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Genuine Police Reforms Needed

Pushkar Raj

Following independence, one institution that did not get adequate attention was the police. Much of the system was adopted as it was during the British raj. Police were placed in the constitution under State subjects, and various States made some minor changes in their policing system while keeping the core of 1861 Police Act. The result has been inefficient and unaccountable police that most of the people distrust and dislike.

The opportunity to change all this came in form of the Supreme Court judgement in Prakash Singh and others vs Union of India and others case in 2006 when the Court directed that all the States and the Centre should implement six directives pending the enactment of new police legislation. The court implied that the new State police legislation must keep in view the basic tenet of political non-interference in transfer, posting and promotion, security of tenure of officials, separation of law and order from investigation and accountability. Twelve states have passed new police legislation so far. However, these are only minutely better than the 1861 Police Act. In new State police laws, every directive of the court has been diluted - new laws do not democratise the police and it remains a force rather than a service.

The Centre has been maintaining that policing is the state subject and it cannot do much to influence the State police legislation. However, when it came to the National Capital Territory of Delhi, the Home Ministry has came up with the draft Delhi Police (Amendment) Bill 2010. It became apparent that the Centre has also not been serious on genuine police reforms in the country, notwithstanding the Prime Minister and Home Minister's assertions to the contrary. If it was, it would not come out with cut and paste' draft legislation for Delhi - part of which is in the form of an amendment in the 1978 Delhi Police Act and part of it in form of the Home Ministry's office memorandums. Taken together, both these documents fall far short of compliance with the Supreme Court directives or any steps toward better policing. It will certainly not bring any quality change in the performance of the police and the citizens of Delhi will continue to suffer unresponsive and unaccountable policing.

The Draft makes no mention of a separate State Security Commission (UTSC) for the NCT of Delhi. Instead, a Union Territories Security Commission has recently been established by the MHA (Ministry of Home Affairs – Government of India) through an Official Memorandum. This Commission shall have jurisdiction over all the seven Union Territories in India – including Delhi. One does not understand how this will be able to address all local policing issues originating in all the UTs. The Supreme

Court directives stated that the Commission should be composed of the political leadership, bureaucrats and members of the civil society. However the UTSC is composed of almost all bureaucrats, with no political leadership and independent members whose selection criterion is also not stated. Finally, this Commission has no obligation to prepare an annual report and present it before the state legislature so that the general public know about its functioning. Will it be another on paper and non-functional body at the cost of tax payer's money?

The composition, powers and proposed functioning of the Police Complaints Authority (PCA) for Delhi also leaves much to be desired. According to the Supreme Court directives, Police Complaints Authorities are to be set up at the State level and the District level. These bodies will inquire into allegations of serious misconduct of the police. The Home Ministry memorandum only creates a State level PCA. There is no mention of the District level complaint authority. Given the fact that there is a complaint of misbehaviour against one out of every ten policemen in the capital, a single authority is unlikely to serve any useful purpose.

The Supreme Court stated that PCA should be headed by a retired judge at the State and District level, but this is not the case with the PCA envisaged for Delhi. The memorandum states that it could be headed by a bureaucrat as well. It is difficult to understand how a person with no judicial knowledge could do justice to complaints against the police. The Authority is to have five members and there are no objective criterions set down for their selection. This exposes the Authority to the risk of arbitrary appointments. Furthermore, the recommendations of the Authority will not be binding. This will defeat the very purpose of setting up such an Authority as people will have little faith in its effectiveness.

There are other serious flaws in the proposed legislation. For example, in flagrant violation of the Supreme Court requirement of two years tenure for police officials, the duration of tenure of certain senior officers like the Joint Commissioner and the Station House Officer has been kept at one year only. Secondly, in previous legislation, only the Police Commissioner could appoint Special Police Officers but now even DCP will have the power to do so. This means there will be a number of inadequately qualified, untrained and unskilled persons who will use the policing power and, in all probability, will misuse that power as borne out from the past experience. Thirdly, the proposed Amendment Act removes the duty of police officers to report warrant-less arrests to the concerned District Magistrate/Sub-Divisional Magistrate. Due to this amendment, the police will have a free hand in unnecessarily harassing petty offenders, by detaining them beyond the statutorily permissible 24 hours.

In a nutshell the Centre has failed the people of the capital miserably. It has the opportunity to provide the people of the National Capital Region with an efficient and accountable police that could have served as a model for the rest of the country. Unless there are substantial changes in the proposed Delhi police legislation, better and democratic policing will remain merely a dream. ❑

Phone Tapping – Violation of Fundamental Rights of Privacy and Free Speech

Rajindar Sachar

The recently divisive debate in the Parliament about the latest phone tapping of not only of the opposition but also of some high ups in Congress hierarchy has again highlighted the danger of vesting such uncontrolled power in the security and intelligence agencies.

The government has naturally denied it authorized it. But the small writing that it had in fact taken place is left open. The denial by Chidambaram, the astute lawyer may be technically correct but does not frontally deny the allegation that phone tapping of political leaders did take places. His reply is limited only to assuring that no phone tapping of political leaders was authorized by the government and that nothing was found in the record of NTRO about it. But that is begging the whole question. Report was that conversation of political leaders was tapped and recorded, logged and filed away. Bihar Chief Minister and Digvijaya Singh the Congress leaders confirm that such a conversation as mentioned in news magazine did take place. As such recording can not be denied. It may be that as intelligence official explained that because of the sophistication of the instrument it may pick up conversation not even intended like one would expect in a case like that of Digvijaya Singh, the Congress leader. It may also be that after the news story came out in public, the agency has removed the disk. So technically the Governments answer may be correct - but is it morally right, judged by Gandhiji's public morality principles.

Regrettably it has to be

conceded that phone tapping has been going on under all governments of whatever political hue. There was similar exposure by a newsmagazine in 1990–91, that persuaded Peoples Union for Civil Liberties (PUCL) to take up the matter to the Supreme Court. There also the wiretapping of leaders of all parties and journalists had taken place including that of Chander Shekhar, the former Prime Minister - with the usual slowness of wheel of justice, the matter was heard only in 1996. It is significant that the authenticity of the news report was not questioned by Union of India before the Court. Rather CBI in its reply was frank enough to admit that its enquiries had revealed unjustified interceptions of telephones of a large number of journalists, members of Parliament, Chief Ministers, and even some Central Ministers. In fact, the CBI had recommended that with regard to members of Parliament the proposal should have the approval of the Prime Minister who may consult the Speaker and Chairman of Rajya Sabha.

The Supreme Court held that, "Telephone tapping unless it comes within the grounds of restrictions under Article 19(2) would in fact violate Article 19(1) of the Constitution. It also agreed with USA Supreme Court that, "The security of one's privacy against arbitrary intrusion by the police….is basic to a free society. It is therefore implicit in 'the concept of ordered liberty" and as such enforceable against the States through the Due Process Clause. But while holding so firmly on the right of citizens, the Court faltered when it came to indicate remedy to stop this violation. It merely directed that interception may be permitted by Home Secretaries, whose orders will be subject to review by a committee consisting of Cabinet Secretary at the Centre, Chief Secretary in States, along with some other secretaries – merely an illusory appeal from Caesar to Caesar, all within the intimate obliging circle of the bureaucracy. This touching, though misplaced, faith in the bureaucracy is a serious flaw in the judgment, especially in view of courts' own finding that several lapses had occurred in the execution of the order passed under the Act.

Not only that but even the moderate recommendation of the Second press Commission that the original order should emanate in writing from the Minister and that it should come up for approval before a board constituted on the lines prescribed under the Preventive Detention Law, was not accepted.

While disposing of the matter the Supreme Court has stated that it was laying down the procedure and hoped that the government will lay down a fair and reasonable procedure (emphasis supplied). But alas, in spite of several governments consisting of various political parties (including those who are in the forefront of condemning this practice) none of the governments thought fit to even apply its mind to correct this deficiency in the law - not much of a tribute to the commitment to fundamental rights of citizens – sometimes I wonder whether we are still not in the era of feudal lords (the political parties) and serfs (citizens like ourselves). It is only when some one steps on the toes of political leaders that this shout of safeguarding individuals rights are projected around.

Personally, I feel that this issue can be defused by taking the opposition into confidence and framing a legislation that no phone tapping will be done without prior judicial scrutiny – this safeguard is essential if the right of privacy, a fundamental Right is to be protected against the whimsical, ulterior misuse of this power (irrespective of any political colouring of any government as has been shown in the past). The lame excuse, put forward by governments that intricate security matters are too subtle and complex for judicial evaluation was sarcastically rejected by USA Supreme Court thus; "There is no reason to believe that judges will be insensitive to or uncomprehending of the issues involved in domestic security cases. If the threat is too subtle or complex for our senior law enforcement officers to convey its significance to a court, one may question whether there is probable cause for surveillance".

