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Death of Prof Amrik Singh and Dalip Swamy: A great loss to the Human Rights movement

R M Pal

The Indian Express in its long report on the passing away of Prof Amrik Singh did not make even a passing reference to his contribution to the human rights movement in India.

Prof Singh took active part in the movement for bringing the culprits of the 1984 Sikh killings in Delhi to justice. He, along with General Aurora, the 1971 Bangladesh war hero, as members of a Sikh organisation, tried to persuade the Government of India to bring the army into action in 1984. Had the government accepted their recommendations many Sikh lives would have been saved.

I would like to strike a personal note. Whenever I approached him on behalf of the *PUCL Bulletin* to write, he always obliged me and the PUCL. Once I requested him on the phone to write a short note on the Babri Masjid on the anniversary of its demolition. Dr. Singh said he remembered having read my note in the January 1993 issue of the Bulletin. He could not add anything new. He asked me to reproduce the same. However, I insisted that since he was a senior member of the PUCL, the readers would like to read something written by him, and he agreed to write. When I requested him to send me a copy of the affidavit filed by Gen. Aurora to the Nanavati Commission that exposed the wrongdoings of the Government of India, he did so promptly. This affidavit is an eye-opener and I hope the Bulletin will reproduce it sometime.

Prof. Singh and Gen. Aurora were both members of the Saturday Discussion Club at the India International Center, and I used to meet him regularly there. It was regrettable that there was no discussion about the brutal massacre of over 2000 Sikhs in Delhi in 1984 in this group.

In Prof Amrik Singh's demise, the human rights movement in India has lost a great activist. Our heartfelt condolences go out to his family.

Prof. Dalip Swamy's death on the night of 6-7 April, 2010 is a great loss to the Human Rights movement in India. Not many people know that at one time the PUCL had two General Secretaries and Prof. Swamy was one of them. He was also the Editor of the PUCL Bulletin. I was so happy to receive from him the encouragement to continue to write about societal violation of human rights, especially those caused by Caste and Communalism. He had a first class in M.A. Economics from Delhi School of Economics and joined the faculty at K.M. College to teach Economics. He was also the warden of the hostel. He retained his cultural traits throughout his life. I would often visit him with my friend Dr. Kohli of English Department and he would place a string cot for us. Later he went to USA

and did his Ph.D in Economics under the distinguished Professor Laurence Klein at the University of Pennsylvania.

On his return from USA the University created a new department under the heading Business Economics at the south Campus of the University and Professor Swamy was sent there as the Head of the Department. He devised the whole syllabus on the lines of Business Management to make it job oriented. Business Economics in no time

became very popular in the University. I had the pleasure and privilege of his company as member of an investigating team to inquire into the communal riots in Aligarh caused by L.K. Advani's Rath Yatra, which culminated in the demolition of the Babri Masjid. Justice Tarkunde, Justice Sachar, Prof. Abu Bakar of Jamia Millia University, Prof. Dalip Swamy and I were the members of the investigating team. I was directed to prepare the first draft of the report. I placed the report

before Prof. Swamy. He made a few changes; I then placed the final report before other members of the committee. No member made any change in it and the report was accepted by the committee. Though a Marxist, Prof. Swamy never let his Marxist leanings come in the way of his activities in the Human Rights sphere. PUCL and the *PUCL Bulletin* convey their heartfelt condolences to Prof. Dalip Swamy's family members. □

Prof. Amrik Singh and Prof. Dalip S. Swamy are No More

PUCL announces with great sorrow that two of its stalwarts – Prof. Amrik Singh, a noted scholar and former National Vice-President of PUCL and Prof. Dalip S. Swamy, a noted Economist and former National General Secretary, PUCL and *Editor of PUCL Bulletin* – breathed their last during the last couple of months. PUCL pays its respects to both the scholars and champions of civil liberties and conveys its heartfelt condolences to the bereaved families of Prof. Amrik Singh and Prof. Dalip S. Swamy. – **Pushkar Raj**, General Secretary

Condolence messages for Prof. Amrik Singh:

We were contemporaries and never met after my current disability. I am bereaved by his death and am condoling myself. Convey heartfelt condolences to his dear and near. I remember one of Omar Khayyam's verse. "One by one in the closet lays we are at that stage. – **K. G. Kannabiran**, former President, PUCL

Prof. Amrik Singh was a great gentleman, a noble soul and deeply interested in civil liberties and communal harmony. Along with some of us, he was active in the Society for Communal Harmony as well. His service in the PUCL will be remembered for a long time. – **Surendra Mohan**

The Radical Humanist also condole Prof. Amrik Singh's death and share the grief of his friends and family members. – **Indian Radical Humanist Association**

It's a sad news to know that Prof. Amrik Singh has passed away. We pay our respectful homage to the departed illuminary. The truth is that it is the contribution, guidance and time to time intervention of such dignitaries that today the PUCL is one of the most prominent organisations which commands great goodwill and prestige. We send our heartfelt condolences and pray for eternal peace to the departed soul. – **D.L. Tripathi**, President Ajmer PUCL

The sad news of Prof. Amrik Singh's demise is shocking. He was aged and physically weak no doubt, but he was one man who would always be present in every important meeting of PUCL. His mere presence was a source of inspiration for younger volunteers of the PUCL. His soft voice and loving nature had endeared him with everybody. When we missed his benign presence on this year's JP Memorial Lecture only a couple of days ago, we did not know that now onwards we were sadly destined to miss his presence forever.

On behalf of all my friends in the Delhi PUCL I pay my respectful homage to the learned and dedicated Prof. Amrik Singh and convey our heartfelt condolences to the bereaved family and friends.

– **Mahi Pal Singh**, General Secretary, PUCL-Delhi □

Arrest of Prominent Human Rights Activist, Kirity Roy, Condemned— UN Human Rights Chief and NHRC Urged to Intervene

New Delhi: Asian Centre for Human Rights (ACHR) today condemned the arrest of Mr Kirity Roy, Secretary of Banglar

Manabdhikar Suraksha Mancha (MASUM) by the Anti Terrorist Cell of Kolkata Police this morning as a desperate act to silence dissent in

West Bengal and demanded his immediate and unconditional release.

Mr Roy was arrested from his residence at Serampore, Hooghly in Kolkata at around 9 AM today in connection with Taltala Police Station case no. 134/2008 dated 9 June 2008 under Section 170 (Personating a public officer), Section 179 (refusing to answer public servant authorized to question), Section 229 (Personation of a juror or assessor) and Section 120B (Criminal Conspiracy) of the Indian Penal Code against Mr. Kirity Roy and others of MASUM. This case was registered for organizing a People's Tribunal on Torture on 9-10 June 2008 at Kolkata.

Mr Kirity Roy was only one of the organizers of the People's Tribunal on Torture. The panelists included Ms. Pamela Philipose, Executive Director, Women Feature Service, Mr. Ashok Chakravarti, former Senior Director, NHRC, Justice Malay Sengupta, Ex- Chief

Press Statement:

Mr. Rajindar Sachar former President of *People's Union for Civil Liberties* has issued the following statement:

A few days back the public and, expectedly the lawyer fraternity, were in high spirits on reading the news that the Supreme Court collegiums had sent Chief Justice, Dinnakaran on leave and that in his place Justice Madon Lokur was being appointed as Chief Justice, Karnataka. But woe to us. The Judiciary has become a butt of joke. Justice Dinnakaran

Press statement: April 7, 2010

PUCL Condemns the Killing of Para Military Soldiers in Chhattisgarh
PUCL strongly condemns the killing of 76 para military soldiers by the CPI (Maoists) on 6 April in Dantewada, Chhattisgarh. Our heartfelt sympathies are with the family members of the killed soldiers who laid down their lives in line of their duty. PUCL emphatically believes that a military offensive

Justice Sikkim High Court, Dr. Mohini Giri, former Chairperson, National Commission for Women, Mr. Ashutosh Mukherjee, ex-District & Sessions Judge, Dr. Tapas Bhattacharjya, Dr. Satyajit Ash, M.D., Psychiatrist, MON Foundation, Dr. Sreemantee Chaudhuri, Psychiatrist, Dr. A. K. Gupta, Head of Forensic Medicine, Calcutta Medical College, among others.

