superintendence and control over the police, as well as, mandate the police to promote the rule of law and render impartial serviced to the community.<sup>14</sup> Subsequently, since these salient recommendations were put forward by the NPC, the Vohra Committee Report, Ribeiro Committee report, Padmanabhaiah Committee have reiterated the urgent need to develop a mechanism capable of insulating the Police from illegitimate political interference and replacement of the 1861 Act.<sup>15</sup> In 2005 the GOI

even set up a Police Act drafting committee to come up with a Model Police Act.

The Model Act set out in its preamble that the functioning of police personnel needs to be free from extraneous Influences." and Section 1 provides that superintendence of the police by the State Government must be limited to ensuring an efficient, effective, responsible and accountable police service." More specifically that police performance is at all times within the law and promoting professional efficiency by setting and implementing standards of performance and ensuring functional autonomy."

The issue has even been dealt with by the Supreme Court of India in *Vineet Narain and Others v Union of India* (Hawala Case) where the court expressly stated that 'superintendence merely refers to the overall functioning of the police, but certainly not any control or supervision, even on the initiation, much less the progress or process of investigation.'<sup>19</sup> Furthermore, the police themselves have identified political interference masked as superintendence as one of the primary reasons for their failure in dealing with criminal and crime.<sup>20</sup>

4. The Urgent Need for Reform Continually Sidelined by the Lack of Political Will for Change

Yet, incomprehensibly, despite the official and judicial evidence exposing the urgent need to reform the 1861 Act in order to curb illegitimate political interference, nothing has been done. On contrary, there has been massive support of the continuation of such an antiquated piece of legislation that seems to have somehow defied any effort for improvement over 150 years<sup>21</sup>.

The NPC's recommendations set out the road map to reform thirty years ago, yet the situation only worsens. Recent highly publicised events involving police

complicity in human rights violations, low rates of conviction in serious crimes, and overwhelming number of complaints lodged against the Police with the Human Rights Commission, corroborate the absolute subversion of systems within the Police's administration.<sup>22</sup> In spite of this, the NPC's recommendations remained shelved even though decades later these recommendations and the Model Police Bill remain extremely relevant and yet successive administrations have made no serious or tangible moves to reform indicating the extent of the lack of political will. Other reports have remained equally dormant in the hands of the Government. The Vohra Committee, established after the serial bomb blasts in Bombay, not only exposed the nexus between criminals, politicians and police but also revealed the functioning of a virtually parallel system of government rendering state apparatus irrelevant<sup>3</sup>. Yet no action was taken.

It has been asserted that from the time the BJP Government came to power they have been searching for a substitute for emergency rule. Therefore, they have opted for an all round draconian legal system." No political party in India wants to reform the legislation, as it serves the ruling party's interests eminently. The people's representatives, from the level of city Corporators to MP's, exert their muscle over local police and manage to corner all perks and privileges. As a result police seems to be less concerned about public safety or internal security and far more concerned with VIP protection." Transparency International identified political parties as the most corrupt organ in India, and the maximum incidence of corruption was found in the police,<sup>26</sup> While the police are desperate that their service and

living conditions are improved, they are not anxious about doing away with the semi-feudal sub-culture or the perks and privileges that the network of patronage brings.<sup>27</sup>

In 1996 two retired high-ranking police officers, Mr Prakash Singh and Mr NK Singh, initiated public interest litigation in the Supreme Court regarding the need for implementation of the NPC's recommendations. Disgusted with the prolonged inaction by the Government, the Supreme Court issued a set of directives in 2006 to the Union Home Ministry and the State Governments to implement the crucial recommendations made by the NPC.<sup>28</sup> However, after the retirement of the so-called 'activist' judges from the Supreme Court these important legal directives have been ignored. This is not the only time the judiciary has ordered action. In the 1998 Hawala case judgment the court took sharp note of the fact that the situation had become 'alarmingly dire' since the NPC made its first recommendations and strongly urged the government to act on reform.<sup>29</sup> This also was to no avail.

It has been identified that the key to police reform lies in unshackling and insulating the police from political influences, yet the likelihood of new legislation is a distant dream given the manner in which politically dictated priorities keep changing,<sup>30</sup> as well as the personal gains to be made by politicians in maintaining the status quo. Police reform needs to come to the fore of the political agenda so that, like other issues, it becomes what influences votes", Only then will politician's pay heed to the issue. Public opinion needs to be created to compel legislative and executive action. In words of Mr Narasimhan, "the recommendations of the NPC are basic, fundamental and unless they are projected, acted upon and embodied in statute, police reform

will not be possible" (emphasis my own).<sup>32</sup>

## 5. The Impacts of 'Superintendence' Provided for In the 1861 Act

The manner in which political control has been exercised over the police in India has resulted in the erosion of the rule of law, gross human rights abuses and the loss of police credibility as a non-partisan organisation. It was observed by the Parliamentary Standing Committee on Home Affairs in its report of April 2002 that, "Today we (India) have a police which is politicised and politically polarised. For it has become a pawn in the hands of its masters. In return, policemen get political patronage, which has become essential for their survival...<sup>33</sup>

### 5.1 The Erosion of the Rule of Law

The legacy of the 1861 Act carries forward manifesting in the widespread politicisation of the police where loyalty rests not with the law but with the political elite. The situation is one where police officers function with a greater willingness to obey unwritten and informal orders to subvert legitimate democratic processes in lieu of personal gain and political patronage.<sup>34</sup> In any model of democratic policing, the police are accountable first and foremost to the law and not to any personages.<sup>35</sup> A police force should be an instrument of law, functionally autonomous, non-partisan, free from illegal extraneous influences, accountable to the law of the land and answerable to the people through their elected representatives. However, the present system has created such a deep subversion of this concept that it requires amendments in the Police Act to make it explicit that every policeman is accountable to the law above all else. Governments over the years have manipulated police for self-gain.