In the news magazine there is a disturbing mention that latest intelligence gathering is frequently deployed in Muslim dominated areas of cities like Delhi, Lucknow, Hyderabad, and also in Seelampur, Jamia in Delhi. This horrendous, unwarranted targeting of citizens of India, and especially of minorities calls for severest of condemnation. Unfortunately this aspect was not brought out in debate. Even the Home Minister did not deny it. Such attitude in intelligence community is totally impermissible. Why this incursive intelligence gathering in Lucknow area than in Banaras or Haridwar. I can understand if there is specific information about security danger in certain areas, in that case this may be permissible – but without hard evidence, to pick up areas of minority residence is abhorrent and impermissible - The government needs on its own to clarify this aspect - secular India cannot permit communal intelligence gathering machinery. ❑

The Apex Court Moving Away from the Constitution

K.G. Kannabiran

The belief that the Court is the least dangerous Branch in the first flush may convince us but on examination of its position in the Constitutional set up will inform one that it is quite powerful and can render quite obnoxious positions in the course of its decision making process, because its words are more powerful than the deed of the other institutions in the Constitutional set up. It can put a stop to the progress and development of the country in terms of the Constitutional agenda. It is assigned the duty of expounding the Constitution. The role assigned to the judiciary is not just to be arbiter of disputes It informs as to how the Constitution is to be understood, what are the values the expressions used in that part of the Constitution which sets down the Constitutional Philosophy. What role do they play in the political and moral understanding of the Constitution. It is not mere words, a catechism to be learnt by rote. The Constitution is like poetry recollected in tranquility at the end of our freedom struggle. What is recollected and crystallized into handful of philosophical principles are our struggles against colonialism, against our own horrendous tradition imposed by the caste system and its ugly practice and a large mass of people whom we hold in bondage for productive purposes at low wages. The Values were arranged to restructure the Indian society into an equitable society where quite large population that were non persons became person and citizens, This unfortunately appears to be a dream for every institution under the Constitution is firmly rooted in the continuing status quo even after six decades of working it.

While we all, irrespective of religion race caste and tribes fought the British and as Indians we secured independence, this integration at the end of six decades is showing signs of disruption. To quote that beautiful passage of Justice Brandeis in *Whitney vs California* "Those who won independence believed that the final end of state was to men free to develop their faculties and that in its government disruptive forces should prevail over the arbitrary.... They believed that freedom to think as you will and to speak as you think, are means indispensible to the discovery and spread of political truth. ….." But what never happened was what Brandeis said would follow consequent of free discussion In India that the free speech leading to free discussion did not take place even the Apex judiciary. Brandeis was quite positive that free discussion affords us adequate protection against the protection of noxious doctrine, but that did not seem to have occurred even in the Apex Court as the recent judgment would inform.

It is disturbing to read the decision of the Apex Court in "Deepak Tiwari" decided quite recently. It is about what goes by the name of honouring "the dreaded and quite barbarian practice prevalent in Uttar Pradesh As per the prosecution case, accused No.1, Dilip Premnarayan Tiwari, is the son of original accused No. 4, Premnarayan Brijkishore Tiwari, and original accused No. 5, Tulsa Devi is the wife of accused No.4. Accused No.1, Dilip's sister Sushma fell in love with deceased Prabhu who used to live in the neighbourhood of their residential house. Ultimately, she got married to Prabhu. Prabhu being a Keralite and belonging to 'Ezhava' caste, the marriage was not approved of by the family of Sushma since Sushma belonged to a Brahmin caste from the State of Uttar Pradesh. The whole family of Sushma was extremely opposed to the marriage which took place on 29.10.2003 before the Registrar of Marriages, Bandra, Mumbai. According to the prosecution, there were efforts to call back Sushma into her family fold. According to the prosecution, she was threatened and so were her in-laws by original accused No.1, Dilip.

I am setting out, what I consider the relevant passages from "Deepak Tiwari".

> 41. Sushma was the younger sister of this accused. It is a common experience that when the younger sister commits something unusual and in this case it was an inter-caste, intercommunity marriage out of the secret love affair, then in the society it is the elder brother who justifiably or otherwise is held responsible for not stopping such affair. It is held as the family defeat. At times, he has to suffer taunts and snide remarks even from the persons who really have no business to poke their nose into the affairs of the family. Dilip, therefore, must have been a prey of the so-called insult which his younger sister had imposed upon his family and that must have been in his mind for seven long months. It has come in the evidence that even if the marriage was performed with Prabhu, there were efforts made by the family members of Dilip to bring Sushma back. It has come in evidence that mother of Dilip tried to lure back Sushma and so did her other married sister Kalpana who actually went on to meet Sushma in her college. Those efforts paid no dividends. In stead, Sushma kept on attending the college thereby openly mixing with the society. This must have added insult to the injury felt by the family members and more particularly,

accused Dilip. Why did he wait for seven months? The answer lies in the fact that Sushma became pregnant and thus reached a point of no return. Till such time as she became pregnant, there might have been some hopes in the family to win her back but once she became pregnant, even that distant hope faded away and, in our opinion, that is the reason why this ghastly episode took place. As if all this was not sufficient, Dilip himself must have had the feeling of being cheated. It is not that Dilip did not know Prabhu who was living only three houses away from his house. The secret love affair which went on between Sushma and Prabhu for which Abhayraj acted as a messenger must have raised the feeling of being cheated by Prabhu. This was further aggravated because of the so-called higher status of a Brahmin family on the part of Dilip and so- called non-Brahmin status of Prabhu. It has come on record that Sushma was moved to Andheri at the house of Shashidharan and this ought to have added as a spark which resulted in tornado. Dilip undoubtedly was a young person not even having crossed his 25 years of life and not having any criminal antecedent. If he became the victim of his wrong but genuine caste considerations, it would not justify the death sentence. The murders were the outcome of social issue like a marriage with a person of so-called lower caste. However, a time has come when we have to consider these social issues as relevant, while considering the death sentence in the circumstances as these. The caste is a concept which grips a person before his birth and does not leave him even after his death. The vicious grip of the caste, community, religion,

42. No doubt, the murder was brutal. However, it has been pointed out by Shri Gaurav Agrawal as also Shri Raj that this was not a diabolic murder nor had the murderers acted in depravity of their minds by disfiguring the bodies. The incident must have taken place barely within 10-15 minutes when they came, assaulted the family members and left. True it is that the two ladies who were assaulted were helpless and so were Krishnan and Prabhu. But when we weigh all the circumstances, particularly, about the mindset of Dilip, the cruel acts on the part of the accused would not justify the death sentence. The disturbed mental feeling or the constant feeling of injustice has been considered by this Court as a mitigating circumstance in *Om Prakash v. State of Haryana* [1999 (3) SCC 19] where the accused had committed the murder of seven persons. That is also an indicator to the fact that mere number of persons killed is not by itself a circumstance justifying the death sentence. In fact in one other case reported as *Ram Pal v. State of U.P.* [2003 (7) SCC 141] total 21 persons were killed as the accused trapped them in a house and burnt the house. Shri Karanjkar, appearing on behalf of the State very strongly contended as against this, that in the present case while four persons were killed, two helpless ladies were also assaulted and very seriously injured and it is only because the accused thought that those two ladies had died and left, that the lives of Deepa and Indira were spared. Therefore, in the circumstances of this case, we must lean in favour of the death sentence. In a death sentence matter, it is not only the nature of the crime but the background of the criminal, his psychology, his social conditions and his mindset for committing the offence are also relevant. No doubt in Ravji alias Ram Chandra v. State of Rajasthan [1996 (2) SCC 175], this Court held as under:

43. It is also true that this case was followed in as many as six cases where the death sentence was approved of. However, in his judgment reported as Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra [JT 2009 (7) SC 248] Hon. Sinha, J. pointed out that this judgment is per incuriam as the law laid down therein is contrary to the law laid down in Bachan Singh's case (cited supra) where the principle has fallen out to the effect that the Court should not confine its consideration principally or merely to the circumstances connected with the particular crime but also give due consideration to the circumstances of the criminal. <u>It is because of this that we have ventured to consider the mindset of accused No.1, Dilip and the vicious caste grip that might have catapulted the crime committed by him. We would, thus, follow Bachan Singh's case (cited supra) and the principles therein rather than following the narrow approach given in Ravji's case (cited supra).</u>

44. Once we decide not to award the death sentence to accused No.1, Dilip, the accused No.3, Manoj also deserves not to be given death sentence. Even he is a person without any criminal antecedents and he appears to have joined the company of Dilip

only out of his commitment as he was shown to be a resident of the same house. We, therefore, do not think that even he deserves death penalty. Accused No.2, Sunil has comparatively a lesser role. Admittedly, he has not assaulted Krishnan or Prabhu, to begin with. Who has assaulted Prabhu and Abhayraj is still not clear, as it could also be that in the assaults the leading role could have been taken by the unknown accused. In that view, he also does not deserve the death sentence. The question is then how are these accused persons to be dealt with. Ordinarily, they would be liable to be awarded the life imprisonment.