Mr Roy challenged the validity of FIR No. 134/2008 before the Calcutta High Court (Kirity Roy versus State of West Bengal & others vide WP No. 25022(W) of 2008) but on 26 August 2009 Justice Sanjib Banerjee of the Calcutta High Court dismissed the writ petition on the ground that police investigation is necessary to find out whether the petitioner organized a parallel judiciary. Mr Roy filed an appeal (MAT 1219/2009) along with a Stay

says he has received no such communication. The Supreme Court Registry says, procedure for conveying decision is being worked out. No one has told us that the Supreme Court can only advise but not force Dinnakaran J to proceed on leave. News papers say the judge is disinclined to go on leave. Lokur J is being put in an embarrassing position. Even as it is, leave has to be applied for to the President, but there is no information whether any application has been received by her office.

against the Maoists in the form of Operation Green Hunt or in any other name in the insurgency affected central India cannot be a solution to the problem that has social, economic and political dimensions. The on-going cycle of violence is resulting into serious collateral damage of human lives and general violation of human rights of the tribal people living in the area. We appeal

Application (C.A.N. 10511/2009) in the Division Bench of Chief Justice Mohit Ranjan Shah and Justice Pinaki Chandra Ghosh. The Division Bench of Calcutta High Court is scheduled to hear the case tomorrow i.e. 8 April 2010.

"The arrest of Mr Kirity Roy just one day ahead of the hearing on the validity of the FIR by the Calcutta High Court is a clear attempt to subvert justice and persecute the human rights defenders in this country. This is nothing but a desperate act to silence any form of dissent in West Bengal," stated Mr Suhas Chakma, Director of Asian Centre for Human Rights.

The ACHR has urged the UN High Commissioner for Human Rights, Ms Navi Pillay and National Human Rights Commission of India to intervene for the unconditional and immediate release of Mr Kirity Roy. □

In this game ridicule is being multiplied on the judiciary; what administrative incompetence and lack of application of mind! Such casual approach ill befits the highest judiciary. Will it please act immediately to save the legal community including the judiciary from any further ridicule and taunts. Executive of course must be laughing up its sleeve.

April 7, 2010 □

to the National and State Governments and the Maoists to immediately eschew violence and engage in constructive dialogue to address the real issues affecting the people, like forced corporate/state acquisition of land, displacement, tribal rights and the lack of governance. – Pushkar Raj, General Secretary, PUCL □

Press Release: 6.4.10

The detention of a Delhi University professor, Dr. Sunil Mandiwal of Dyal Singh College, by a team of Andhra Pradesh police at New Delhi on 5 April 2010 merely for possessing Marxist and Maoist literature is a gross violation of the right to hold any political views which is part of the right to speech and expression granted by the Constitution of India. Even for expression of dissent with a political

viewpoint one has to study it and an academic's right to do so cannot be put under the shackles merely on grounds of possessing literature connected with a political viewpoint, unless such literature is banned by the law of the land. Unless somebody is found to be guilty of indulging in activities inimical to the safety and integrity of the country, he or she should not be detained or arrested. The State is increasingly

becoming intolerant of dissenting views which is a cause of concern in a country which has a democratic Constitution and vows by the rule of law.

Delhi PUCL condemns this act of the Andhra Pradesh and Delhi police and calls upon people to be vigilant for upholding their democratic rights. – Mahi Pal Singh, General Secretary Delhi PUCL □

Fighting Naxalism the Democratic Way Mahi Pal Singh

Since the biggest incident of massacre of 76 CRPF personnel by the Maoists at Dantewada, Chhatisgarh on April 6, 2010 heated debates have been taking place in the media about how to tackle the menace of Naxalite/Maoist violence in the country. In these debates, which take place on almost all channels of the electronic media, spokespersons of the major political parties, retired military and police officers appearing on these channels as defence experts and T.V. anchors always end up holding the commanders of these para-military forces and the Central and State governments responsible for the strategic loopholes in the planning, training and equipment of these forces for such disasters. They also put the responsibility of these killings squarely on the Naxalites/Maoists, sometimes touching upon the lack of development in the tribal areas also as being responsible. These speakers are also vocal in denouncing killings by Maoists and almost always shun discussing incidents of killing, rape, torture and burning the houses of tribals by the personnel of para-military forces. This turns the whole discussion one sided, as a result of which the only solution which appears in sight to end the menace seems better equipment and facilities to the personnel and a greater political will on the part of the

government to decimate the Maoists through brutal armed force.

Members of the civil society who get loud applause from informed gatherings in various hall meetings end up making fools of themselves before the studio audience even when they are invited to these discussions. In fact they are called there to be befooled by proving their arguments lame in comparison with those clamouring for even more powerful offensive against the Maoists by the security forces. But the question is who is to blame for this. How do these intellectuals and academics fail to seem convincing? Or, are all of them supporters of Maoists as is alleged on the floor of the studio? Yes, if the impression gathered at these studio discussions is any yardstick. And they themselves are to blame for this situation because they do not denounce Maoist violence in unequivocal terms, however brutal it might be, while criticising violence perpetrated by the para-military forces. It is only by criticising violence by both sides that they can gain acceptability of the young audience and highlight the woes of the tribal people and emphasise their right to development. When anchors ask them the uncomfortable question on whose side they are – on the side of the government and the security

forces or on the side of the Maoists? – they fail to make the point that they are not on the side of either of them but on the side of the poor and deprived tribals living in the conflict affected areas and that if the Maoists support the cause of the tribals, they cannot stop these Maoists from doing so, and also that being on the same side of the fence as the Maoists in this case does not necessarily make them Maoist supporters.

There should be no difficulty for the so-called Gandhians, and other votaries of democratic values, in criticising Maoist violence in clear terms because it cannot be denied that even amongst the Maoists there are sections, which are engaged in abductions, extortions and killing of those whom they perceive as police informers, and such people are also poor tribals. There is no denying the fact that many of them, or maybe most of them, have been pushed to the wall and forced into taking up arms against the State due to gross State negligence resulting in deprivation, hunger and starvation, police brutality and injustice, rape, burning of their houses for eviction of their land to be handed over to the Multi National Corporations etc., (though there might as well be hard core Naxals fighting in favour of their political ideology). In fact a high