Police have been used to put down opposition, to cover up failures of the ruling party and protect friends. This interference is rife at the local level, the higher echelons and in everyday functioning. Officers are often pressured to use their investigative powers to pursuer political vendetta's or shield those who enjoy the patronage of the ruling party.<sup>36</sup> This results in the well-demonstrated fact that political interference in the investigative work of the police undermines the rule of law.<sup>37</sup> Frequent interventions in the operational jurisdiction of the police not supported by law have been noticed in field of crime investigation as well as in the area of police work pertaining to the maintenance of law and order.<sup>38</sup> There have been numerous occasions when instructions or orders, written or verbal, have been issued to police suggesting how they should act in controlling a particular riot.<sup>39</sup> This is in spite of that fact that the law does not give any such authority to any outsider. Nor does it grant any authority to issues orders to use or not use force or to prohibit the police from taking recourse to use firearms. A notable example of such interference overriding the law is the directions of the Chief Minister of Uttar Pradesh in relation to the demolition of the Babri Masjid (Mosque of Barbar). The Minister, whose loyalty rests with the BJP Party, announced that he had passed orders on police not to open fire on the riotous Hindu activist crowd that had gathered, despite the obvious need to. This resulted in the total demolition of the historic site.<sup>40</sup> Incidents such as this where police find themselves in the dilemma of following the law or the dictates of political masters invariably tend to the latter resulting the erosion of authority of the police as an agency of law.<sup>41</sup>

Foremost in the litany of cause and effect is the perception within

the police that its poor performance can be laid firmly on the lack of functional autonomy and subversion of discipline in the police administration. Both the police and public recognise that the police cannot resist being a creature of whichever the current regime in power rather than in accordance with the law. Lord Denning put forward the doctrine of functional autonomy and the criticalness of the supremacy of the law in police functioning in *R. V Commissioner of Police of Metropolis ex-parte Blackburn*. He held that it was the duty of police to enforce the law of the land and stressed that they are not the servant of anyone save the law itself and as such are only answerable to the law alone.<sup>42</sup> However, the legislative machinery in India allows the police to continue to act as defenders of the ruling party in power. Even fifty years after independence the police are addressed and address themselves as the "Police Force" instead of being thought of as the "Police Service". This projects the police as militarised and defenders of the establishment rather than an institution dedicated to upholding the law.<sup>43</sup>

### 5.2 Human Rights Abuses and Lack of Respect of these Rights as Important

As public service the police must serve to address the needs of the public with the utmost respect for human rights. The Model Police Act put forward tries to address this fact and the preamble to the Act refers to the protection and promotion of human rights and the protection of civil, political, social and cultural rights, which is after all, the primary concern of the Rule of Law.<sup>44</sup> Commonwealth countries have signed up to many international laws and standards but although these provide a framework for democratic policing, in practice, national constitutions and police laws are more relevant to the

conduct of police and police officers.<sup>45</sup> As such it is vital that legislation reflects these international standards and establish a police that 'serve to protect, rather than impede freedoms.'" The United Nations General Assembly adopted a Resolution in December 1979, in which they insisted that all law enforcement officials should respect and protect human dignity and uphold the human rights of all persons." This is because the essential point is that the functioning of the police must be informed by human rights.<sup>48</sup> However, police officers in India are not mentally prepared or mandated by the governing legislation to accept human rights as an essential part of a citizen's life. Instead they violate the human rights of the citizenry, this ranges from tattooing the foreheads of suspects or torturing undertrials, to 'fake encounters' on the pretext of suppressing extremist activities." They have been known to beat up journalists who expose the evils of the police, concoct evidence to obtain convictions, and inciting communal violence for political gain.<sup>50</sup> Such atrocious events occur partly because Police do not know what is meant by human rights (as education in this regard is not part of their training and governing legislation does not require any recourse to human rights) and also partly because police are afraid their power and authority would be questioned, controlled and sometimes annulled." The partiality of police not only interferes with, but also directly suppresses the exercise of democratic freedom by those who may be opposed to the party in power. The dire effects of political interference in quashing any room for the rights of the citizen taking precedence can be seen in the enormous amount of complaints and allegations against the police of abuses of power registered with the Human Rights Commission

every year. In fact there are by far more complaints against the police administration than against any other authority in the country.<sup>52</sup>

### 5.3 The Absence of Credibility and Faith In the Police Administration in the Eyes of the Public

Sadly, despite democracy and freedom for half a century, there is a lot of distrust between the public and the police. The people see the police as an authoritarian organisation, removed from society, with little or respect for the rights of an ordinary person.<sup>53</sup> Lack of public confidence in the states ability to protect personal safety, property and rights has prompted citizens to take the law into their own hands and there has been a brisk growth in vigilantism and private armies for settling scores and seeking redress.<sup>54</sup> The absolute failure of police to prevent damage to life and property and provide security to a large chunk of the states population during the communal riots in Gujarat evidenced an unprecedented loss of credibility on mass scale.<sup>55</sup> However, arguably the most significant factor in the public's perception of this failure is the exposure of the police as partisan - taking sides against the minority Muslim community." Indeed political bias of the law enforcement agency of the state contributed heavily to the feelings of insecurity within the state and gave rise to faith in vigilantism. One cannot help but ask how could it not do so.

The events in Gujarat demonstrated the stark consequences of bad policing and was one of the many instances of perpetuated injustice that have become so commonplace over the years. This was not the first, and unless legislative changes are made, will not be last time similar events take place without legislative reform. It happened in November 1984, when Sikhs were massacred and property was

looted by rampaging mobs. There was the Bhalalpur carnage in October 1989 when the Bihar police joined in the acts of arson, looting and butchering of innocent people from the minority community. The 1992/1993 communal riots in Bombay exposed shocking incidents of police acting in a blatantly partisan manner against members of the minority community. More recently since the Gujarat riots the partiality of police was further exposed during the attack on college teachers in Ujjain, where police not only refrained from taking action when attacks were made but also failed to take timely action after the tragedy as well.<sup>57</sup>