45. However, in the peculiar circumstances of this case, mere life imprisonment which is capable of resulting into 20 years of imprisonment or 14 years of actual imprisonment may not be adequate punishment for these accused persons. Considering the overall circumstances, we feel that accused No.1, Dilip and accused No.3, Manoj who assaulted Krishnan, Prabhu and the two helpless ladies would deserve the life imprisonment. But we direct that they shall not be released unless they complete 25 years of actual imprisonment. In case of Sunil, however, since he had not assaulted the helpless ladies nor had he taken part in the assault on Krishnan, he deserves the life imprisonment in the ordinary sense. He shall have to undergo the 20 years of actual punishment. Such a course has been held to be permissible in *Haru Ghosh v. State of West Bengal* [JT 2009 (11) SC 240] pronounced by this Bench, authored by V.S.Sirpurkar, J. This view was taken on the basis of the law laid down in *Swami Shradhanand @ Murali Manohar Mishra v. State of Karnataka* [JT 2008 (8) SC 27] where this Court after considering several cases held that such a course was permissible. We accordingly dismiss these appeals, however, modifying the sentences as shown above. The appeals are disposed off accordingly.#

This kind of killing goes by the name of honour killing, an obnoxious and brutal killing, a murderous practice and is in defiance of the of the Constitution. The hearing in the Apex Court appears to be in violation of Articles 14, 15 and 21, as expounded in "Royappa" and "Maneka" on wards. The girl's choice of her life partner was interfered with. It was a case of Brahmin girl marrying a Ezhawa of a lower caste that led to the "honour Crime" of these two. The Apex Court setting aside its obligations to the Constitution offers a sympathetic justification of such violent justification for this murderous caste practices. That after six decades of the Constitution this speaks volumes of the Constitutional faith and practices. The quality of mercy did not stop there but went on to exercise their power of judicial review to review the statutory provision Section 302 of the IPC. Life sentence is the Mandatory sentence for murder under the Penal Code; that sentence cannot be reduced to a term by the judiciary. The power to remit to a term is that of the Executive in its Pardoning power. The practice of remission to a term cannot be used to define a life sentence, even the Executive Powers of the Governor or the President; particularly recent history of the Apex Court interventions arising from Andhra Pradesh informed us that they have the power to review judicially the pardoning power of the executive while indicting the Executive Prerogative They considered the CASTE GRIP over the accused as against the girl who felt after the coming into force of the Equality Scheme of the Constitution that was killed a even of Synod Hindu Religious Priests would have managed to uphold such grievous crime as the Courts has managed to in this case. From the Godse's case life is held to be life. They have in the process thrown aside principle of proportionality which does play an important role in assessing the quantum of punishment. If that be the case and if life sentence is the punishment there can be no other punishment than life

This crime deserves to be placed in the classic retributive position that has been epitomized by the oft quoted passage of Immanuel Kant:

> *Judicial punishment can never be used merely as a means to promote some other good for the criminal himself or for society but instead it must in all cases be imposed on a person solely on the ground that he has committed a crime; for a human being can never be confused with the objects of the law of things… He must first be found to be deserving of punishment before any consideration can be given to the utility of this punishment for himself or his fellow citizens... The law concerning punishment is a categorical imperative, and woe to him who rummages around in the winding paths of a theory of happiness looking for some advantage to be gained by releasing the criminal from punishment or by reducing the amount of it... Even if civil society were to dissolve itself by common agreement of all its members (for example, if the people inhabiting an island decided to separate and*

disperse themselves around the world), the last murderer remaining in prison must be executed, so that everyone will duly receive what his actions are worth and so that the bloodguilt thereof will not be fixed on the people because they failed to insist on carrying out the punishment; for if they fail to do so, they may be regarded as accomplices in this public violation of legal justice. (Extract from Volume 51 JILI, July-September 2009, p.320)

Soon after this judgment some details of yet another judgment where the killers were sentenced to death. Repotting this news the reporter of The Hindu interviewed the villager who did not approve of the killing and the death sentence. Like John Donne the Poet he told the Reporter "the death of every man diminishes me for it involves mankind "The Courts have been given, a norm to be followed namely death penalty should be imposed in the rarest of rare cases That is the calibrating principle to measure depravity deserving death penalty Judges like Sirpurkar justify Lord Camden's admonition in the eighteenth century that discretion is the Law of tyrants! ❑

Are We Safer After Independence?

Prabhakar Sinha

On 13 April, 1919, General Dyer ordered his soldiers to shoot at the peaceful assembly of men, women and children who had gathered at Jallianwalabagh at Amritsar to protest against the Rowlatt Act. According to the government 379 persons died and 1100 were injured. Dyer was lionized by a large number his countrymen and his action was approved by the House of Lords, which was overwhelmingly dominated by hereditary aristocrat members. Though it had been running an unjust and exploitative empire, the House of Commons did not justify the blood-bath and censured him .Even a rabid imperialist like Winston Churchill said," The event in Jallianwalabagh was an extraordinary event, a monstrous event, an event which stands in singular and sinister isolation." The government set up a Commission of enquiry under Mr Hunter, where Dyer said, "I think it quite possible that I could have dispersed the crowd without firing but they would have come back again and laughed and I would have made, what I consider, a fool of myself." Hunter held him 'guilty of mistaken notion of duty.' Dyer was asked by the British Government to resign. The conduct of the British Government as well as Dyer stands in a sharp contrast to the conduct of the governments and officers of (of police and security forces) of independent India. The British Government, unlike our own, did not refuse an enquiry on the ground that it would 'demoralise' the police and the armed forces, and Dyer also did not claim like our officers that they opened fire in 'self defence' because they were fired upon first.

The Rowlattt Act, which was passed to curb 'criminal conspiracies connected with revolutionary movements in India' was called a black law since it denied the detenu the assistance of a lawyer and the right to appeal. This black law was popularly described as permitting 'no Vakil, no Dalil (argument) no appeal. 'This harsh law was enacted to deal with the subjects of the British Empire (and not the citizens of a democratic country), yet it provided many safeguards. It could not be used at mass scale like The Preventive Detention Act, 1950.MISA, TADA, NSA, POTA and the Prevention of Unlawful Activities Act, 1967. Under the Rowlatt Act, the local (i.e., Provincial Government) was required to write to the Chief Justice of the High Court furnishing him with relevant material for constituting a bench to hear the case. The Chief Justice had to constitute a bench of three High Court judges to hear it. Even the Imperial Government wanted to prevent the indiscriminate use of this draconian law, give the detenu the benefit of a speedy trial by a special court and minimize the possibility of miscarriage of justice by entrusting the hearing of the case to a court of as many as three High Court judges. This black law looks almost white in contrast with scores of laws of democratic India. About 35000 persons were detained under MISA, seventy six thousand under TADA and thousands under POTA only. The personal liberty of lakhs of Indian citizens has been robbed at the whim of petty government functionaries who are not answerable to the people or the victims of wanton misuse of power. Nineteen thousand persons were arrested under TADA in Gujarat only where there was no trace of terrorism in there during the 1980s. Vaiko, a prominent M.P. from Tamil Nadu, was detained under POTA by Ms Jaylalita government and Raja Bhaiya, a member of the U.P. Vidhan Sabha, was detained by Ms Mayawati under the same law .None of them was a terrorist .But due to the contempt of the rulers for the personal liberty of the people the oppression of the innocent victims of these draconian laws was never made an issue in our Sansad or Vidhan Sabhas.

The British government needed

repressive draconian laws to keep the people of India in subjugation, especially, after the armed revolt of 1857 and, not surprisingly enacted the repressive The Defence of India Act,1858.It contained several repressive provisions, but even this harsh law enacted by an imperial government stopped short of acquiring the arbitrary power of preventive detention of a subject .The power of preventive detention was acquired by the government during the First World War only when Great Britain was involved in a life and death struggle. This power was retained in the India Act of 1935 also. These special laws supplemented the Police Act,1861 and the other repressive laws aimed at keeping the people of India in shackles .The people groaned under them but fought for freedom from the foreign rule till they attained it in 1947.

However, if freedom from fear for life, personal liberty and persecution for holding and expressing an opinion is the test of a real democracy, India fails it .Even 63 years after the independence, the repressive Police Act,1861 and all other laws enacted to keep the subjects of the British empire under control have been retained .Not content with them, only one month after the Republic of India came into existence on 26 January,1950, the government passed The Preventive Detention Act,1950 for which arrangement was already made in advance in the Constitution .The Act remained an effective instrument of repression of the people for almost 20 years and was repealed only when a far more repressive MISA(Maintenance of Internal /Security Act,1971) was enacted .The law was touted as a means to maintain internal security but was indiscriminately used against the people including those who opposed the misdeeds of the Congress Government in states or at the Centre. When the Emergency was clamped, in a mid night swoop thousands, including almost all the leaders of the opposition, were thrown behind the bar where they remained confined for almost 20 months. MISA was repealed by the Janata Government in 1977 when Indira Gandhi lost the election and her throne; but after a lapse of about three years, a far more draconian National Security Act was enacted in 1980 when she returned to power TADA (was enacted purportedly to contain terrorism in Punjab, but was wantonly used all over India to suppress the voice of dissent .It was repealed in the 1990s only when its abuse crossed all limits and even the National Human Rights Commission felt outraged enough to approach the Supreme Court against it. However, intolerance being an inseparable ingredient of governance of the privileged of the country, TADA was replaced by POTA (The Prevention of Terrorism Act) and, amendments to the Criminal Law Act and the Prevention of Unlawful Activities Act,1967 all of which vested enormous and arbitrary powers in the government .In addition to these and the other harsh laws enacted by the Union Government, almost all states have similar draconian laws vying with one another in ferocity and arbitrariness.

Speaking against the Rowlatt Act, Mahatma Gandhi had reportedly said that “you cannot punish all for the fault of a few.” The governments of free India contemptuously has been rejecting this view and turning every problem into an opportunity to acquire sweeping power to deprive the people of life or personal liberty at will. The imperial British government never claimed that it had suspended the life and personal liberty of its subjects and was free to kill, maim, torture and detain them at its will as was done by the Congress government during the Emergency. The government of democratic India had also claimed that no court could come to the rescue of the victims against these acts of the State .The Supreme Court upheld this view (now this judgment of the Apex Court stands nullified following a Constitutional amendment).The imperial British Government did not pass laws under which even senior officers of the Armed Forces enjoyed the right to kill people with impunity; but under the Armed Forces (Special) Powers Act,1958 a junior officer could use force to the extent of causing death and escape legal action by merely claiming that he killed in discharge of his duty.