power committee set up by the Planning Commission in 2006 also blamed people's discontent and failure of governance as the cause of growing Naxalism. Otherwise the ranks of the Maoists would not have swelled menacingly to spread in areas of 250 districts of 23 states only within the last few years since when government sponsored land-grabbing exercise for the benefit of MNCs, and not for 'public purpose', has started or intensified, not for the development of these tribals but for the profit of the MNCs. Otherwise what can explain the displacement of 3.5 lakh people from 700 villages of Dantewada district alone which have been burnt by the security forces and the volunteers of Salva Judum, a self-styled private army of goondas set up by the State government against which even the Supreme Court has made critical remarks. And, of course, the political bosses have a clear stake in all this as was exemplified by the discovery of more than Rs. 4,000 crores of unaccounted for money discovered from Madhu Koda, the former Chief Minister of Jharkhand, which is known for its mineral wealth, and everybody standing in the way of its loot by these political bosses, whether tribal or Maoist, is their sworn enemy and their governments, though harping on the cord of development which has remained only on paper all these years, would use any amount of force to displace and decimate him/her branding him/her as anti-national and Maoist because just by hanging that tag around anybody's neck, like the albatross, the security forces assume the right to torture and kill innocent people with impunity. The arrest and incarceration of Binayak Sen for more than two years on purely concocted charges of being a Maoist sympathiser is a point in question. How can the government explain the running away of 1200 terrified residents of Mukram village of Dantewada (immediately after the

incident fearing a backlash by the CRPF), which is located only a few kilometres away from the site of the April 6 killings, into the forest for their safety except the history of brutalities, rape and killing of innocent people by the police and the para-military forces operating in the area? And if one is to believe, as the government would have us believe, as reflected in its actions, that all tribals have turned into Maoists or their sympathisers, then one can only conclude that the government has already lost the war against the Maoists because if people lose faith in the government which is entrusted with the safety of their life and property and run for safety from the government agencies to the people who oppose it, the government loses the right to govern.

Though nobody can certify the political leanings of members of the civil society, what can safely be claimed on their behalf is that all of them without exception are citizens who are concerned about the economic, social and cultural rights of the marginalized sections of our society, whether it is people belonging to minorities, scheduled castes or scheduled tribes. They know these people and their condition better than their co-speakers/panellists participating in TV discussions because they work on the grassroot level amongst these people for their welfare. Their model of development begins with the empowerment of the most deprived sections of our society, which, according to them, becomes strong and healthy only when every constituent individual of this society becomes healthy and strong in all respects, unlike the government model in which it is the big industrialists, politicians and bureaucrats who must first become rich and it is only afterwards that the benefits of development would percolate down to these people, the real owners of the land, mineral resources and natural wealth. Till that

time comes, they must be banished from the land and resources, even if they do not remain alive for seeing the day when they would start getting the benefits of development. I wonder why the TV anchors do not ask the panellists whether they are on the side of these tribals or on the side of the MNCs and the government which want to deprive them of their only source of living, their land, which is the real and only cause of the government action in these areas.

Those intellectuals, if there are any, who harbour the imaginary notion that some day the Naxalites/Maoists will throw out the modern State with the force of arms and will establish a truly democratic State, should understand that it is not possible to overthrow a State defended by a modern and well-equipped army and secondly, and even more important, that the government established after such an overthrow is bound to be a dictatorial government led by a group of dictators, not a democratic State with equal rights to every person because no dictator can afford to give the right to dissent to any citizen. Even an imaginary situation like that can be detrimental to whatever democratic space exists today even in this sham democracy of ours. A philosophical and social movement against the forces of exploitation can be launched for educating the masses about protecting their rights within the framework of our Constitutional system. Let us not underrate the understanding and power of these people to throw out governments by pressing just one fingertip, not at the trigger of the gun but at the Electronic Voting Machine. They have done it in the past and they have the capability of doing it at any time in future. Only you have to have faith in their power to do so. A bloodless revolution may be more difficult to bring about, but it has the potential of being translated into reality – at least more than the armed revolution.

So the intellectual class should have no hesitation in condemning violence, whether indulged into by the Naxalites/Maoists or by the State. And if the Government is really serious about ending this menace, first it should announce on the floor of the Lok Sabha an end to the policy of forcible acquisition of land. Then it should undertake a comprehensive

programme of implementing the provisions of Part IV of our Constitution entitled 'Directive Principles of the State Policy' in right earnest, particularly in these tribal areas so that these people can live an honourable life at the place which belongs to them. The Maoists then will get no sympathisers. It is only after that that the Government will

be justified in launching an operation like the 'Operation Green Hunt' if anybody lifts arms against the State. Till then the butchery indulged into by the State as well as the Maoists must stop because every bullet, whether fired by the security forces or the Maoists, brings down a poor man who could otherwise contribute to the development of the country with his hard work. □

Punjab PUCL:

Minutes of Meeting held on 30.03.2010

Meeting of the PUCL State Executive Committee was held on 30.03.2010 at 6:30 PM at the residence of the President, Shri Roshan Lal Batta, which was attended by Shri Ashok Nirdosh, Rajender Mohan Kashyap, Avtar Singh Khaira, Narinder Singh Sitta, Rvi Kant Sharma, Rajiv Godara, Ram Krishan, Mrs. Madhu P. Singh and Mrs. Geeta Sharma. The following was resolved unanimously:-

Resolution 1

Members of PUCL Punjab & Chandigarh were deeply shocked at the sad demise of late Shri Subroto Bhattacharjee – President. PUCL, Jharkhand and remembered him as the most generous, caring and hospitable soul who lived among us for good of the toiling humanity. It is a big loss for the native people of Jharkhand for whom he had dedicated his entire life. PUCL stands to share the personal grief of his wife and children and pray for their welfare. Members observed two minutes silence to remember the departed soul and stood in place to pay respectful regards to Comrade Subroto Bhattacharjee.

Resolution 2

Members took stock of the developments related to Khap Panchayats of Haryana. PUCL has always raised its voice against the Feudal Hooligan Members of these Khap Panchayats, which are trying to pose threat to the Civilized Modern Society.

Youth (Boys & Girls) of Free India have the freedom to select life partners of their choice and no body least of all the Khap (Hooligan Panchayat) has the right to challenge the Law of the Land. Panchyati Raj System of the Native Peoples Management is the Nursery of Grass Root Democracy of the Indian parliamentary system of Democracy in which the members are duty bound to "Honor Rights of Citizens". The role of the State Govt. is to educate and provide training to Members of the Village Panchayats and remove any one or all members of the criminal nature in the village Panchyats to strengthen the Native Panchayati Raj Management.

Resolution 3

Shri Rajender Mohan Kashyap, Organising Secretary presented

before the members an issue of "Bogus\Fake Calls" to Police Control Room, Chandigarh. It is stated by him that he was being harassed by some unknown "Bogus Caller" and he reported the matter to the SHO, PS Sector-22, Chandigarh to trace the Phone number and identity of the "Fake Caller"; which the police has now found as his next door, Mr. Banwari Lal Saini. PUCL had demanded an appropriate legal action against the guilty as per the law to punish mischief mongers in public interest. –Rajender Mohan Kashyap, Organising Secretary, PUCL Punjab & Chandigarh □

Organisational Matters

Queries have been made whether the PUCL is a constituent or part of some federation or front of organisations on the issue of internal insurgency in the country. It is clarified that the PUCL is not a constituent or part of any organisation or front. It is further clarified that the PUCL has not authorized any person to represent it on any such body. – **General Secretary**

Selling India by the Pound The Hidden Story of Operation Green Hunt

Operation Green Hunt was launched in the latter half of 2009 and a large contingent of paramilitary and military forces aided and abetted by mercenaries were deployed in large parts of Chhattisgarh, Jharkhand,

Orissa, Andhra Pradesh, Maharashtra and West Bengal. It is a war supposedly to free the people of these areas from Maoist influence. By repeated declarations and one-sided media statements the

Government has made Maoists "the single largest internal security threat to the country".