When police personnel have been questioned as to what the most common malpractices are they responded that showing partiality toward rich or influential people in cases involving them or reported by them and "discriminatory treatment towards weaker sections of the community". They also identified that aside from being handicapped by poor infrastructure and terrible service conditions, they are forced to answer to too many political masters and greatly hindered by political interference. Interestingly, during visits to police stations in Delhi this year all interviewed police officers were extremely conscious about stressing that first and foremost they are government employees and secondly that anything they might say must not be traceable back to themselves. The fact is that the Police are a very important and independent part of the criminal justice system and yet they vehemently identify as government servants as a pre-emptive justifier. The general police attitude towards any problem of the public can summed up as apathetic. It is almost an automated response from police officers to explain aberrant behaviour such as that described above in terms of political

pressure, that they are constrained to carry out the will of their political masters.<sup>59</sup> The common man fears approaching the police for any help or visit any police station without the support of a local influential politician in tow.<sup>80</sup> The registration or non-registration of cases to favour, harm or manipulate crime statistics for political expediency create a deep sense of discrimination and uncertainty in the public.<sup>51</sup> All this has undeniably meant that the police lack any shred of credibility in the eyes of the community. The general perception rather is that the police will always be ready to do whatever they are asked to do by their political masters. If they are asked to bend, they will be willing to crawl. The reaction of the public to raids against politicians orchestrated by other politicians is testimony to this. People in India reacted with little concern over the raids on the properties of Mr Badal (the former Chief Minister of Punjab) and Mr Karunanidhi's house in the dead of night.<sup>52</sup> Instead such events are accepted as inevitable, part of the game of political vendetta's politicians indulge in.

#### 5.4 A lack of Security of Tenure and Allegiance to Power Centres outside the Police

The power of transfer and the ability to damn further career paths of individual officers make the police unable to resist outside influence. Presently, the head of police enjoys their tenure at the pleasure of the Chief Minister of the state. They may be removed from their post at any time without the assigning of any reasons.<sup>53</sup> The incentive to bad officers is to benefit from powerful political patronage and also to gain basic amenities not otherwise provided for in order to function. When being shown around Delhi Police Stations, I could not help but notice a drinking water tank that had been provided personally by a local MP. Without this tank there

would have **been** no drinking water facilities in the station. Hence, eager to please, policemen often resort to politicking and hobnobbing with functionaries outside the system for personal gains.

Honest officers who discern their duty as serving without bias, fear or favour find themselves labelled as uncooperative, difficult and un-helpful. Moreover they are often sidelined into non-operational roles<sup>64</sup> or subjected to frequent transfers as well as departmental inquiries or even false legal proceedings.<sup>55</sup> This is a constant and very real threat that hangs over their heads.

Political interference has a chain reaction and has become institutionalised in a negative sense that has resulted in the subversion of existing structures of supervision and control within the establishment. The pervasiveness of this influence over not only rank and file but also senior officers coupled with allegiance to power centres outside of the police means the chain of command is weakened and lines of control get blurred within the force. The ability of superior officers to marshal their forces or make them accountable for wrongdoing is severely compromised.<sup>66</sup> This has created a climate within police establishment where functionaries at all different levels are constantly looking elsewhere<sup>57</sup> for protection and rewards.

#### 6. Conclusion

The continued reliance on the 1861 Act in the democratic republic of India in 2008 and the lack of political will to reform this legislation has had the cumulative effect of impairing the ability of the police to perform their main function to serve the community and ensure a safe and secure environment. Instead, the scope of the legislatively enshrined concept of superintendence has resulted in a police force that is highly vulnerable to abuse of power, corruption and criminality - the very things it is expected to fight against. This essay

has demonstrated some of the appalling impacts of this as the replacement of one of the pillars of democracy, the Rule of law, with the frontline of the criminal justice system being a tool for politicians, the lack of respect and supremacy of striving to protect peoples human rights and freedoms in police functioning, a public which has no faith or places any credibility in their police force as serving or protecting them, and a police force answering to political masters instead of superiors and looking to build fruitful alliances with political elites rather serving the community.

The Government does have a legitimate and very central role to play in setting the strategic direction and broad policy priorities for the police, on behalf of the people they represent. In the framework of democratic policing, the prime responsibility of the government remains confined to providing a well-resourced, well-led, well-trained police organisation, and to imposing suitable checks on the powers of the police to ensure that they discharge their functions in accordance with law, and are held accountable when they act outside or above law.

It should be noted, however, that since current PM, Mr Manmohan Singh, has been in office this socialist aspects that define a Social Democracy have been slowly phased out in the pursuit of economic growth.

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<sup>7</sup> *Ibid.*

- 8 *The Police Act 1861* (5 of 1861) s 3.
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## Press Release: M A Thomas National Human Rights Award 2008

### Daya Bai Honoured

Bangalore:

DAYA BAI, a fiery human rights activist working among the tribal communities in Madhya Pradesh has been selected for Vigil India Movement's M A Thomas National Human Rights Award 2008.

A three member Jury with members as Justice Jaisimha Babu, former judge in Karnataka and Madras High Courts, Dr N Krishnan, former Indian Ambassador to the United Nations, Dr Mathews George Chunnakara, Programme Executive for Human Rights and Asia of the Geneva based World Council of Churches,

selected Ms. Daya Bai for the Award from among 34 nominations considered for the Award from various parts of the country.

Ms Daya Bai, who has been working among the exploited and persecuted Gonda tribals in Madhya Pradesh provided outstanding contributions in the field of protecting and promoting the rights of the tribals and also consistently making awareness on their own rights, over four decades of her committed work as a human rights activist in a remote and under developed area in Madhya Pradesh is recognized by the Jury

through nominating her name for the 2008 human rights award of the Vigil India Movement.

Vigil India Movement instituted this National Human Rights Award in 1994, in memory of the founder President of the Vigil India Movement.