The colonial government created a police force with sweeping powers not to the serve the people but to control them The power to arbitrarily arrests without a warrant, arbitrary exercise of the power of investigation of crime and the power to arbitrarily ban a meeting or procession or use force against them made them strike terror in the hearts of the people .The ‘Thana’ was a symbol of the might of the British Raj and its power to oppress with impunity .The rulers of independent India saw to it that the oppressive police and civil bureaucracy were retained with their repressive character intact. Though figures are not available, it can be safely said on the basis of experience that the police in democratic India are more oppressive .Probably, the British did not allow the police to kill in fake encounters, or in the custody or fire at peaceful demonstrations at their sweet will .These atrocities could be committed only on instruction in the interest of the imperial government. The police today are trigger happy, firing at unarmed demonstrations at the drop of a hat, killing in fake encounters and in their custody with near impunity. Forced disappearance is an invention of the rules of democratic India. Omar Abdulla, the Chief Minister of J&K informed the State Assembly on 25 August, 2009 that 3429 persons had just

disappeared in J&K since 1989.The mass grave found in Punjab is also an innovation of the democratic India .According to a report of the NHRC out of a little over 2600 cases of encounters, more than 50% were fake. According to the NHRC out of a large number of deaths in the custody in Manipur, the State Government did not even care to send any report about 111 cases. The firing by the police on unarmed processions between 1900 to 1947 and January 1950 to March, 2010 may show that the incident of police firing on processions after 1950 was 50 times or more than the number of such incidents between 1900 and 1947.

There has been a phenomenal rise in the enactment of draconian laws and para military forces after independence. The mainstream political parties which are their authors justify them on the ground of necessity in view of the various problems that the nation is facing. Even if this contention is accepted at the face value, it cannot be ignored or overlooked that they alone are the father of all the problems which they did not inherit from the colonial government. Jammu and Kashmir was one of the most peaceful places in the country till late 1980s, there was no Naxal problem till late 1960s and there was no terrorism in Punjab till early years of 1980s. All these and other problems involving acts of violence by a section of the people are the result of the wrong and blatantly unjust policies of the post independence governments at the centre or the states. The repressive laws and the indiscriminate attack on the life, personal liberty and dignity of the people are the direct result of the cruel determination of the rulers to pursue anti-people policies to serve the interest of the privileged few at the cost of the millions of common citizens, specially the downtrodden.

Out of many, at least two features of the draconian laws specially expose the anti-democratic character of the rulers. Instead of ensuring that these special laws contain strict provisions to ensure that the innocent do not get trapped while the guilty do not escape, they contain provisions deliberately designed to ensure that the power that be may victimize anyone they intend to target .A free hand is given to officers, junior or senior, to use, and misuse these laws with impunity. It is because of this impunity that 19000 persons could be detained under TADA in Gujarat alone (where there was no trace of terrorism in 1980s), children could be detained under anti-terror laws or an M.P. (Vaiko) could be thrown behind the bar under POTA. Similarly, the police and security forces kill in fake encounters or people are spirited away with impunity. They enjoy full legal or illegal protection from the government against punishment for these heinous crimes against the people. And yet, we claim to be a democracy.

The U.S.A. and a few other countries from the Western democracies deserve to be condemned for what they have done to the rest of the world, but the governments in India have many lessons to learn from them about how they deal with their own citizens and life and personal liberty of even non-citizens. The USA has closed the Guantanamo Bay prison (where more than two hundred suspected terrorists, almost all of foreign origin, were confined) because of stinging criticism that they were not being tried fairly according to the law of the U. S. A.. The Supreme Court of the U.S.A. did not accept the plea of the Bush administration that Guantanamo prison was not located in the territory of the U.S.A. and as such it was not obliged to apply the laws of the U.S.A. The detenues are now in the process of being rehabilitated or released not because they are believed to be innocent but because the evidence against them is insufficient. Dr. Hanif, an Indian citizen, was arrested in Australia on the suspicion of his involvement in an act of terror in U.K. because his cousin was involved in the incident and his cell phone was found at the place of the occurrence. There was vociferous protest against his arrest and trial by the Australians (especially lawyers) because the evidence against him did not justify his arrest and trial .The case against him was dropped, and the Minister responsible for the action against him had to apologise. In 2002,a young man was shot dead in a London train on the suspicion of being on the point of committing an act of terror. The whole country was shocked and outraged when it was revealed, following an enquiry, that the young man was an innocent Brazilian who had gone to the U.K. in search of livelihood. There was a demand for the resignation of the Police Commissioner of London (he did not resign on the issue, but tendered his resignation when later the Mayor of London told him that he did not enjoy his (the Mayor's) confidence. There were no more shootings of the innocent in the U.K. after this incident.

When the shameful treatment meted out to the inmates of Abu Garaib prison in Iraq came to light, there was an outrage in the U.S.A. and other Western countries and even the Bush administration felt the impact of the popular resentment and shame and ordered not only the closure of the prison but also its being completely wiped out of existence. .He feared that the existence of the building would become a symbol of American tyranny and shameful conduct. The capability of being ashamed is an effective deterrent against disgraceful conduct. The rulers of democratic India are ashamed of nothing. ❑

Our Criminal Justice Administration System Needs Drastic Changes

Mahi Pal Singh

India has a democratic Constitution and Fundamental Rights of the people enshrined in it form an integral part of it. They contain the Human Rights of individuals as well as of groups of people, known as religious and cultural rights, in conformity with the Universal Declaration of Human Rights (UDHR) made by the United Nations on December 10, 1948 and the two Covenants on Civil and Political Rights and the other on Economic, Social and Cultural Rights passed by the UN and signed and ratified by most of the member States. The Supreme Court of India is the custodian of the rights granted under the Constitution.

Thus, as per the Constitutional scheme, India is a country where people enjoy all kinds of rights and civil liberties and the country is governed by the rule of law, meaning thereby that an individual's liberties cannot be abridged except in accordance with the procedure established by law. This presents a golden picture of the human rights scenario in the country but, unfortunately, only thus far. When it comes to the ground reality, the situation turns ugly. And we are not as yet talking of the Economic and Social Rights as enshrined in Part IV of the Constitution under the title 'Directive Principles of the State Policy', which were not made enforceable through the Courts by the founding fathers of the Constitution, and their implementation was left at the mercy of the State, though they are supposed to be fundamental in the governance of the country.

Some time ago a man named Om Prakash was released from the Mainpuri jail in U.P. after 37 years of imprisonment without any trial after the intervention of the court. He was arrested on charges of murder. His father, in order to save his young son from the arrest (Om Prakash was less than 20 years old at the time of his arrest), took upon himself the responsibility of the crime and confessed to have committed the murder. But both were arrested and the father died in the jail after a few years. Had the trial taken place and Om Prakash even proved guilty of murder and awarded the maximum punishment of life imprisonment, he would have come out of jail a quarter of a century ago. But during the last 37 years the trial did not even begin. The trial could not take place because the police could not trace the papers of the case. And for this serious lapse on the part of the police, no action was taken against any police official. However, Om Prakash languished in jail without trial for 37 long years and came out of jail as an insane person because his long confinement had turned him insane long ago, and at the time of his release he did not know who he was. Of course, there is no question of his recognizing his 80 years old mother, who was still happy to receive back her son in whatever condition he was at that time, a victim of gross state negligence pure and simple.

Raja Ram, aged 70, who spent 35 years in Faizabad jail and Varanasi mental hospital without being proved guilty was freed earlier on a personal bond. But his freedom was short-lived, as he could not trace his home in Torabganj in Gonda district. The SI of the Torabganj police station said that his village did not exist. His village was not on the map of the area. The Police Inspector said that Raja Ram could not locate his house. How could he, after 35 years' absence from his house and that too coming back in an insane state of mind? One can be reasonably sure that even Raja Ram did not know why he was sent to jail? What crime had he committed? He told a newspaperman, "I am not a thief. The real thief ran away and the police arrested me," as reported in The Hindustan Times.

In yet another case reported in the same newspaper – 70-year-old Jagjivan Ram languished in prison for 36 years because his records were missing.

These few instances indicate that if there were thorough investigation across the country in different jails, there would be many more under-trial prisoners languishing in jails without being convicted.

In a different case pertaining to foreigners, 17 Pakistanis, who were found guilty of various crimes by the Courts, including that of entering the country without valid documents, were sentenced to imprisonment for various terms. They were in jail during the trial period because they could not be granted bail for obvious reasons. So far so good. But after the completion of their jail terms they should have been deported to Pakistan within a reasonable time. However, there were some who were awarded only six months of imprisonment by the Court, and yet they were kept in the Foreigners' Detention Camp, Lampur, Delhi for periods ranging from one year to more than four years after they had undergone the awarded jail term, without the sanction of the law and in gross violation of their human rights. The plea of the Central Government in such cases that 'these prisoners could be released only in return for an equal number of Indian prisoners languishing in Pakistani jails' was rejected by a bench of the Supreme Court of India, consisting of Justices Markandey Katju and R.M. Lodha on March 9, 2010, and they were ordered to be deported within two months. 14 of the 17 Pakistanis detained in the Camp were deported to Pakistan on 25th March 2010. But nobody was held responsible for his or her grossly illegal over-detention in the country and of course there is no provision for compensation in such cases.

There are still 12 Africans detained in the Lampur Camp and Nari Niketan, Hari Nagar, Delhi who were

caught on various charges, spent between 4 to 8 years in jail during the trial period, and were declared 'not guilty' by the Courts. However, instead of being deported to their respective countries, they were also dumped in the Detention Camp and the Government is said to be planning to file an appeal in the High Court against their acquittal. This means that they will be spending another 5 to 10 years in the Detention Camp (because they cannot be sent back to Tihar jail once they have been acquitted). The question is that if the Government has enough and conclusive evidence against the accused, why did it not produce it before the trial court. And if it has none, then what is it appealing for? And if after considering the appeal of the Government the High Court too does not find any merit in the Government's case and acquits the accused, who will be responsible for this long incarceration of these innocent people? Or will they be compensated for it? The answer is a big 'NO', as it was in all the above-mentioned cases. And is the appeal in the High Court only a ploy to further harass the accused persons for the prosecution's failure to get them sentenced to further imprisonment. It is because of filing of such Special Leave Petitions (SLPs) in the higher Courts that the Supreme Court recently observed that it should not be burdened with unnecessary SPLs causing rush of cases and avoidable delay in justice administration.