Advertisements are regularly appearing in all major newspapers which call Maoists nothing but cold-

blooded murderers. They are being accused of terrorizing the poor, killing men and rendering women widows, destroying school buildings, as criminals who indulge in extortion. The Home Ministry then exhorts the common people to stop violence and become prosperous. According to government sources 203 districts are affected by Maoists. What we should ask is: are people prospering in the remaining 400 districts? Do people have enough employment there? Do children go to schools? Do innocent people not die untimely deaths there?

Let's take the case of Delhi which is not affected by Maoists. Prices of basic food items have skyrocketed. One day it is sugar, another day milk, on the third the price of cooking gas or public transport – the government keeps increasing prices under one pretext or the other, or many a time without giving any reasons. While the common citizens pay ever-rising prices the benefits go increasingly to big companies. Sugar mills and traders make windfall profits by importing sugar and selling it at uncontrolled prices; Petrol fills the coffers of the likes of Ambanis.

We have witnessed many innocent people being killed in the last thirty years. Gas leak in Bhopal killed thousands but no punitive action has yet been taken against the management. In the case of the proposed Nuclear Civil Liability Bill, instead of protecting its citizens, the government has been trying to cap the damages to be paid by nuclear companies of US regardless of the destruction they cause. The killing of innocents is not acceptable to anyone, but why have the guilty of the 1984 riots belonging to Congress not been punished as yet? By inciting people to break down the Babri Masjid, BJP caused riots all over the country; why use the army against one set of supposed killers (Maoists and other “insurgents”) but set up tedious commissions for communal

riots against another?

The other charge against the Maoists is that they are luring people by making false promises of prosperity. But one must not forget that the Maoist party and their predecessors came into existence long after ruling parties had made these promises to people for decades to garner their votes. It is the false promises of development which lacked any real will that gave opportunity to new forces and parties. At any rate the real reason to send the army to these states is not to flush out Maoists.

The reality is that our government is subservient to domestic and foreign capital. Today, these masters are not satisfied with control over the market—whether it is retail, whole sale, rural, urban, high end or of those that cater to basic necessities. They are desperate for the real estate, water, and minerals and other natural resources. The regions and states where the Operation Green Hunt is being carried out have a large proportion of tribal population who have been living under dismal conditions for decades. The only outreach of the government to them has comprised of the Forest Department and the police and neither has lost any opportunity to intimidate them. Unfortunately for the tribals, their land has vast mineral treasures hidden under their feet. To mine these and to process them, the concerned governments have signed unprecedented numbers of MoUs with Indian as well as foreign companies during the last five years. In this period another opportunity has also been created for real estate speculation and take-over with the SEZs Act.

If the MoUs have to be honoured then the government is under compulsion to remove the present inhabitants. Crores of people will be affected in this exercise. While the government is eager to implement the MoUs it has thrown to winds all

the constitutional guarantees under the Fifth Schedule of the Constitution which acknowledge the traditional rights of the tribals to the forest land. Notwithstanding the tall claims of Rehabilitation and Resettlement there has not been a single case so far of proper rehabilitation of the people who have been affected. All the ‘Modern Temples’—as Nehru used to call it—of ‘Development’ like Mega dams, Steel factories, mining establishments till date have been built on the graveyards of people who were never part of that much abused word, ‘development’. The poorest of the poor people of these regions are facing perhaps the worst ever murderous campaign, called “the biggest land grab since Columbus” by none other than the Ministry of Rural Development report of the Government of India! In the state of Chhattisgarh 644 villages have been vacated in the district of Dantewada alone by burning and looting. The residents are forced to live in inhuman conditions in refugee camps which lack basic facilities and are no more than night shelters. Lakhs are hiding in the jungles without any support system and lakhs have migrated to districts like Khammam in the neighbouring states. This eviction was carried out using a private army called Salwa Judum. But when this operation was not adequate as it met with stiff resistance from the local people as well as the civil society and a sizeable section of the media provoking worldwide indignation then further operations were planned using the pretext of Maoist threat. The people of India are time and again being informed and reassured by a suave, erudite, Mining Company Director-turned Lawyer- turned Finance Minister-turned Home Minister that the army will move in, clear the area of the Maoist ‘menace’, and development will follow closely on its heels.

Today it has become a crime to take the side of the tribals. Whether it is the Gandhians who provide them

with rations, or the doctors who reach out for treating the tribals where the government has abandoned them, or the democratic rights organizations who expose the violence committed by the state or Salwa Judum. Such supporters have their Ashrams demolished, doctors and civil rights activists are thrown in jail, even fact finding teams are not allowed in the area. The tribals themselves are in a much worse shape. Complaints of rape are not filed, witnesses of police firing and atrocities are made to disappear and the Salwa Judum crosses over to Andhra Pradesh to intimidate the internally displaced tribals. Opposing the government and its excesses has been made the synonym of support to Maoists. Now, well known civil rights groups and leaders have been named explicitly in Kobad Ghandy's charge sheet. They are being called the fronts of Maoists. This act of association has been carried to such extremes that even the Supreme Court has warned the Chhattisgarh police to refrain from using "Maoist supporter" as an "innuendo". Not just in Chhattisgarh but in other states as well people are struggling against oppression and exploitation. To term all protest as Maoist has become the standard response of the government.

Does it mean that sooner than later the army will be called to deal with all resistance? Will prisons be filled up with the voices of dissent?

The government's own reports acknowledge that Naxalism has grown on account of neglect and miseries of the people. The response then calls for social and economic justice and not of military attacks under the guidance of American and Israeli specialists. Violence will evoke counter-violence because peaceful protests are facing firing everywhere leaving them little option. Whether we look at Tamil Nadu or UP or Karnataka or Maharashtra we find that freedom of expression is largely abridged and leafleting is also termed as sedition. Draconian laws follow each other with urgency to crush dissent, terming everything into a crime at the whims of those in power and bringing incarceration without trials in their wake. Media is run as a profit making venture by large corporations and it gives weightage and coverage to those in power.

No amount of force or use of army is likely to bring lasting peace. We should not forget that army has been used extensively in Kashmir and the Northeast. For sixty years these areas are under siege. In Manipur, for every citizen there are forty men in uniform – the result is false encounters, rapes and disappearances. The Home ministry states that at the height of insurgency there were 3000 extremists in Kashmir. The violence unleashed to contain them led to human right violations, rapes and disappearances

– all leaving deep scars in the psyche of Kashmiris which still breed hatred and mistrust. UN figures suggest that the victims of army atrocities far outnumber those of the militants. But this has not taught any lesson to the government and it persists in repeating military offensive in large parts of the country. The problem cannot be solved by combat and will lend itself only to a political and economic solution.

In the light of this, we call upon all concerned citizens to come together and join the struggle for people's rights to life, livelihood and resources.

We demand: 1) Immediate and complete withdrawal of military and paramilitary forces. 2) Allow independent observers to visit the affected areas. 3) Make public all MOUs concerned with natural resource extraction and industrial production, 2005-09.

Delhi University Campaign against War on People; Jawaharlal Nehru University Forum against War on People; Campaign against Genocide of Adivasis; Citizens Initiative for Peace; Manipur Students' Association, Delhi; Janmadhyam; Saheli; PUDR; PCC, CPI (M-L); Delhi Solidarity Group; Campaign for Peace and Justice in Chhattisgarh; Campaign for Peace and Democracy, Manipur; Pratidhwani; Kashipur Solidarity Group and others. □

Judiciary at the Cross Road – Some Posers

Rajindar Sachar

Judiciary, though one of three wings of the sovereignty is considered to be the weakest by the public though in the constitutional scheme it should be the strongest. But this downgrading unfortunately is brought about by self inflicted wounds. Judiciary owes to itself to do a little more serious introspection if for nothing else but to just maintain its esteem amongst the public at large. A serious charge against the judiciary is the pendency of about 2.7 crore

of cases in trial court, 45 lakhs in High Courts and over 55,000 in the Supreme Court. It is true that in this blame game the Judiciary is the only recipient which is unfair, because one of the important reasons for delay is the paucity of judges. Against even a modest requirement of keeping a ratio of 107 judges per million population, as recommended by the Law Commission (2000), we have a ratio of 10 or 15 per million population.