The Award with one lakh of Rupees and a Citation will be presented to Ms. Daya Bai at the National Consultation of the Vigil India Movement, which will be held in New Delhi on 1<sup>st</sup> September. – Dr Siby Tharakan, Programme Manager, Vigil India Movement 0

## PUCL Auditors' Report:

### People's Union for Civil Liberties Assessment year: 2006 - 2007

The Members,  
People's Union for Civil Liberties  
81, Sahayoga Apartments  
Mayur Vihar-1  
New Delhi 110091

Subject: Audit Report on Accounts for the year ended March 31, 2007

Dear Members,

We have audited the attached Balance Sheet of M/s People's Union for Civil Liberties (PUCL) as at March 31, 2007 and also its Profit and Loss Account for the year ended on that date, **annexed** thereto. These financial statements are the responsibility of the management of PUCL. Ours responsibility is to express our opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in India. Those Standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

We report that:

a) We have obtained all the information and explanations, which to the best of our knowledge and belief were necessary for the purpose of our audit.

b) In our opinion, proper books of accounts, as required by law have been kept by your organisation so far as it appears from our examination if its accounting system and various other books of accounts produced before us during the course of audit.

c) The Balance Sheet and Profit and Loss account dealt with by this report are in agreement with the accounting system. Reviewed by us and the books of accounts that were produced before us during the course of the audit.

d) In our opinion, the Balance Sheet and Profit & Loss Account dealt with by this report comply with the applicable accounting standards

e) In our opinion and to the best of our knowledge and according to the explanations given to us, the said accounts give the information in the manner so required and give a true and fair view, in conformity with the accounting principles generally accepted in India:

f) In the case of the Balance Sheet, of the state of affairs of the organisation as at March 31, 2007 and

g) In the case of the Income & Expenditure Account, of its loss for the year ended on that date.

For JRA & Associates  
(formerly Jassal Ranganathan & Associates)  
Chartered Accountants

Place: New Delhi  
Date: 25.07.08

**D Ranganathan**  
Partner  
Membership No: 83605

People's Union for Civil Liberties  
81, Sahayoga Apartments, Mayur Vihar-I, Delhi 110091

#### Receipt & Payment Account for the Period 01.04.06 - 31.03.07

RECEIPT	2006-07		2005-06	
	Bank (Rs. np)	Cash (Rs. np)	Bank (Rs. np)	Cash (Rs. np)
Opening Balance (01.04.06)/(01.04.05)	205659.20	23889.35	122131.20	5615.35
Advance to Printer	20000.00			
Cash withdrawn from Bank	0.00	265000.00	0.00	275000.00
Cash deposited into Bank	22896.00		42963.00	0.00
PUCL subscription received				

In INR	378846.00	12664.00	469280.00	32248.00
In Foreign Currency	0.00	0.00	6551.00	0.00
Bulletin Subscription Received				
In INR	8639.00	10232.00	18718.00	10715.00
In Foreign Currency	0.00	0.00	0.00	0.00
Interest income from SB Alc	3942.32	0.00	3530.00	0.00
Total	<b>639982.52</b>	311785.35	663173.20	323578.35
PAYMENT				
Cash withdrawn from Bank	265000.00	0.00	275000.00	0.00
Advance to Printer	20000.00			
Cash deposited into Bank (Subscription)	0.00	22896.00	0.00	42963.00
Honarium Paid	0.00	209581.00	0.00	198725.00
Bulletin Press	96330.00	0.00	86775.00	0.00
Office Expenses	9358.00	32914.00	13130.00	27904.00
Conveyance		20183.00	0.00	16584.00
Telephone Expenses	26351.00	0.00	20288.00	0.00
Postage Expenses	0.00	8363.50	0.00	10103.00
Research & Publication			7880.00	0.00
Travelling Expenses			7000.00	0.00
Computer & Internet Expenses			6665.00	3410.00
Investment in FD	100000.00	0.00	0.00	0.00
Computer Upgradation	27716.00	1850.00	15000.00	0.00
Computer AMC			9000.00	0.00
Loans & Advances			15000.00	0.00
Bank Charges	509.00		1776.00	0.00
Audit Fees	21734.00		0.00	0.00
Closing Balance	<b>72984.52</b>	15997.85	205659.20	23889.35
Total	639982.52	311785.35	663173.2	323578.35

Income & Expenditure Account for the Year Ended as on 31st March 2007			
Income		Year Ended 31.03.07	Year Ended 31.03.06
		(Rs. np)	(Rs. np)
PUCL subscription received			
In INR		391510.00	501528.00
In Foreign Currency			6551.00
Bulletin Subscription Received			
In INR		18871.00	29433.00
In Foreign Currency			
Silver Jubilee Fund Balance recognised as income (transferred from Balance Sheet)	-	19400.00	0.00
Interest income from SB Alc		3942.32	3530.00
Total		433723.32	541042.00
Expenditure			
Honarium Paid		209581.00	198725.00
Bulletin Press		96330.00	92775.00
Office Expenses		42272.00	41034.00
Conveyance		20183.00	16584.00
Telephone Expenses		26351.00	20288.00

Postage Expenses		8363.50	10103.00
Research & Publication		0.00	17880.00
Travelling Expenses		0.00	7000.00
Computer & Internet Expenses *	29566.00		12325.00
Add: Prepaid Expenses in last year	6750.00	36316.00	
Misc. Expenses		0.00	0.00
Bank Charges		509.00	1776.00
Audit Fee	21734.00		
Less: Provision of last year	10000.00	11734.00	
Depreciation for the year		6464.88	4912.20
Excess of Income over expenditure (+) Surplus / (-) Deficit		-24381.06	117639.80
<b>Total</b>		<b>433723.32</b>	<b>541042.00</b>

Balance Sheet as on 31st March 2007				
Sources of Funds	31.03.07		31.03.06	
	(Rs. no)	(Rs. ne)	(Rs. np)	(Rs. np)
Corpus Fund	21767335		110033.55	
Add/(Less): Income/(Deficit) for the year	(24381.06)	193292.29	107639.80	217673.35
Silver Jubilee Fund	19400.00		19400.00	
Less: transferred to Income & Expenditure A/C	19400.00	0.00	0.00	19400.00
Provision for Audit Fees				10000.00
<b>Total</b>		<b>193292.29</b>		<b>247073.35</b>
Application of Funds				
Cash-in-hand		15997.85		23889.35
Forex-in-hand		0.00		0.00
Cash-at-bank		72984.52		205659.20
Loans & Advances		0.00		0.00
Investment in FD		100000.00		
Fixed Assets:				
Gross Block	25730.00		25730.00	
Less: Depreciation Allowance	21420.08		14955.20	
Net Block		4309.92		10774.80
Prepaid Expenses		0.00		6750.00
<b>Total</b>		<b>193292.29</b>		<b>247073.35</b>

Verified and Certified true and Correct as per books of accounts and other relevant records / documents produced before us for verification.