It is nobody's case that the police should abdicate its duty to catch and prosecute law-breakers and criminals. It has, however, been seen that even in cases of abduction and extra judicial killings the guilty police officers go scot-free and even the most innocent victims suffer for their acts of omission and commission. There should be proper, accurate and scientific investigation and gathering of real evidence, not concocted one, to sustain the case before the trial Court. However, what is most essential to make justice administration system transparent and corruption free is to devise a system of accountability wherein the prosecuting officers should be held responsible for causing unnecessary and illegal detention of the accused, and punished, and the detainees should be quite adequately compensated for the physical, emotional and social loss caused to them and their families, including the cost of litigation which is also exorbitantly high, though no compensation can really compensate for the loss of their liberty and separation from their families and the resultant suffering caused to them. Mere cosmetic police and judicial reforms cannot cure our decayed justice administration system. It is high time that our legislators and Courts, which are the guardians of the Fundamental Rights granted by our Constitution, considered these issues and took decisive and drastic action to ensure the un-encroached enjoyment of Human Rights of all individuals in accordance with the spirit of the Constitution and the UDHR. It is the millions of common men and women whose liberties have to be sincerely and judiciously protected to ensure a just and democratic society. Justice is too serious and sacrosanct a matter to be left at the mercy and whims of the police. The recently constituted Law Commission should consider these questions in detail and form its recommendations accordingly. ❑

(*Since the observations of the Delhi High Court are relevant to the issues raised in the article above, this report published in The Hindu dated April 7, 2010 is being published here, The case had come up into the limelight after PUCL-Delhi took up the cause of the detainees at the Lampur Detention Camp-* Mahi Pal Singh):

Delhi High Court pulls up Customs Commissioner

The Delhi High Court on Tuesday (April 6, 2010) pulled up the Customs Commissioner of Indira Gandhi International Airport here for keeping a Pakistani national in detention at the Lampur Centre in Outer Delhi even after his acquittal in a case on the ground that the Department would file an appeal against his acquittal.

A Division Bench of the Court comprising Justice Madan B., Lokur and Justice Mukta Gupta observed that "it is a serious matter, and liberty of an individual should not be taken away so lightly". The Court asked the Commissioner to prepare a time-bound scheme in consultation with the Chairman of the Central Board of Excise and Customs and the Delhi Police Commissioner so that prisoners who are acquitted are released on priority.

Expressing concern over other foreigners languishing at the detention centre, the Bench observed that no country has the right to take away the right of individuals in an unlawful manner.

The Bench asked the Delhi Government to clear its stand over the draft guidelines which, among other things, suggest that detained foreign nationals should not be kept in custody for long by Indian authorities after he/she is acquitted by the trial court.

Prepared by amicus curiae Arvind K. Nigam, the guidelines suggest that if the authorities want to file an appeal against a detained foreign national following his acquittal by a trial court, they should do it at the earliest.

The investigating agency must ensure that the foreigners are detained for the shortest possible time before their deportation, the guidelines say.

The Court has been hearing the matter following a joint letter written to it last year by 11 foreigners detained at the centre about poor living conditions there. ❑

Delhi PUCL Press Release Regarding Ration to All

People's Union for Civil Liberties (PUCL), Delhi welcomes the decision of the Delhi Government to start supplying ration even to the Above Poverty Line (APL) ration card holders in Delhi from this month as a step in the right direction of making the Right to Food a reality. However, restricting the quantity of ration to only 10 to 25 Kg. per family per month is quite inadequate and needs to be enhanced to 35 Kg. as per the guidelines of the Supreme Court. Apart from rice and wheat other food necessities should also be supplied to all through the ration distribution network at subsidised rates. Right to Food by its very definition means that food security has to be extended to all whether one belongs to the APL or the BPL category and all the necessary food items, including edible oils, should be supplied at subsidised and affordable rates to all.

Mahi Pal Singh, General Secretary, Delhi PUCL ❑

PUCL Delhi Report:

PUCL-Delhi holds a Public Meeting at Prem Nagar, Nangloi, Delhi

As part of the campaign for spreading Human Rights awareness a huge public meeting was organised by PUCL Delhi on 2 May 2010 at Prem Nagar, Nangloi in the Outer Delhi District. Prof. Prabhakar Sinha, National President, PUCL also addressed the meeting, attended by about 300 people.

Leading volunteers of the PUCL in Prem Nagar including Shan Mohd., Mohd. Usman, Gulfam Qureshi, Rajesh Rathore, Ram Kishore, Mahavir Sah, R.S. Rai and Mrs. Kavita addressed the meeting apprising the audience of incidents of human rights violations by police and officials of the Delhi Jal Board, rationing officials etc.

Shiva Kant Gorakhpuri and Jaipal Nehra, the leaders of the District Unit reported the illegal demolition of 88 houses in E-Block, Agar Nagar area of Prem Nagar-III by the D.D.A. officials some time ago in spite of the fact that the house owners had purchased the land from the farmers and were in possession of all documents and had also been living there for the last ten years. An RTI application has also been filed in the matter.

The arrival of a batch of about 25 women from the area, whose resistance had forced the Tehsildar to flee the demolition spot leaving his car behind, and the SHO of the area to register an FIR against him and the demolition squad, was greeted with a thunderous applause. The leader of the women activists, Mrs. Pushpa, told the audience that they had now become aware of their rights and would, under the leadership of the PUCL, continue to resist attacks on their human rights in an organised manner.

Mahi Pal Singh, General Secretary, Delhi PUCL assured them of full support against all attempts to violate their human rights. He informed the audience of the resolve of the Delhi PUCL to make human rights movement a truly people's movement involving all sections of society.

A delegation of the Commonwealth Human Rights Initiative (CHRI) presented a critique of the police reforms and reported on the inadequacies in the proposed amendments in the Delhi Police Act , 2010 in which the police needed to be made more accountable and also free from undue political interference in their working. The volunteers of the CHRI also distributed a pamphlet on the proposed amendments in Hindi.

Prof. Prabhakar Sinha, the National President of PUCL, was highly appreciative of the role of the local leaders of PUCL in fighting corruption and organising effective resistance movement against human rights violations in the whole area. He advised them to take this movement to greater heights.

Bhaskar Sur, National Secretary, Indian Radical Humanist Association and a member of the West Bengal PUCL, who had come to Delhi especially to attend the public meeting, was a special guest at the meeting. He expressed his happiness at the way the human rights movement was being spread in the area with the active co-operation of the residents of the area.

Mahi Pal Singh, (General Secretary, PUCL-Delhi) ❑

Press Release

PUCL Delhi Condemns the Killing of a physically Challenged Girl

People's Union for Civil Liberties (PUCL)-Delhi views with grave concern and condemns the most savage incident of killing of a physically challenged girl, Suman, and her 70 years old father, Tara Chand, in Mirchpur village of Hisar district in Haryana on Wednesday by setting on fire several houses belonging to the Dalit community by miscreants of caste Hindus. PUCL demands immediate arrest of the culprits and also of the policemen who were on duty there and in whose presence the incident took place. PUCL also demands effective protection to the Dalits of the village and adequate compensation to the next of kin of the deceased and also to those who have lost their houses and belongings. The administration should also take effective steps to stop the recurrence of such incidents in future.

Mahi Pal Singh, General Secretary, PUCL Delhi.

Punjab & Chandigarh PUCL:

Press Release Regarding Atrocities on Dalit Families in Haryana

The People's Union for Civil Liberties (PUCL) advocates and stands for 'VIOLENCE FREE PUBLIC LIFE'.

In a meeting of the PUCL, Punjab and Chandigarh held at No. 2096, Sector 15 C, Chandigarh on 3rd May 2010, presided over by the Chief Justice (Retd.) Shri Rajindar Sachar it was unanimously resolved that atrocities on Dalit families of Haryana may be investigated so as to ascertain the reasons for the breakdown of the Rule of Law and Social Structure at the native level.

It was also decided that a PEACE MISSION OF THE PUCL will visit the Mirchpur village where a handicapped Dalit girl child along with her father were burnt alive to death by hooligan tress passers and violators of civil rights of many Dalit families.

The PUCL Peace Mission will be headed by Shri Rajeev Godara Advocate and the other members of the delegation shall include Shri roshan Lal Batta, Sr. Advocate, Smt Madhu P. Singh, Advocate, Smt. Gita Sharma, Advocate, Shri N.S. Sitta, Advocate, Shri Ravi kant, Advocate and Shri Rajender M. Kashyap, Organizing Secretary, PUCL, (Pb. & Chd.)

Rajender Mohan Kashyap, Organizing Secy., PUCL, Punjab & Chandigarh. ❑

Violence By Anyone Cannot Be Justified

Binayak Sen

Thrissur: Human rights activist and National Vice-President of the *People's Union for Civil Liberties* (PUCL) Binayak Sen has urged the Union government to stop the armed offensive in Central India in the name of Operation Green Hunt.

He was addressing a meeting organised by PUCL here on Wednesday. "Violence cannot be justified whether it is perpetrated by the State or by Maoists. Military confrontation cannot solve any social problem," he said.

Later, inaugurating the Vibgyor-Mazhavilmela 2010, a festival of documentaries and short films, he called for protests against conditions that may lead to widespread famine and genocide in the country.