Delay in filling up vacancies is another indictment. The Supreme Court had 4 vacancies for months and even now 2 are still unfilled and in the High Courts about 260 vacancies (out of 895) and in the lower Courts about 2500 out of the sanctioned strength of 16721 are vacant. The High Court of Allahabad alone has 77 vacancies out of the strength of about 160 judges for over a year and it will continue as the previous Chief Justice has been

promoted to the Supreme Court. The blame lies in the continuing wrong policy of having Chief Justices from outside the State, who are naturally not familiar with the local judiciary and the Bar.

I am afraid that arrears in the Supreme Court will further increase because of a recent reference by a two Judge Bench of the Supreme Court to the Chief Justice to refer the matter to a Constitutional Bench to decide which kind of cases should be entertained under Article 136 of the Constitution and for laying down broad guidelines in this connection. With respect, this is an instance where expeditious disposal of arrears is the theme song but the remedy is the opposite. Article 136 of the Constitution states that the court may in its discretion grant special leave to appeal from any judgment, sentencein any cause or matter passed by any Court or Tribunal. In the instant case at the instance of defendant in a suit, the genuineness of the will being questioned it was sent for expert opinion to the Forensic Science laboratory. Not satisfied with the report from the laboratory, the petitioner wanted a second opinion – the same was refused by the trial court and the High Court. The petitioner then filed special leave petition before the Supreme Court. Though the Court observed that it was “prima facie of the opinion that such special leave petitions should not be entertained by this Court”, yet it still chose to make a reference to a larger Bench to elaborate on the scope of Article 136 notwithstanding the settled law already. In (1950) by a Constitutional Bench of 5 Judges (noticed by the referring Bench) Fazal Ali J. speaking for 5 judge Constitutional Bench categorically laid down the scope of Article 136 thus, “On a careful examination of Art. 136 along with the preceding article, it seems clear that the wide discretionary power with which this Court is invested under is to be exercised sparingly and in exceptional cases only.” Similar

principle has been laid down as recently as 2007 in a case noticed by the referring Bench itself.

In defence of the referring judges I am willing to admit that this kind of exercises do occur off and on. I remember that in 1978, the Govt. of India gave half a serious thought when it considered whether, to meet the problem of arrears in the Supreme Court, Article 136 should be abolished. I remember at a function called by the then Law Minister, Mr. Justice S. Murtaza Fazal Ali of the Supreme Court seemed prima facie to agree to the tentative suggestion of the government. I half jocularly told Murtaza, “If you read your respected father’s judgment in Pritam Singh case you will find that the fault is not with Article 136, but with judges who refuse to heed the caution repeatedly given about the limited nature of Article 136.”

These questions of law are not capable of being answered with mathematical precision. It may be noted that about 25 years back Chief Justice E. S. Venkataramiah referred the question as to and under what circumstances PIL (Public Interest Litigation) cases should be entertained. After a period of over two decades first a smaller bench which referred it to the Constitutional Bench, and later the Constitution bench itself gave a “momentous decision” that it is not possible to lay down any firm rule as to how and when PIL cases are to be entertained by the court or not, and came out with the lame observation that, “it will depend on the facts of each case, and no guidelines can be laid down.” I see no reason as to how any larger bench can give any other answer except in the language and content as mentioned by the Supreme Court, referred to earlier.

Of course the Chief Justice in the normal course has to refer it to a larger Bench unless of course on reconsideration the referring Bench itself recalls it.

Another matter which is the subject

matter of adverse publicity is the case of cash at door scam of a judge of the Punjab & Haryana High Court. A three member panel of judges of the High Court appointed by the C.J.I. found prima facie case against the erring judge. The C.B.I. investigation also found the same. The Union of India relying on the exparte opinion given by the Attorney General refuses to proceed, especially when the C.J.I. declines sanction. Embarrassingly the trial Court refuses to allow the C.B.I. to withdraw the case, on being urged by lawyers of the Punjab & Haryana High Court.

An application under the Right to Information Act is rejected on the ground that the C.J.I. office is not covered under the Act. But then the law Ministry is covered under the Act – can it in all fairness withhold information from public, especially when it has agreed to the transfer of the judge to another High Court? I feel it is even unfair to the concerned judge that reasons which apparently hold her blameless should not be disclosed to the public and taint be allowed to continue.

Am I being too harsh to my own fraternity of Lawyers and Judges? If so, I plead in the words of Justice Holmes of the U.S. Supreme Court, who said, “I trust that no one will understand me to be speaking with disrespect of the law because I criticize it so freely....But one may criticize even what one reveres....And I should show less than devotion, if I did not do what in me lies to improve it.” □

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**

Brief Report: State Level Convention

The State Level Convention of the Chhattisgarh Unit of People's Union for Civil Liberties (PUCL) was held on 6th & 7th March 2010 at the Gass Memorial Centre, Raipur. About 150 delegates attended it drawn from almost 10 of the 20 districts of Chhattisgarh. Mr. Chittaranan Singh, National Secretary, PUCL, who is also the President of U.P. PUCL was present as an Observer. Mr. Ujjawal Kumar Singh from Delhi represented People's Union for Democratic Rights (PUDR). In addition, a number of journalists, writers, lawyers and political party workers participated in the Convention.

The Convention began with Welcome & Introduction by Vijendra, Joint-Secretary, CG PUCL. Thereafter, Rajendra K Sail, President, CG PUCL gave an introduction to the backdrop of tyranny of state repression in Chhattisgarh, which had in its roots the ruthless implementation of globalization agenda in utter disregard to the human rights violated jointly by the Governments both in the State and at the Centre. Thus the theme: "Hunger, Displacement and Shrinking Democratic Space". He underlined the changing character of the State, which was today totally subservient to the forces of Globalization & Fascism both internationally and nationally, and was withdrawing from performing its duty as the Welfare State. According to him, "democracy" was most dangerous for these forces of death and destruction and, thus, the State was targeting democratic organizations and human rights defenders by using repressive and authoritarian methods.

Welcoming the delegates, Rajendra Sail made a special mention of the presence and participation of Dr. Binayak Sen, General Secretary, CG PUCL, who had suffered the might of the repressive regime of BJP Government in CG. He said that he was personally overjoyed that not

only Binayak was present today at this State Convention, but had emerged as a strong defender of human rights in the country demonstrating courage and commitment that goes beyond the confines of a prison, which had not broken his spirit even after two years of incarceration. He said that not only the human rights and people's organizations in Chhattisgarh, but all over the country had campaigned for Binayak's Release. Both the Central and the State Governments had morally lost in this struggle for preserving and promoting human rights. He also referred to Ajay T G, a member of the State Executive Committee, who was illegally arrested on 5th May 2008 under the Chhattisgarh Special Public Security Act 2005, but was later released on bail as the State Police failed to file charge sheet against him within 90 days of his arrest. Almost 21 months had lapsed, but the State Police was yet to file the charge sheet against Ajay T G, although he was still required to report to the Police Station every fortnight.