As our report of even date  
For JRA & Associates  
(formerly Jassal Raliganathan & Associates)  
Chartered Accountants

D. Ranganathan  
Partner  
Membership No: 83605

Place: New Delhi  
Date: 25 July 2008

O

For Peoples Union for Civil Liberties (PUCL)

Vashpal Chhibar  
General Secretary

D. Jagannathan  
Treasurer

## Obituary: M A Rane

# A Grand Old Radical Humanist Vanished

### B S Nayak Advocate

With my limited knowledge about Shri Rane, though a small fry, I venture to write this small piece on him, as I was working with him for last more than 30 years. Shri Rane born on 24th November 1925 in a village known as Kanasgiri situated on the northern bank of river Kali in Karwar taluka, District North Kanara, Karnataka State. Initially he was a peasant boy. He studied up to matric in Government High School in Karwar in 1942 securing 10th rank in Matriculation Examination conducted by the then Bombay University and then migrated to Bombay. He did his B.A. in Elphinstone College, Bombay; did LL.B from the Government Law College, Bombay in 1948. In 1949 he joined the Bombay Bar as an assistant to Barrister V M Tarkunde (Who thereafter was elevated as a Judge of the Bombay High Court) and K S Daundkar. As a student in 1944-45 he was drawn to the Humanist philosophy of M N Roy and became an active member of the Radical Democratic Party founded by M N Roy. After the said party was dissolved in 1948, Shri Rane continued to promote the thoughts and philosophy of M N Roy and became an ardent Radical Humanist which he was till the last.

Shri Rane was in the group of intelligent and expert lawyers like Justice V M Tarkunde, Chief Justice M C Chagla, Chief Justice J.C. Shah, Justice N P Nathwani as well as Gandhians who launched movements against the Emergency inflicted on the Indian Citizens by Mrs Indira Gandhi. He played an important role in resisting the emergency. He was also connected with various other organizations like Citizens for Democracy (CFD), People's Union for Civil Liberties (PUCL), Radical

Humanist Association (RHA) and Radical Humanist (RH) etc.

Shri Rane was a tough fighter for providing basic needs of human beings like education, potable water supply, shelter and employment for the livelihood of the down trodden.

Shri Rane conducted various important cases including public interest litigations (PILs) like fake encounter cases, sewerage workers cases of Bombay Municipal Corporation, nuclear power plant project case, human rights cases and he was a pioneer for establishment of Human Rights Commission in Maharashtra.

He used to correspond with all those who wrote letters to him, never came across an instance that he left any letter received by him un-replied, explaining the issues involved therein in detail. He was a good guide to all of us.

Shri Rane was not to remain idle, but was restless and always on the move. In his life he wrote three books- two on Barrister V M Tarkunde, his Senior namely (1) "*V M Tarkunde-90- A Restless Crusader for Human Freedoms*" on his 90th birth day written in 1999, and (2) "*The Legend of V M Tarkunde*" as V M Tarkunde Birth Centenary Commemorative Volume which commences on 3rd July 2008 written in 2007; and one on his own life namely "Good Times, Bad Times, Sad Times" written in 2001.

Shri Rane used to write articles regularly for the Radical Humanist and letters to the press for publication on different subjects till his last. Till he breathed his last he was reading news papers and other journals regularly and was anxious to respond to them. In other words he was a prolific writer. He was strictly against corruption and stood firm on the issue. Shri Rane was very much

interested in protection of the environment and was fond of trees and birds particularly, He used to enjoy the romance of good sea food being a Karwari, Goan or Konkani. He was always happy in his life and generated happiness in others.

As he said, though he was not an expert in economics or nuclear subjects, he wrote several articles on the subject since he felt that nuclear power plant generation is dangerous to all kinds of life for hundreds and thousands years to come. His amongst other relevant articles are (1) Pollution due to immersion of Ganesh Idols in sea, river, well and tank waters; (2) Human rights of the Gays and Lesbians- section 377 of IPC; (3) The plight of hutment and pavment dwellers in Mumbai; (4) Against Astrology and Miracles; (5) Moral Policing- Dance Bars and (6) Religion and Social Orthodoxies Die Hard etc.

He had the first heart attack in April 1984 followed by a severe second attack in 1987. He underwent a triple bypass surgery at the Harley Street Clinic, London. He also underwent an angeoplasty by Dr Mathew in Mumbai in another artery not covered by the triple bypass which was also blocked. As a result of several heart attacks as well as hospitalization, according to the doctors the ejection factor of his heart has gone down below normal and hence he was advised not to go out of his house. His legal practice and various public activities came to an end since the end of the year 2004. Fortunately initially he was not confined to bed, therefore, he was able to read and write articles particularly for the RH and *PUCL Bulletin* and also wrote letters to the Press on public issues. He continued to remain in good spirit despite undergoing

major surgeries and medical treatments and he was one of the longest surviving heart patients.

To fit in a phrase that "Behind every successful man, there is a woman" Ms Rane stood like a rock behind Shri. Rane and helped assisted/took care of him at every stage of his life.

I last met and talked to him on 20.7.2008 and when I saw him I was really stunned. At that point of time itself, I realized that his life-light was flickering.

Letter:

His passing away is an irreparable loss to all of us including the family of the Radical Humanist. In his death we have lost a vigorous activist of human freedom and protection, like a Banyan tree, which fell on 24th July 2008. It will neither be wrong to say nor needless to say that "humanism" was imbibed in his whole body. He is survived by his wife, two sons, two daughters and two grand children. My heart felt condolences to his bereaved wife

Savita (Shri Rane used to call her by her maiden name "Indira"), Raj and Ammol - sons, Rita and Sarita - daughters, Dilip Maluste son-in-law & Monica and Niel grand children.