"Last year, when the Vibgyor-Mazhavilmela was on, I was in jail and my wife attended the festival to campaign for my release. I then received support from people at the national and international levels. But mine is not an isolated case. Thousands of people are incarcerated in India for reasons unknown to them and for reasons considered by the State. Their incarceration has nothing to do with any culpable action of theirs," he said.

London-based filmmaker Ruhi Hamid said that cinema should fulfill an important social role by documenting ordinary people and their extraordinary stories.

"Cinema is indeed powerful. It should document the struggles of women who seek equal rights in societies and minorities whose voices are not heard. I would be happy if my films inspire or influence activists and decision-makers."

(Courtesy the Hindu*)* ❑

PUCL Bhubaneswar Report:

Custodial Death of Gangula Tadingi, An Under-Trial Prisoner, Arrested in Connection with Chasi Mulia Adivasi Sangha, Narayanpatna

Gangula Tadingi, a poor adivasi man, aged about 40, died on 12th April 2010 in judicial custody, reportedly of Tuberculosis. He was an under trial prisoner kept in Koraput District Jail. Tadingi was one of the 133 people arrested in connection with the alleged attack by the Chasi Mulia Adivasi Sangha on Narayanpatna Police Station on 20th November 2009 in which two adivasi people were killed and many more injured in police firing. On the incident of police firing, the PUCL Bhubaneswar had written to the State Human Rights Commission making an appeal for an investigation into the incident. There has been no response from the Commission on this even after six months.

When the news of Tadingi's death was reported in a section of local media one of the PUCL members from Bhubaneswar unit visited Koraput during 16th-17th April 2010 to find out the circumstances leading to this death in custody. The following report is based on the member's interviews with the jail authorities i.e., the Superintendent of Jail, the Jail Doctor, the District Collector and the Superintendent of Police Koraput, Dr. Niranjan Das, the TB specialist at the District Hospital Koraput, Mr. Nihar Ranjan Pattanaik and Mr.Gupteswar Panigrahi,

lawyers for the deceased Tangidi as well as for other arrested people of Chasi Mulia Adivasi Sangha and one NGO activist who visited the victim's village and met his family members. An interview with some of the jail inmates was refused by the jail authorities citing 'security' concern.

Version of Shri Brahmananda Sahu, Superintendent of Jail: Gangula Tadingi was admitted into the jail on 17.12.09. To his knowledge he had no health problem at the time of entry. He was detected having TB two months ago, treated by the jail doctor in the jail hospital till 7th April when he was shifted to the District hospital as his condition worsened. He died on 12th April. His family was not informed of his illness and only when he died a message was sent home. On asking why Tadingi's family was not informed of his illness, even after he was admitted in the district hospital, the Jail Superintendent said he had tried. He said he had sent the message to the Narayanapatna Police Station and the PS did not convey the message to the family.

Tadingi's family was sent for after he died and after doing the post-mortem the body was handed over to his wife. The body was buried in Koraput itself as the district administration could not provide a vehicle to transport the body to Tadingi's village.

Tadingi was last produced in the Court on 19.2.10. On asking why he was not produced in the court for nearly two months, when he should have been produced once in every 15 days, the Superintendent said that the jail authorities could do nothing about it, because, for security reasons, unless adequate police force was provided the under trial prisoners couldn't be taken to the Court.

Version of Dr.L.D.Nayak, the Jail Doctor: At the time of entry into the jail, Gangula Tadingi had reported body ache and was given medicines for that. He had told the doctor that the police had badly beaten him up before he was brought to the jail. When asked whether this matter was recorded in the register the doctor said that it wasn't as 'there was no external injury marks'. According to the jail doctor Tadingi was continuously complaining of fever and stomach ache and was diagnosed having Pulmonary Tuberculosis in January 2010. Since then he was treated in the jail hospital till 7th April when he was shifted to the District Hospital. On asking whether Tadingi was kept in a separate room or along with other patients in the same room the doctor said that he was kept in a separate room. When asked why did Tadingi die when TB is curable and when he was saying that he was satisfied with the treatment and the diet provided to him the doctor replied by saying 'it would be known only from the post-mortem report'. When asked whether he suspected anything which could have been caused by the police beating he replied, 'possibility of an internal injury can not be ruled out'. The doctor also told that Tadingi was not the only one who had complained of police beating – many people arrested in connection with Chasi Mulia Adivasi Sangha had complained of the same.

When asked how many TB patients are there in the jail presently the doctor said there is one more TB patient but there might be more also since not all inmates (above 500 people are kept in the jail) are being examined for TB. When asked why aren't they being examined, he said that unless somebody comes of with symptoms they don't examine. And, "Tribal people, being illiterate and unaware of the symptoms, would not complain of any illness unless it becomes serious".

Version of Dr. Niranjan Das, TB Specialist of Koraput District Hospital: Gangula Tadingi was admitted in the District Hospital 7th April, 2010. His treatment was alright. Then how did he die when TB is curable? "That will be known from the post mortem report", was his reply. The doctor then mentioned that on 10th April he had recommended the jail authorities to shift Tadingi to the MKCG Medical College Hospital, Berhampur for further diagnosis. But the jail authorities did not shift him. He also developed jaundice and died on 12th April.

Meeting with Rajesh P. Patil, District Collector, Koraput:

The district collector told that he had sent his interim report to the NHRC on the death of Gangula Tadingi within twenty-four hours of the incident. The final report would be sent once the post mortem report is available. When asked for a copy of this report he said, "I can't give it like that. You apply it through RTI". When asked whether he found any negligence on the part of the jail authorities in the treatment of Tadingi, he said he didn't. When asked if there was no negligence in the treatment then how did he die, his reply was, "We have to wait for the post-mortem report".

On the question of not producing Tadingi in the Court, thereby not giving an under-trial prisoner the opportunity to inform the court whether he was getting proper treatment or not, the collector said that that job is looked after by the court and the jail authorities and the district administration has nothing to do with it. The district administration, on its part, is trying to release on bail most of the under-trial prisoners in Narayanpatna case. They have appointed a nodal officer to look into this.

Did he visit the jail regularly in his role as a member of the District Jail Committee to look into the health and hygienic conditions in the jail and did he know of the illness of Tadingi and enquire into the treatment he was getting? Does he know whether TB patients are kept in separate room/ ward or allowed to be kept with other patients? To these questions the collector replied that he visited the jail as a member of the Jail Committee, found the jail conditions alright but did not know of the illness of Tadingi. He said he didn't know whether TB patients were kept separately from other patients or not.

When asked how the District administration could be so insensitive as not to provide any help to Tadingi's family to take the body to his village, he said, "Who said that we didn't help. We had arranged for a vehicle but the driver was not willing to go. You know the situation in Narayanpatna. I was informed about the case at the last moment. We have sanctioned an amount of Rs.10000/- from the family benefit scheme".

When asked, why is that a civil liberty organization denied access to the jail inmates and, when we are denied access, how can we believe that everything is alright inside the jail walls, he said, "It is for security reasons. There are Maoists in the jail. So there are restrictions in meeting. But if the Superintendent of Police allows you to meet I have no objection".

Meeting with Shri Anup Sahu, Superintendent of Police, Koraput

On asking why the Narayanpatna police did not communicate the message sent by the jail authorities to the family of Ganguly Tadingi, the SP said, "It's not easy. I, myself, haven't been able to communicate with my own people in Narayanpatna police station for the last three days. Roads are being cut off so often. What do you expect in such situation?"

"It is not our responsibility to see whether the under-trial prisoners are produced in the court or not. It is for the court and the jail authorities to see to it", was the response when told about what the jail authorities were saying about the non-cooperation of the police in production of under-trial prisoners in court.

Meeting with the Lawyers defending Gangula Tadingi:

"Not producing Gangula Tadingi in the court for nearly two months is not an exception; rather it is the norm. There is no doubt that the jail authorities and the police take a casual attitude of their duty to produce the under-trial prisoners at every adjournment. Citing security reasons is only a plea.

"Tadingi was not given proper diet, required for a TB patient, in the jail. He was not kept in a separate room in the jail hospital. He was kept in the same room along with other patients. Other inmates of the jail have reported these facts. We got to know of Tadingi's illness only when he was shifted to the District Hospital.

"After the death of Gangula Tadingi, all inmates skipped one meal as a mark of solidarity but some of the inmates sat on a hunger strike demanding suspension of the Jail superintendent and the jail welfare officer, compensation for his family. They had other demands as well, such as regular production of the under-trial prisoners in the Court, withdrawal of cases against people associated with Chasi Mulia Adivasi Sangha and to stop operation green hunt etc. During the hunger strike the jail authorities were reluctant even to allow the lawyers to meet their clients even though it was reported that their conditions were serious."

Discussion with an NGO activist who visited the village of Gangula Tadingi and met the family members:

Gangula Tadingi was a poor agricultural labourer. He was one of those adivasis who supposedly 'surrendered' before the police after the Narayanpatna police firing incident. He was asked by the police to report at the police station once in every week and Gangula had reported twice. When he went to report for the third time on the third week he was arrested. Tadingi's wife reported that he didn't have any health problem before the arrest. She was not informed by the jail authorities that her husband was ill and that he had TB. Even when she reached the Hospital Morgue, after getting news of Tadingi's death, she was not told how he died. The police did not make any arrangement to carry the dead body to their village. The police only offered some money but didn't help to arrange for a vehicle. Since they didn't know anybody in Koraput who could help in arranging a vehicle they left it to the police to do whatever it wanted to with the dead body. The family members have heard that the government would give them an amount of Rs.10000/- but are yet to receive it. The family has a job card under NREGS but not a single entry has been made in it. Tadingi's wife, Kamala Tadingi is in poor health herself and since her husband's arrest has been struggling to feed herself and her three minor children.