The first session of thematic presentations was led by Dr. Binayak Sen, General Secretary, CG PUCL, who said that more than a third of India's population was suffering from "chronic hunger", and the country was facing chronic drought, leading to threat to the Right to Life and Liberty. Ms. Dayamani Barla, National President of Indian Social Action Forum (INSAF), gave concrete examples of uprooting of tribals and peasants from their jal, jangal and zameen (water, forest and land) by the State using terror tactics to implement the globalization agenda of industrialization in Jharkhand. She said that the Government's Resettlement and Rehabilitation policy was like slow poison, which was threatening the very existence of life and livelihood resources of the people. According to her, the

Governments were not accountable to the people through the established democratic institutions, but directly to their "masters" like the Transnational Corporations and Indian Big Business, demonstrating utter disregard to the Constitutional rights of the citizens of India. The Session was chaired by Sri Sharad Chand Behar, Former Chief Secretary of the MP Government, who clearly said that the process of development being promoted by various governments resulted in total destruction of natural resources and yielded very little benefits to those people who were the real owners of these resources being exploited only for profit.

Group discussions followed on the thematic presentations, where delegates identified issues and concerns from their regions and prepared an agenda for action by the CG PUCL in collaboration with people's organizations and social movements in Chhattisgarh. These were later presented the next day during a Plenary Session.

In the afternoon a Public Meeting was organized in which large number of citizens were present. Mr. Kuldip Nayyar, Senior Journalist and Author from New Delhi, spoke on the topic of MEDIA & HUMAN RIGHTS. The Session was presided over by Mr. Ajay T G, Filmmaker and Human Rights Defender, (member of the CG PUCL State Executive Committee), who is a victim of the State repression. Mr Kuldip Nayyar said that Media was one of the most powerful pillars of Indian Democracy, and is the protector of Human Rights by reporting the facts with courage, and taking bold stand against the State machinery becoming dictatorial. Giving example from his own experience of Emergency, when he was jailed for speaking the truth against Mrs. Indira Gandhi's tyranny in 1975-77, Mr. Nayyar pointed out that it was the courage and commitment of the journalists to

preserve and promote human rights, especially the freedom of the press, that had brought to light various deadly and dangerous aspects of the then authoritarian regime. And, this had led to building public opinion resulting in the overthrow of the dictatorial regime of Mrs. Gandhi by the people. He also raised concern at the “paid news” being propelled in leading newspapers/media and also decline of editorial status as the proprietors of newspapers/media were transforming this noble profession into “big-business” and “industry”. Mr. Nayyar said that yet there were many committed and courageous journalists/media persons, who were risking their life and livelihood to speak the truth. He said that voices of dissent in a democracy must get due coverage by the media, as it was essence of Indian democracy. Mr. Nayyar also expressed concern at the news that the Press Club of Raipur had resolved not to report news and views of a section of the human rights and social activists who were being branded by the State as “naxalite sympathizers”. He said that this vilification campaign carried out against the human rights defenders and rights-based organizations was part of a strategy of the State which was now sold out to big business and TNCs to implement development schemes resulting in large-scale displacement of people, and destruction of nature. He cautioned the conscientious journalists/media person to be aware of such draconian designs of the State machinery, which was waging war against its own citizens. On 7th March, delegates devoted time to regional realities in Chhattisgarh, state repression taking various forms, especially targeting human rights defenders and organizations; all in the name of “Operation Green Hunt” justifying its militaristic strategy to deal with the Communist Party of India (Maoists). Issues and concerns were identified and future action plan was chalked out to deal with the growing threats and challenges posed by the forces of

globalization, fascism and authoritarianism. Organisational issues were also discussed, and it was decided to constitute District Level units in the coming months.

A Credentials Committee took stock of the present membership in the State and, thereafter, Elections to the State Executive Committee and State Council were held under the supervision of Mr. Chittaranjan Singh, National Secretary, PUCL. The newly elected State President Dr. Binayak Sen, and General Secretary, Advocate Sudha Bharadwaj addressed the delegates. Rajendra K Sail, Outgoing President, also expressed thanks to all delegates for making this Convention a meaningful exercise in discussing the alarming situation in the State, and in resolving to unitedly dealing with these forces of fascist dictatorship in Chhattisgarh. The newly elected State Executive Committee also met, thereafter, to chalk out future strategies and agenda. – Rajendra K Sail (Outgoing President)

Resolutions Passed at the State Convention of CG PUCL

At the end of the two-day deliberations of the CG PUCL State Convention on 6th & 7th March 2010, the following resolutions were unanimously adopted. The newly elected State Executive Committee met thereafter on 7th March to discuss various modalities to take appropriate action to implement these resolutions.

1. The Chhattisgarh PUCL reiterates its demand to repeal the Chhattisgarh Special Public Security Act 2005 which has made unacceptably wide and vague the definition of “unlawful activity”, and gives scope for arbitrary punitive state action. Particularly a large number of villagers in the adivasi areas are being detained under this law. The CG PUCL also commits itself to a concerted campaign through mass education and building public opinion against this anti-constitutional and anti-

democratic law. The CG PUCL has already challenged its constitutional validity in the Chhattisgarh High Court at Bilaspur, and proposes to widely circulate the contents of the Writ Petition and generate public debate through Consultations.

2. The Chhattisgarh PUCL expresses concern at the widespread displacement of peasants in the name of industrialization, mining, widening of roads, four-lane construction etc. The mandatory provisions of PESA are being blatantly violated in land acquisition in the scheduled areas. Environmental hearings are manipulated to obtain clearances and touts and goondas of the companies are active. Though there is much fanfare about the implementation of the Forest Rights Act in Chhattisgarh, the ground realities are dismal. The adivasis and peasants are yet to obtain “pattas” of land ownership.
3. The Chhattisgarh PUCL expresses deep concern at the state of hunger and malnutrition in the country and in Chhattisgarh. An independent medical study has revealed that in Chhattisgarh 76% of women are malnourished. The quality of mid-day meals is poor and corruption is rampant in the implementation of the scheme. There is a need to check rampant corruption in the issue of BPL cards and to expand the Public Distribution System to provide a larger population with adequate quantity of items of essential nutrition including pulses and oil.
4. The Chhattisgarh PUCL demands that rampant corruption in the implementation of the National Rural Employment Guarantee Act (NREGA) scheme should be checked, particularly the non-

payment or inordinately delayed payment of wages. It also expresses concern at the continuing forced migration that a large population has to endure seasonally because of poverty and unemployment.

5. The Chhattisgarh PUCL demands that the new 15-point minority welfare schemes recommended by the Mr. Rajindar Sachar Committee on the "Study of Social, economic and educational status of the Muslim Community in India" should be implemented at the earliest. The trend of saffronisation of the names of the existing State Welfare Schemes make them inaccessible to the minority community, and must be reversed. The harassment of poor cattle herds of Muslim communities in the name of Go-Raksha Samitis should also be stopped.
6. The Chhattisgarh PUCL expresses concern at the manner in which the population of the Scheduled Tribes has been manipulated in the census statistics, to the extent that the ST population in several blocks of district Jashpur has been shown to be zero. It supports the demand of the adivasi community for 32% reservation in proportion to the enhanced population ratio of tribals in Chhattisgarh as compared to Madhya Pradesh. It also opposes the reduction in the number of reserved seat that has been carried through the recent delimitation of constituencies.
7. The Chhattisgarh PUCL expresses concern at the trend of increasing militarization in adivasi areas, such as the appointment of Special Police Officers in Jashpur. The attitude of the State in refusing to allow entry of social activists in district Dantewada or in sponsoring deliberate attacks against social activists, researchers, civil

liberty groups and lawyers is not only unconstitutional but a fascist method to blackout information and silence dissent. The same pattern is being used elsewhere in the state also to obstruct independent fact finding teams.