We pray the Almighty to give strength and courage to his bereaved family to bear the loss. Let his soul may rest in eternal peace. - Mumbai, 25-7-2008 ☐

## Ajay TG is Back Home

### Back With Passion for another Innings

Dear friends,

Ajay TG was released from Jail today the 5th of August only after 8 pm. It took them till four pm today to get all the papers ready. The work of notarising the property list of Ajay took no time in the jail in the morning. However, the Bail sureties that were to be presented by Shobha, Ajay's wife and the other person required that the Tehsildar verify and counter sign it. The Tehsildar asked the Patwari to verify the papers. The Patwari was

not available till very late. However all the work was done and the papers were finally filed in Court by 4pm. Following which the release order was made out and sent to the Jail and then the formalities in Jail took a more than an hour. The entire process made it late evening. It was worth the waiting for all.

Ajay was given a big welcome back. Shobha his wife, several of his friends, family members from both sides including Shobha's

brother Babu, her sister were all there. The most difficult moment was the reunion with his parents.

Ajay spoke over the phone to some of us. When he spoke to me he was very happy. He said that he would not lose a single day to plan next step on the "case" front. He said that he will be calling his lawyers and working it out.

Ajay's release has rekindled hope that things will change in Chhattisgarh. - Kavita Srivastava ☐

J&K PUCI: Press Release

## Jammu Civil Society Appeals for Peace

On behalf of 16 citizens of Jammu, Balraj Puri, social activist, Convenor J& K PUCI and Padma Shushan awardee has appealed to the people of Jammu and the leaders of the current agitation, to realize that the secular tradition and identity of Jammu is its real strength which we cannot afford to weaken. In fact, we should try to enlist the support of all the communities for a struggle against all long pending grievances of the region and for status of regional equality in all spheres. We should also be conscious of Jammu's vital role as a geo-political bridge between people of Kashmir and the rest of India. While people of Jammu have a right to protest against the leaders of Kashmir

who whipped up popular sentiments and against the bungling of the coalition partners of the state government who were primarily responsible for the present turmoil, as good patriots we should not unwittingly contribute to weakening the role of Jammu as a bridge. Lastly, we urge the people and leaders of Jammu to realize the potentialities of disciplined and peaceful methods of struggle which can be sustained much longer and are more effective with far less damage, if at all, to the society than violent demonstrations.

Signed by: 1. Balraj Puri; 2. Padmashri Prof Ram Nalh Shastri; 3. Prof M R Pun, Former Vice Chancellor Jammu University; 4. Prof Zahuruddin;

5. Sardar Sukhdev Singh, President, Gurudawara Parbandhak Committee District Jammu; 6. Prof Lalit Mangotra, President Oogri Sanstha; 7. Abdul Majid, President, Jammu Muslim Federation; 8. Prof Rekha Chowdhary. Dr A K Zutshi (Principal GMC (Atd.); 9. Istiaq Kazmi, President, Anajam Firoq Urdu; 10. Dr Jai Kumar (Atd Director Health Services); 11. Janak Raj Aalhore, Former Chairman J&K Board of School Education; 12. Jia Lal Kotwal; 13. Former Principal GGM College; 14. O P Khajuria, Ex President, Dharamarth Trust; 15. Shah Mohammad General Secretary Jammu and Kashmir Gujjar United Front; 16. Sardar Surinder Singh, Akali Member Gurudwara Parbandhak Committee, Ex-President Bar Association.

Balraj Pun, Director, *Institute of Jammu and Kashmir Affairs* ☐

Letter to Dr Chhibbar:

## M A Rane Remembered

Dear Abba,

M A Rane's death is a big loss to Human Rights movements. It is my personal loss too. I would like to recall our lively evening meetings in his chamber in the

premises of Mumbai High Court almost every day when I had been working as correspondent in Mumbai. I am conveying my heartfelt condolences to the family.

उनकी बहुत याद आती है. आपको तो और भी ज़ाती होगी. With warm regards. - Manimala ☐

Tamil Nadu PUCL:

## Activists Falsely Implicated

Four PUCL activists were arrested by the police in Namakkal district Kamorapalayam town in a concocted case and were remanded to custodies June 23, 2008.

It is alleged that J K K Rangamal, Higher Secondary School, under government management, was illegally collecting fees from students, which is against government regulations. The Namakkal PUCL Secretary Selvaraji and Balasubramanian, Pakaravan, Anbalagan, and Venkatachalam protested against this. The Headmaster is alleged to have told them that the management had ordered to collect the fees and told them to comeback on June 23 when she will be able to tell the Kerala Report:

final decision of the management. The above named activists went to the school again and waited to meet the Headmaster. Instead of the Headmaster Kumarapalayam, police came and arrested them on the complaint that the school manaqe.nsnt had reported that these people had asked for donations for extremist's organisations. The case was filed under section 147, 294 (b), 506 (1), of IPC. The police and the management thus conspired to get them arrested as they were indulging in corruption.

The Secretary of Tamil Nadu PUCL went to the police station and pleaded to show their innocence. He discovered that the police Inspector had taken photographs of the arrested

persons and released them to the press.

The Tamil Nadu PUCL organised a protest meeting on June 25, 2008 against the police Inspector, Rathina Kumar. ☐

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(from page 1...) must find out what is wrong with governance. Whether government has a vision of governance or not people have some expectations from governments. I believe there is enough scope to debate without pitching in for a change in the constitution. There is a need to reverse this process. Criminal law and criminal processes at best may provide short term relief but then we cannot forever go from one short term to another. 0

## Kerala State Branch of the PUCL Re-Organised

The national office was receiving reports from Kerala that there were parallel PUCL bodies running in the State. At the time of formation of the present National Council, Kerala had 333 members. We found by checking that most of these members were dummy and had arrears of up to Rs 5001- against their names. The national office found that in June 2008 there were about 180 members, after the rest were deleted during our routine reminders. The National office sent demand notes to the above 180 members and by the deadline prescribed to them only 59 remained!