Observations and Demands:

1. The death of under-trial prisoner Gangula Tadingi is unnatural and unfortunate. It is a violation of right to life of the victim.
2. The victim was not produced in the Court, neither physically nor through video linkage, within 15 days interval, which is a mandatory provision under Code of Criminal Procedure and a

statutory right of an under-trial prisoner. It has been observed that the other under-trial prisoners of the same jail, associated with Chasi Mulia Adivasi Sangha, are also not produced in the Court at regular interval.

3. The visits of District Collector and other members of the District jail Committee to prisons to look into the health and hygiene conditions, medical and other facilities appear to be ritual visits. It does not seem to satisfy the objective of the visit of the team to look into the jail conditions in general and the rights of the under-trial prisoners in particular.
4. The family of the victim is in a distressed condition which has been deprived of its sole earning member.
5. Different reports have been collected regarding whether the victim, a TB patient, was kept separately or along with other patients in the jail hospital. It may be recalled that according to one sample study by the NHRC nearly seventy-nine percent of deaths in judicial custody (other than those attributed to custodial violence) were as a result of infection of Tuberculosis.]
6. The district administration did not make necessary arrangements to transport the dead body of Gangula Tadingi from Koraput to his native village for cremation as per the tradition of the community. It is a clear violation of human right of the victim's family.
7. Not allowing the civil liberty organizations, in the name of security, to interact with any of the jail inmates does not appear to be prima facie valid. It raises the suspicion that the rights of the under-trial prisoners/ convicts, and specifically, the basic rights of the inmates relating to health, hygiene and medical facilities are not properly protected.

Considering all the above circumstances with regard to the death of Gangula Tadinga in judicial custody, and the larger issue of the rights of prisoners, we demand that:

1. An independent inquiry, preferably a judicial one, be instituted to look into all aspects that led to the custodial death of Gangula Tadingi and officials responsible be punished accordingly;
2. The family of Ganguly Tadingi must be adequately compensated for the family lost its sole earning member;
3. The mandatory provision as laid down under section 167 (2) (b) of the Code of Criminal Procedure be scrupulously implemented to ensure the production of under-trial prisoners in the Court once in every 15 days. And there should be proper communication between each prisoner and the concerned Magistrate in every case; and
4. All inmates of the jail should be medically examined to ensure early detection of any serious ailment and proper medical attention be provided accordingly.

Released to the Press by Pramodini Pradhan, Convenor, PUCL*, Bhubaneswar on 22nd April, 2010* ❑

PUCL Kerala Letter:

The Honourable Chief Minister of Kerala, Thiruvananthapuram.

The Chief Secretary to Government of Kerala, Secretariat, Thiruvananthapuram

16th February 2010

Sirs,

Subject: Request for implementation of the Supreme Court judgment in State of Kerala v. Peoples Union for Civil Liberties ((2009) 8 SCC 46) and information/documents relating to restoration/assignment of land to Tribals – under Section 6(1)(3) of the Right to Information Act, 2005.

In State of Kerala v. Peoples Union for Civil Liberties ((2009) 8 SCC 46), the Supreme Court of India has directed the Government of Kerala as follows:

"Keeping in view the promises made by the 1999 Act, it is obligatory on the part of the State to provide the land meant for the members of the Schedule Tribes. If they do not have sufficient land, they may have to recourse to the acquisition proceedings but we are clear in our mind that the State in all situations will fulfill its legislative promises failing which the persons aggrieved would be entitled to take recourse to such remedies which are available to them in law."

As you are aware Kerala Schedule Tribes (Restriction on Transfer of Land and Restoration of Alienated Lands) Act 1975 provides for restoration of the alienated land of the Tribal. A number of applications in that regard are already pending. The Government has thereafter enacted Kerala Restriction on Transfer and Restoration of Lands to Schedule Tribes Act 1999 which deals with agricultural lands only. As per the said Act, while those who had acquired Tribal Lands were allowed to retain the land, the Government promised to assign sufficient agricultural land to land less Tribals so that each Tribal family will get not less than 40 acres of land. In view of the Supreme Court decision, it has

become obligatory on that part of the State to restore non agricultural land of the Tribal already alienated to them as per the provisions of Act of 1975, and to assign sufficient agricultural land to them as per 1999 Act. The Supreme Court directed the Government to do so within an outer limit of 6 months from the date of the judgment that is from 21.7.2009. The period of six months fixed by the Supreme Court expired on 20th January, 2010. The Supreme Court has also directed the Government of Kerala to acquire sufficient land if necessary for assigning to the Tribal. So far no action has been taken by the Government to assign agricultural land to tribals and to restore their alienated non agricultural lands. Your failure to do so is not only breach of statutory mandate but also violation of the judgment of the Supreme Court of India and also breach of constitutional duty of the Government.

We therefore request you to take immediate steps to implement the judgment of the Supreme Court, consider all pending applications for restoration of non agricultural lands of the Tribals without delay and to assign lands to the Tribals as directed by the Supreme Court.

We would also request you to furnish the following details and information relating to the restoration of lands to Tribals and assignment of land to them:

1. The number of applications received from Tribals for restoration of non agricultural lands to them as per 1975 Act, and the names, address and other details of the applicants;
2. The number of applications received from Tribals for restoration of agricultural lands to them, and the name, address and details of the applicants;
3. The total area of agricultural land fit for agriculture identified for assigning to the Tribals together with the extent, Survey No./ Resurvey No, Village, Taluk, District in which they are situate;
4. The total area of non-agricultural land identified for restoration to Tribals in accordance with 1975 Act, together with the extent, Survey No./Re Survey No, Village, Taluk, District in which they are situate;
5. The name and address of the present owners and their address of the non agricultural lands identified for restoration to Tribals along with the extent of lands, survey no./resurvey no, Village, Taluk, District in which they are situate;
6. The total area of agricultural land, if any already assigned to the Tribals in accordance with the Supreme Court judgment in State of Kerala v. Peoples Union for Civil Liberties ((2009) 8 SCC 46) and in accordance with the provisions of 1999 Act, along with the extent, survey no./Resurvey No., Village, Taluk, District and name and address of the persons to whom the lands have been assigned and the date of assignment;
7. The decisions taken by the Government with regard to the measures to be taken for implementation of the Supreme Court judgment in State of Kerala v. Peoples Union for Civil Liberties ((2009) 8 SCC 46) and copy of the said decision/orders.

Court fee of Rs.10/- is affixed on this application in so far it relates to request under Section 6(1) of the Right to Information Act, 2005 is concerned.

Yours faithfully,

P. Chandrasekhar, President Kerala PUCL; **P.K. Ibrahim**, President, Ernakulam District ❑

Press Statement on Killings o in Dantewada on 17 May 10

PUCL strongly condemns the brutal killing of the innocent civilians traveling in a bus at Chingavaram on the Dantewada-Sukhma road in Chhattisgarh on 17 May 2010. Killing of innocent civilians is the most heinous crime against the humanity and has no justification whatsoever. PUCL feels that no objective could be desirable that is sought to be achieved at the cost of human lives and security. As is evident from the past experience dialogue remains the most potent and viable means of lasting peace. It is reported in the press that Home Minister has offered for talks with the CPI (Maoists), subject o cession of violence. PUCL appeals to the good sense of the fighting parties to come to the negotiating table and resolve the outstanding issues through the process of a dialogue.

Prabhakar Sinha, President

Pushkar Raj, General Secretary

PLEASE NOTE :

In case of:

(1) **Change of Address -** Always send your old address along with your new address.

(2) **Money Order -** Please give instructions (if any) with your complete address in space provided for communication.

(3) Please do not sent Postal Order. **– General Secretary**

Press Statement on Home Ministry Notice to Citizens:

Blatant Act of Intimidation

PUCL views with serious concern the Home Ministry's unwarranted statement appearing in press threatening arrest of those who criticize the so called policy of home department of Govt of India in dealing with tribal Maoist problem.

The threat to use Unlawful Activities (Prevention) Act, 1967 (which itself is a shame for any democratic government to have enacted) is a gross attack on the fundamental right of free speech guaranteed by the constitution. PUCL fully reaffirms its and of other human Right organisation's right to criticize unrestrainedly the wrong policies of the Home Department.

These threats given in the press can only bring shame to our democracy and is a crude and unsuccessful attempt to curb the fundamental Right of speech. PUCL calls upon the Home Ministry to withdraw this obnoxious circular and offer a public apology for its threat to the public that they might be booked under Unlawful Activities (Prevention) Act, 1967 on the lame excuse of supporting the violence in the tribal areas. It is quite clear that the government is targeting those who are pointing out its inhuman omissions and faulty policies of dealing with the Maoist problems in the tribal areas. PUCL firmly believes that under our constitution every group or individual has a fundamental right of free speech, howsoever distasteful to the Home Ministry's narrow minded thinking. The home ministry advisory is a blatant act of intimidation and it goes against the basic tenets of democracy and our constitutional values.

PUCL strongly condemns it and demands that it should be withdrawn with immediate effect.

Pushkar Raj General Secretary, PUCL ❑

Justice S M Daud Is No More

PUCL feels sorry to inform you that Justice S M Daud passed away at his residence in Nagpur a few days ago. Justice Daud had participated actively in various CPDR fact findings like the one on 21 missing tribals in Mangejhari near Gondia/ Gadchiroli in the 1990s and the tribunal investigating the death of about 100 people from Gowari community in a stampede when they were in a rally to the Maharashtra Legislative Assembly session in Nagpur, as well as the Tribunal into the communal carnage in Mumbai after the demolition of the Babri Masjid. Even though he was old and in ill health, he presided over a public meeting at Nagpur for Human Rights Day under the banner of Tarkunde Memorial Committee on 10th December 2008. That was probably his last public speech. We will always remember Justice Daud's contribution to the civil liberties movement.