8. The Chhattisgarh PUCL demands that in all cases where there are allegations of fake encounters by the police and security forces, the guidelines of the NHRC should be meticulously observed and independent enquiry be conducted by the CBI. Particularly the petitioners who approach the court and the lawyers who defend them should not be subjected to victimization by the police, as noted recently by the Apex Court.
9. The Chhattisgarh PUCL reiterates its demand of implementing the recommendations of the NHRC particularly with regard to rehabilitation of tens of thousands of adivasis of Dantewada who have been displaced in the current situation of conflict.
10. The Chhattisgarh PUCL is also deeply concerned by the blatant violations of labour rights in respect of long working hours, bogus contractorship, unsafe working conditions, and lack of minimum wages. The chimney disaster of Vedanta, and the fact that cement multinationals like Lafarge and Holcim can bypass labour standards, rehabilitation policy and environmental standards is shocking.
11. The Chhattisgarh PUCL, on the eve of 100 years of Women's Movement, expresses its solidarity particularly with the struggle of working women, who were the torchbearers of the struggle for equality. It supports their just struggle against a system which perpetuates liquor for the sake of revenue and supports with the violence

of liquor mafia. The PUCL expresses particular concern regarding the special vulnerability of women to sexual violence in situations of militarization and demands that an atmosphere be created where such cases can be dealt with promptly and fairly, granting the women protection of their dignity.

12. The Chhattisgarh PUCL stresses the importance of a free and fearless press in a democratic polity. This is all the more so today when the press is owned and closely controlled by corporate group. It is highly unfortunate that a resolution was passed by the Press Club stating that they would not lend their services to civil liberties activists, an act that was also condemned by senior journalist Shri Kuldeep Nayyar. We would urge the Press Club to reconsider this attitude.
13. The Chhattisgarh PUCL condemns the arrest of UP PUCL State Executive Member and journalist - Seema Azad and demands her release. It is extremely concerned by the fact that space for democratic dissent is declining. Any effort made by human rights defenders to demand justice or question police action is being responded to by filing fabricated cases against them, particularly under special anti-democratic laws.

State Executive Committee

The State Executive Committee & members of the State Council were elected at the State Convention of Chhattisgarh PUCL held on 6th & 7th March, 2010. After a day's Convention on the Theme: Hunger, Displacement & Shrinking Democratic Space" on 6th March, elections for the State Executive Committee were held on 7th March. Mr. Chittaranjan Singh, Secretary, National PUCL and President of UP PUCL was the Observer. The outgoing State Executive Committee

met on 6th evening to discuss the nominations for the new State Executive Committee. The Slate prepared was presented by Mr. Chittaranjan Singh at the General Body Session at 12 noon on 7th March. After much deliberations, and taking into consideration regional representation, some names were proposed from the floor. The following were unanimously elected for the next two years March 2010 to March 2012.

President: Dr Binayak Sen;
General Secretary: Sudha

Bhardwaj, Advocate; **Vice-Presidents:** 1. Himanshu Kumar, 2. Adv Abdul Rashid Siddique, 3. Ajay T G.; **Treasurer:** Goldy M George; **Joint-Secretaries:** 1. Bulu Bahan, 2. Vijendra; **Members:** 1. Dr S C Behar, 2. Gautam Bandopadhyay, 3. Ramesh Agarwal, 4. Jacob N, 5. A P Josy Advocate, 6. Dr Lakhan J Singh, 7. Aghanu Ram, 8. Malini, 9. Zulekha Zabin, 10. Adv Sadiq Ali
Adv Alban Toppo (need to confirm), Uma Devi, Rashmi Diwedi, Indu Netam, Boond Kunwar Banjare, Rajendra K Sail (Former President,

Ex-Officio Member); **State Council Members:** Ram Gopal Kashyap, Ibrahim Qureshi, Theresa Sengupta.

After the elections, the outgoing President, Rajendra K Sail welcomed all the newly elected members, especially inviting the newly elected President Dr. Binayak Sen and General Secretary Adv Sudha Bharadwaj to address the members.

The newly elected State Executive Committee met in the afternoon the same day, and prepared plans for future. □

Jharkhand PUCL: Press Note

PUCL Condemns the Murder of Sanjit Munda

Sanjit Munda alias Somen Munda was killed yesterday in alleged shootout by Naxals or alleged encounter with Naxals as reported in the newspapers PUCL condemns the murder.

Sanjit Munda was picked up by Gurabandha Thana Police just after kali Puja in 2008 along with others and was tortured for 9 days in the police custody and released by seeking their signatures on plain papers stating there by that those were taken by the Gurabandha Police for investigation on and were released within 24 hours after due investigation. The matter was referred to PUCL by the villagers after some time and PUCL after due investigation of the case filed a petition to NHRC which registered a case Bering no. NHRC case no 1249/34/6/08-09. Several reminders were sent to East Singbhum S P for sending a report

on the same however, no report was sent for long. Finally reminder was sent to the East Singbhum S P with a copy to PUCL dated 21/10/2009. Through that letter we were asked to send our comment by 17/11/2009. With due information to SP East Singbhum vide our letter dated 13/11/2009 we organized a public enquiry where 1000 people participated on 15/11/2009 at Maheshpur School. We submitted our version subsequently to NHRC and the case is open under the jurisdiction of NHRC.

As per our prima-faciè investigation there was neither an encounter not any firings from any alleged Naxal Group. Sanjit Munda came out of his house to go to "MELA" to sell tomatoes where his sisters and other members of family had already proceeded. Two unidentified men on motorcycle appeared on the scene

of crime (i.e... his house) and killed him point blank. This is not stray crime. The onus is on the East Singbhum Police Administration to establish that who killed him.

The police team appeared on the scene of crime within 15 minutes picked up his father along with the dead body of Sanjit Munda. However, the killers disappeared from an open area where a combing operation is on to find out BDO.

The PUCL has constituted a team seven members to further investigate the incident. The members are: 1. S.R.Nag, 2. S.M.S.Hoda, 3. Nishat Akhilesh, 4. Kamlesh, 5. Babulal Chakraborty, 6. Binay Dey, 7. C.S.Bhattacharjee

for PUCL.Jamshedpur - **S R Nag**, General Secretary, Jharkhand PUCL; **S M S Hoda**, Vice-Presedent, Jharkhand PUCL.

February 15, 2010 □

Gujarat PUCL: Letter:

To,
Her Excellency,
The Governor of Gujarat,
Raj Bhavan, Gandhinagar
Respected Madam,
We bring to your notice the shocking and sickening behaviour of Godhra Police led by PSIA.V. Parmar, Constables Suresh and Parabhat in brutally and sexually assaulting Muslim women and children on the night of Dec. 20.2009. Infants as

young as 19 days were beaten, while women were threatened with rape. There were no lady Police in this raiding Party.

The only saving grace is that the chief judicial magistrate of Godhra has ordered an inquiry under sec. 202. But so far no action has been initiated against the Police.

We consider this incident as the worst case of assault on Muslims since 2002.

Please give it your urgent attention, Res. Madam, Kindly give us permission for personal meeting & oblige.