The General Secretary after discussing the matter with the President had decided that the national office should organise elections from Delhi in the presence of observers sent from outside. Dr V Lakshminarayana, and Dr E Rati Rao of Karnataka PIJCL and Ms Sudha Ramalingam of Tamil Nadu and Puduchery PUCL very kindly agree to undertake the task. The meeting to elect the office bearers was held on 13.07.2008 at Ernakulam and the Kerala State PUCL was 'reborn'.

We are still receiving letters from some people claiming that they were members and were not

informed of the elections. This confirms that there were members whose names and central share of membership fee were never sent the national office.

We have received the following reports from the three observers who conducted the elections:

The general body decided to choose the office bearers by consensus. The observers addressed the meeting and stressed the need for strengthening civil liberties activities at the present crucial time. Disunity among the civil liberty activists would only weaken the people's cause and the fight against fascist forces would

become weak. After the discussion which lasted for about an hour and half names of the office bearers were finalised and announced.

The following is the list of elected office bearers: President: P Chandrasekhar; Vice

Presidents: (1) M. C. Mathew, (2) Vijayan M Iyer; General Secretary: P A P Pauran; Organizing Secretaries: (1) H Abdul Assis, (2) Dr Aenny Antony; Treasurer: Jacob V Lazer. Executive Committee Members:

(1) Bhargavan, (2) James P Mathew, (3) Saidu Mohammed. National Council Members: (1) P K Ibrahim, (2) Boben Mannarath. - Dr Y P Chhlabbar, General Secretary, PUCL

GUjarat:

## Solidarity Meeting against Sedition Charge on *Times of India*

A charge of sedition has been filed against the Times of India, Ahmedabad edition, because it exposed the nexus of the City Police Commissioner Mr O P Mathur with the underworld don. The story of the news was how safe is Ahmedabad under Mr O P Mathur. Earlier the journalist staged a spirited demonstration before the office of the Police Commissioner, Shahibaug, Ahmedabad joined by the activists and the concerned citizens. The journalists met the Governor Mr Navalkishore Sharma. The Sedition charge against the Times of India developed a unique solidarity of the media persons and the concerned citizens and the activists. A series of activities on freedom of expression are going on in the city.

The citizens of Ahmedabad came, out and condemned sedition charge and stood for freedom of press and freedom of expression. On 5<sup>th</sup> June A Citizens' meet was organised at Himavan, Pardi by Movement for Secular Democracy (MSD), People's Union for Civil Liberties (PUCL) and PRASHANT to protest against the Sedition charges against 'Times of India' and to uphold the freedom of expression. Concerned citizens belonging to all walks of life joined the meeting. They were jurists, academicians, columnists, activists, students, youths and of course media persons. The journalist friend of *Times of India*, who is facing the charge of sedition (along with the resident editor and the photographer), Mr Prasant Dayal, who carried the

news on Mr O P Mathur was also present and was greeted warmly as soon as he entered the hall.

The introductory speech was delivered by Mr Dwarika Nath Rath and there after Sri Gautam Thaker conducted the meeting

The meeting was addressed by Advocate Mr Girishbhai Patel, eminent citizen Mr Prakashbhai Shah, noted journalist Mr Urvish Kothari, senior journalists Mr Aathin Das, Mr Digant Oza. Fr Cedric Prakash of PRASHANT and Prof Dineshbahi Shukla.

Media persons: Mr O P Bhattacharya of *Indian Express*, Mr Dilip Patel of *Times of India*, Mr Ashis Vasi, Vishal Patadiya too expressed their anguish.

Of course Mr Prasant Dayal spoke in the meeting.

Ms Ilabehn Pathak of AWAG, Prof Ghanshyam Shah, Mr Indukumar Jani, Editor, Nayamarg Mr Harinesh Pandya, campaigner of ATI, Mr Vithla PV Pandya, the father of slain Harin Panday, Prof Dhavalbahi Mehta, Ex BJP MLA Mr Sunil Oza, Mr Rajanibhai Dave, editor, *Bhoomiputra*; Ashok Chatterji, Ex Director NID., Mr Mahadev Vidrohi of sarvoday, and others actively participated in the discussion and made valuable suggestions.

Noted Sarvoday leader Shri Chunibhai Vaidya was present in the meeting. Apart from him Prof Abid Shamsi, Shri Dilip Chandulal Suvarnabehri, Damayantibehn, Shri Arunbhai Thkore, Shri Himmatbhai Shah, Shri Jayesh Patel. Ms Ramabehn Vora, Ms Meenakshi Joshi, Ms Sarah behn Baldiwal, Ms Verona DSouza, Mr

Bhavik Raja, Mr Pravin Shah and many others from all walk of life were present in the meeting.

A resolution was unanimously passed.

The Resolution

The sedition charge against the *Times of India* is a matter of great concern for all the democratic minded people in the society. The meeting of the citizens condemns the charge; of sedition filed against *Times of India* and term it as a direct assault on freedom of Press, which is the fourth Estate in a democratic country. Registering the case against Times of India is a deliberate action of Police to suppress the voice of dissent of the press and create an atmosphere of panic in the state, where violation of human rights and Democratic rights is becoming a regular practice of the Police and Govt. in Gujarat in overt and covert fashion for last so many years.

The features carried by *Times of India* exposing the close nexus between Police officer Mr O P Mathur with Mr Abdul Latif, is not only appalling but raises serious question about the credibility of the Police Officer in high rank and level criminalization of Police in the state.

The Ahmedabad city Police Commissioner Mr O P Mathur instead of responding to the documented investigative report published by the *Times of India* either by refuting the charges or by filing defamation case but to treat the reports questioning his competence as amounting to excite hatred, contempt or dissatisfaction to wards the Govt.

reflects his undemocratic character and audacity to equate himself as Govt. established by law. If Mr Mathur has acted with the approval of the Govt., it exposes how the state attempts to suppress democratic dissent which can be a British colonial hang over.

So, we consider any threat to freedom press and freedom of expression by any quarter of the administration is a direct threat to democracy and perpetuate fascist type of rule » The role of media as

the watchdog of democracy and its role to disseminate right information to the citizen is always indispensable, which we consider the Times of India has been performing. So we demand:

1. Withdrawl of the charge of sedition and conspiracy immediately
2. Institute a high level [udicial enquiry on the charges against Mr & P Mathur
3. The column of Sedition be scrapped permanently.