We convey our heartfelt condolences to the family members and friends of Justice Daud

Pushkar Raj, General Secretary ❑

War Crimes in Sri Lanka: New report of International Crisis Group

Brussels, 17 May 2010: Newly revealed evidence of war crimes in Sri Lanka last year makes an international inquiry essential.

War Crimes in Sri Lanka ,* the latest report from the International Crisis Group, exposes repeated violations of international law by both the Sri Lankan security forces and the Liberation Tigers of Tamil Eelam (LTTE) during the last five months of their 30-year civil war. That evidence suggests that the period of January to May 2009 saw tens of thousands of Tamil civilian men, women, children and the elderly killed, countless more wounded, and hundreds of thousands deprived of adequate food and medical care, resulting in more deaths.

Released on the eve of the first anniversary of the end of the fighting, the report calls for an international inquiry into alleged crimes. The government has conclusively demonstrated its unwillingness to undertake genuine investigations of security force abuses and continues to deny any responsibility for civilian casualties. A true accounting is needed to address the grievances that drive conflict in Sri Lanka, so the international community must take the lead.

"The scale of civilian deaths and suffering demands a response", says Crisis Group President Louise Arbour. "Future generations will demand to know what happened, and future peace in Sri Lanka requires some measure of justice."

Both sides in Sri Lanka's civil war violated international humanitarian law throughout the decades-long conflict. However the violations became particularly frequent and deadly in the months leading to the government's declaration of victory over the LTTE in May 2009. Evidence gathered by Crisis Group provides reasonable grounds to believe that government security forces repeatedly and intentionally violated the law by attacking civilians, hospitals and humanitarian operations. The government declined to respond to Crisis Group's request for comment on these allegations. Evidence also shows that the LTTE violated the law by killing, wounding or otherwise endangering civilians, including by shooting them and preventing them from leaving the conf lict zone even when injured and dying.

Much of the international community turned a blind eye to the violations when they were happening. Many countries welcomed the LTTE's

defeat regardless of the cost of immense civilian suffering and an acute challenge to the laws of war. The United Nations too readily complied with the government's demands to withdraw from conflict areas.

The international community has a responsibility to uphold the rule of law, the reputation of international agencies and respect for international humanitarian law, most importantly the protection of civilians lives. Today, a number of other countries are considering "the Sri Lankan option" – unrestrained military action, refusal to negotiate, disregard for humanitarian issues, keeping out international observers including the press and humanitarian workers – as a way to deal with insurgencies and other violent groups.

"An international inquiry is necessary not only for justice and long-term peace in Sri Lanka but also to help prevent a repeat elsewhere", says Robert Templer, Crisis Group's Asia Program Director. "It would serve as a warning to other governments that may be considering 'the Sri Lankan model' to address their own internal conflicts."

Crisis Group has also created an interactive online presentation to accompany the report, with maps, photos and video detailing the final five months of the conflict. ❑

Letter on Criticism of Civil Society by the Home Minister

Dear Shri Chidambaram,

This is in response to your repeated taunts on NDTV that the civil society must respond to the wanton killing by the Naxals. It appears that the interview was tailor made for getting the consent of the Cabinet for more firepower and airpower to combat the Maoist. The diabolic support of Arun Jaitly, be it by describing you an injured martyr, was designed to achieve his ambition through the support of the mining barons of the BJP ruled states.

As a member of society I hope I am being civil in disagreeing with you on your hard line approach against the innocent tribal,. I also hope you will not find it too shocking for being accused of being largely responsible for the rise and growth of Naxalism, as the following happened on your watch as Finance minister.

Is it not true that Naxalism grew exponentially in the last ten years to become the present menace ? In fact you have yourself identified the time frame of the last ten years in your interview with NDTV.

Is it not true that the rise in popularity of Naxalism is also coincidental with the rise in iron ore mining profits which increased from around Rs50 per tonne to over Rs5000 per tonne in the last ten years?

Is it not true that the map of Naxalism is also the map of the Indian Minerals. These minerals belong to the people of India but have been handed over to mining barons and corporate in a relationship of mutual benefit, more appropriately described as crony capitalism. It is for this reason that Arun Jaitly is your staunchest supporter because the fate of four state government ruled by BJP is dependent on the money from the mining mafia..

Is it not true that during your watch as Finance Minister for four and half years, corporate raked in a profit of over two lac crores through legal and illegal mining, mostly in the iron ore sector? How was this profit shared?

Is it not true that during your entire tenure as FM the royalty on iron ore was not revised and remained at a ridiculous Rs 7 to 27/ tonne (depending on the type and grade of iron ore) with the average of around Rs 15 per tonne.. This royalty was neither made ad valorem nor was it revised from year 2000 onwards when the international price of iron ore rose to dizzy levels.

Is it not true that the minerals are owned by the people of the State? Is a meager 0.5 % royalty on iron ore profits adequate compensation to the owner of the resources? Would you sell your one crore property for Rs 50,000?

Did your fulfill the oath that you took as a Minister to abide by the Constitution, in particular Article 39 (b) and (c) of the constitution which directs the government to use natural resources owned by the people of the country are used to subserve the common good?

Would the Naxal problem have been there if 25% of the mining profit was spent on the poor and the tribal living in the mining area and whose life was uprooted by the greedy corporate/ mining mafia with active connivance of the law enforcers and policy makers ?

What prevented the government from nationalizing the iron ore mine industry and handing it over to a PSU or NMDC whose shares of Re1/- was lapped at a premium of Rs300(30000% premium) and using the profit for benefit of the people?

Are you aware that even a resource rich and affluent country like Australia with a low population base is imposing an additional 40% windfall tax on the mining profits? Can a poor country like India afford to forgo these windfall profits?

Will you reveal as to how many times you have defended public interest through PIL and how many times you have defended corporate interest during your professional career as a lawyer? The question is relevant because of your empathy for the corporate sector is in apparent conflict with that towards the toiling masses.

Is it wrong for the civil society to conclude that both as Home Minister and Finance Minister you have been protecting the corporate profiteers (by first allowing them to loot the mineral wealth belonging to the people and now securing these mines for them) and not protecting the interest of the poor and tribal people who are victims of corporate greed and crony capitalism of the political parties? You in particular should have known better having been a Director of Vedanta Resources!

In your appearance on NDTV you talked about the two prong approach and one of them having been weakened. It is the prong of development which has been weakened and is non existent. The

royalty collected is not sufficient to pay for the various types of direct damages done by the mining industry (health, environment, water, roads, rehabilitation etc) let alone the cost of security forces.

Is it not true that the killing of innocent security forces and tribal is the direct result of the policy of securing the mineral wealth for the corporate profiteers and political parties who share the loot?

It was shocking to know that you were more concerned about your CV falling short by a few months of completing five years as Finance Minister when you met your maker) refer the NDTV interview) than about the blood of the innocent that has been spilled on both sides as a consequence of corporate profiteering..

It is not surprising that all the State government which get reelected on the money of the mining mafia are interested in using air cover to make mining safe and profitable ever after. You should know better the role of money in elections after having managed to squeak past the post while the DMK MPs romped home with handsome margin. Mr Raja retained his portfolio!.

What is at stake is the credibility of the State : that it is using force to benefit the mining mafia and that it has a vested interest in the profiteering of the mining mafia which is prospering because of crony capitalism.

To restore its credibility the Government should resume all the mines which in any case belong to the people and give a solemn pledge that a minimum of 25% of the mining profits will be used for the benefit of the local people. The solution is not only just but one mandated by the Constitution. It is only after restoring its credibility that the State will have the right to act. That one hopes, will not be necessary because honest development based on the resources belonging to the people is the best contraceptive against the Maoist ideology .(One is happy to note that according to newspaper report the Mining Minister has made a similar proposal and not surprisingly facing resistance)

What happened Mr Chidambaram, you used to be a nice guy? You resigned over the Fairgrowth affair when you were not even guilty.

Life is not about arguing a brief in Court for money. It is about arguing for what is right. You have wrongly accused us being “clever nor being devious “ (refer interview with NDTV), because we are not capable of it. We cannot argue the way you do. Your arguments in Parliament over the oil for food programme while shielding Reliance from being referred to the Pathak Committee were indeed “brilliant.” Were you being clever or devious in your arguments? (Refer the book Reliance the Real Natwar written by the undersigned for deciding the issue) Please do not use the civil society as an excuse for your omissions and commissions. We have no vested interest except that what belongs to the people should go to the people and that innocents, whether the security forces or the people forced to join the Maoist, should not die for corporate profits..

We are not powerful to tie the State governments with legal cases on police excesses. Those trying to uphold human right violations do so at considerable risk to their life and liberty and deserve our respect and not condemnation as misguided romantics.

On a personal note Sir, Will you resign and argue my PIL before the High Court involving three lac crores of iron ore being gifted by the State to Posco and Arcelor mittal (as Palkhivala did to argue the Minerva Mill case). It will be difficult to lose the case because law, facts and most important you will be on the same side.

If you agree to do so, Sir, I am sure He will give you far more credit than He would for the extra six months that you missed out as Finance Minister!

In case you are interested I will send you a copy of the petition.

Looking forward to hearing from you. For far too long you have been shifting the blame on the civil society. We too need answers.

With warm regards

A K Agrawal, Bangalore

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