4. A delegation of the citizens will meet the Governor of Gujarat

5. A State Level conference will be held on 22nd June on Freedom of Expression.

6. The Home Minister of Gujarat should come out with the clarification on the charge of Sedition against *Times of India*. - Gautam Thaker, Dwarikanath Rath, Fr Cedric Prakash, 6-6-2008 O

Letter to the Editor:

Respected Chhibbarji and Kannabiranji,

Yesterday I was on NDTV Barkha Dutt panel on Ahmedabad. I have strongly condemned the terrorist attacks, and mentioned that if carried out by Muslims, I

would denounce them in the strongest possible terms. The sight of young children suffering in pain is too ghastly. But we have to do something to reduce the religious hatred prevalent in Gujarat. I have tried my best in the last six years,

but without success. Hopefully we will do everything possible to help restore normalcy. Regards. - J S Bandukwala, President, Gujarat PUCL O

Update: (28th July 2008)

## Supreme Court Directs PUCL to Approach the Chhattisgarh High Court

The Supreme Court of India has permitted the PUCL to withdraw its Petition challenging the constitutionality of The Chhattisgarh Special Public Security Act 2005, and said in the order that the petitioners were at "liberty to go to the High Court". Appearing for the Petitioners, Mr Rajindar Sachar, Former Chief Justice of Delhi High Court & Former National President of the PUCL argued that the Chhattisgarh Act 2005 was linked up with the Unlawful Activities Prevention Act 1967 (Amended in 2004), and the main issue before the Apex Court was to examine whether the States could bring in similar laws when the Central Act like UAPA was already applicable to the entire country. Mr Sachar also gave example of other State legislations like the Maharashtra Control of Organized Crimes Act, 1999 (MCOCA), whose provisions

were under challenge before this Hon'ble Court. The questions relating to violation of constitutional provisions, human rights and civil liberties are required to be examined by this Hon'ble Court.

But, the CJ Bench consisting of Chief Justice K G Balakrishnan and Justice P Sathasivam refused to entertain the Petition on the grounds that it was the State Act under challenge, and that the same should be done before the Chhattisgarh High Court. Sr. Advocate Mr Sanjay Parikh & Adv Anitha Shenoy (Advocate on Record) were also present in the Court. Others present during the hearing were: Ms. Kavita Shrivastava (General Secretary, Rajasthan PUCL) & Dr Sebu George (MFC), Adv Aagney Sail (HRLN). It may be recalled that a total of 139 citizens have been detained under this draconian law, including the National Vice-

President and CG PUCL General Secretary, Dr Binayak Sen, and Ajay TG (A Film Maker and a Member of the State Executive Committee). According to the data available with the CG PUCL, 52 citizens have been illegally detained under the Act of 2005, and 67 citizens have been declared as absconding. Out of these 'absconding', the police records mention about 30 "unknown CPI (Maoist) organization workers" and "naxalite members"

Thus, this draconian law has been used against 139 citizens, which include: 7 Traders/businessmen (2 cloth merchants, 2 electrical shopkeepers, 1 general storekeeper, 1 cattle dealer, 1 video-grapher); 1 Tailor; 2 Journalist; 1 Former Journalist; 2 Naxalite Couriers (whatever that may mean!); (on next page...)

Delhi PUCL:

## Anti-Emergency Day Meeting - Report

PUCL-Delhi organized an Anti-Emergency Day Meeting at 5.00 p.m. at Gandhi Peace Foundation, Delhi on 26<sup>th</sup> June, 2008. The meeting was attended by 45-50 people. Prof Amrik Singh, Justice Rajindar Sachar, Shri Kuldip Nayar, Dr Y P Chhibbar, Shri Dunu Roy, and Dr George Mathew also attended the meeting. The meeting was presided over by Dr George Mathew, President of PUCL-Delhi.

Shri Mahi Pal Singh welcomed the guests.

Speakers emphasized the importance of remembering the dark days of emergency and to observe the day every year because the prevailing circumstances in the country were still not conducive to the full realization of human rights and fundamental freedoms. Various black laws were still in force and governments continued to use them to silence the voice of dissent. Since students in our schools and colleges were not taught anything about the emergency in their syllabus, it was only through such meetings that they could learn about those dark days because even the media, which had faced censorship in those days, also forgets to recall those difficult days.

Shri Kuldip Nayar released a new Hindi newspaper 'Pahla Kadam' started by members of Prem Nagar branch of PUCL-Delhi. He expressed the hope that the paper would highlight the woes of the people and their civic problems. It would also spread awareness about human rights among the people. He wished the paper a grand success.

Shri Mahi Pal Singh proposed vote of thanks to the guests and the meeting came to an end. -

Mahi Pal Singh, General  
Secretary, PUCL-Delhi 0

(from page 19...) 1 NGO worker (Le. Ajay T G, who is a member of State Executive Committee of CG PUCL, and a known Media person/Film-maker); 19 farmers/agricultural workers; 12 Cultural Activists (from Chetna Natya Mandali, again described as naxalites); 1 private doctor; 7 hardcore naxalites (including members of various committees of CPI-Maoists). In majority of the cases, the charge as described in the police records as: "collaborated with the CPI (Maoists) organization, and provided food, water etc., to its members, and on their behalf illegally collected funds".

The Chhattisgarh PUCL is consulting senior members and legal experts to challenge the Chhattisgarh Act of 2005 at the Chhattisgarh High Court.

Trial hearings in Dr Binayak Sen's case

The next dates of trial hearings in Dr Binayak Sen's case are: 29th to 31st of July (3 days), and 4th to 8th of August (5 days) at the District Court, Raipur, Chhattisgarh. The Prosecution has provided a list of 16 witnesses to be examined during these dates.

Ajay T G, Film maker and member of CG PUCL State Executive Committee detained under the Chhattisgarh Act 2005, will be produced for remand on 31st July, 2008 at the District Court, Durg, Chhattisgarh. - Rajendra K Sail, President, Chhattisgarh PUCL ☐

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**i-General Secretary!**

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