Prof. J.S.Bandukwala, President;
Gautam Thaker, Secretary

Applicants:

Sabera Ishaq Hayat and Others
Geni Palot, Near Satpul, Mazawar Road,
Godhra. 389001. Gujarat.

Subject: Sexual Assault As Well As Extreme Physical Atrocity On Us All

Respected Sir,

With the due reverence, it is factually brought to your kind knowledge and notice that we are the residents of The Geni Plot as well as Hathila Plot, Godhra. The Local Police did arrive at mid-night on 19th December, 2009 subsequent to their arrival just a few hours earlier. But the police failed to arrest the targeted accused, namely Saud Badam, being accused in the offence of slaughtering the animals, as the relatives of the same accused came into the way and as such the accused fled from the spot.

Out of the revenge of their failure to arrest the above named accused, the police again turned up in the same locality at mid-night at around 1 am and knocked on the gates of the residences of the people and stormed into the houses without any prior intimation to the residents as well as even without accompanying the ladies police with them. The police haphazardly resorted to beating up me, coupled with the sexual assault on myself. To the worst, it is the fact that the police did not spare even my daughter, Amina, as well who had just delivered a child just a couple of the

weeks earlier. Out of the indiscriminate beating to my daughter, her newly born child also got injured on his tiny leg by the sticks of the police. As if such an extent of atrocity were insufficient, the police arrested myself and others 8 ladies also on the spot subsequent to beating my daughter extremely and did involve me in the case of facilitating the fleeing away to the accused, above named. Further when I urged the police not to be too atrocious to my daughter, they (the police) threatened me to commit the rape on me if I expressed any more word. The same sort of hard-handedness has been committed with the rest of the ladies as well of the same locality at mid-night. Further, coming on the economic loss of the poorest people of the locality, they resorted to ransacking the houses and whatever had been there in the houses. Such an inhuman and unconstitutional atrocity was very frequently committed in the past also in the same locality on one or the other ground of the case. The Chief Judicial Magistrate of Godhra has ordered an inquiry also under section 202 of Cr. P.C. when they and we were produced before the magistrate. But till now, no just action has been initiated against the police.

The same inhuman and

unconstitutional perpetration against the locals is directly attributable to the direction of SP, Godhra, Mr. J.R. Motaliya, A.V.Parmar, (PSI, Godhra "B" Division) belonging to Bajrang Dal Activism in the past and Police Constable Parabhatsingh and Police Constable Suresh.

An Humble Demand.

Therefore, considering the foregoing fact and figure pertaining to the atrocity and inhumanity committed on us, you are very very humbly requested to look into the matter and subsequently initiate the adequate action against those guilty of the human and natural laws violations at the earliest. We are indeed terribly helpless and shelterless in our locality though being the bonafide citizens of the beloved nation India. Even now, we live on our houses amidst the fear and apprehension of the arrival and attack by the police even without any legitimate reason.

You are requested to initiate the action considering this application of mine to be *Suo Moto*.

Yours Faithfully,

Sabera Ishaq Hayat
Salma Husen Chimaji
Naseem Husen Chimaji
Aamina Muzaffar Shaburriya
Sara Husen Chimaji
Farida Shoeb Chimaji □

Am I a Naxal Sympathizer? Shah Alam Khan

The recent upsurge in Naxal violence has led the Hon. Home Minister of India, Mr. P Chidambaram to put a difficult question to the intelligencia of this country, "Are you a Naxal Sympathizer?", he asked all those who showed any feeling, occult or open, in sympathizing with the red brigade. The question leaves little room for answer and even little space for people like me, who do sympathize with those who have been deprived and protest, sans violence. Doesn't it sound very much like George W Bush bellowing "Either

you are with us or you are with them"? George Bush's question and subsequently Chidambaram's query smother all breathing space in the middle path of rationality. Such provocative, "agenda-setting" questions are not without meaning. Not only do they smother rationality on one end, they justify the use of unfair, undemocratic and violent means of crushing all forms of remonstrance on the other. The question itself answers what the people of 'shining India' (and not Bharat) want to listen. What more

should we expect from Mr. Chidambaram, the lawyer who at one time represented the controversial British Mining giant Vedanta Resources and the American energy firm Enron.

To an ordinary Indian like me, the Naxal movement is the end result of years of repression of local people, loot of local resources and violation of fundamental rights. Police atrocities combined with a feudal, caste based hierarchy has only made things worse. The gross neglect and disregard of adivasis and

tribals of India by 'rulers' not very different from Mr. Chidambaram has resulted in the present state of affairs. Only if the prototypes of Mr. Chidambaram would have provided a just and democratic system of equivalence, things would have been different. Unfortunately it is difficult for a Harvard educated, Mr. P. Chidambaram, the protégé of the royal family of Chettinand, to comprehend the tragedy called life which the adivasis of India lead every day.

It is true that there is no place for violence in the India of Gandhi. Violence is to be condemned, abhorred and dismissed. Violence, whatever the cause, has always been a reason to question the sanctity of the Naxal movement. But how justified is it in a democracy for a state to use force against its own people? Mr. Chidambaram's contemplation in using Army and Airforce in dealing with the Naxals stands to be condemned. Who is not aware of the so called "collateral damage" during the Iraq and Afghanistan wars? The phenomenal loss of life in the cloak of collateral damage has been heart rending. Can Mr. Chidambaram assure against any such "collateral damage" in this one sided offensive? What have we learnt from our experiences in the North East and Kashmir? Why are we depending more and more on

force to handle critical, people based issues? Why can't we address the problems which breed Naxals? Is this the beginning of the end of democratic debate in this country? Another important aspect of this debate is the sudden haste in tackling a problem the roots of which go way back to the 1940s and 50s. The sincerity of the present government in providing instant, cold blooded solution to the Naxal problem is suspect. The recent economic downturn and its financial implications have made India a hot bed for cheap resources. Everything comes cheap in India. Men, women, children, iron-ore, coal, water, forest, climate. The list is endless. Plundering of resources is easy. Even easier is the mismanagement of our ecology, people included. It is this loot of nature and man which is resented by locals and it is this resentment which is uncomfortable to our political class. It doesn't require rocket science to conclude that the nexus of political class and India Inc. is the main beneficiary from this symbiosis of life and death. No wonder the political class wants to finish off any form of confrontation to this unabated pilferage.

It's high time that the common Indian stand and be counted. The malicious political agenda which thrives on human blood has to be contained. Today they want to use force on

Naxals, tomorrow it could be us. There is no justification of using violence against violence. Examples from across the globe have shown that violence breeds hatred and hatred breeds violence. The cycle of hate and violence swallows innocent human lives. If the Naxal violence is unjustified what reason do we have to give laurels to those who defend violent oppression of this movement? As for Mr. Chidambaram, I sympathize with those who slept without food today. I sympathize with those whose homes were bulldozed for building a dam. I sympathize with children who will die in the night waiting for medical help. I sympathize with women who were raped by custodians of law. I am a common man. Unfortunately I sympathize with those who I feel are oppressed and deprived. My sympathies are not governed by the Harvardian rules of business. My compassion does not weigh opportunities. India Inc can wait but millions of hungry and deprived Indians can't. The choices of sympathizing with masses represented by Naxals are limited. The rulers of this country should wake up to the realities of Bharat or it would too late to contain this so called menace. Its time the political class of Mr. Chidambaram realize that hungry people are more dangerous than the most ferocious of hounds. □

The Fall Out Of Dantewada: Need Tribal Voices for Their Rights to Counter Corporate Propagandist Nationalism?

Vidya Bhushan Rawat

Home Minister P.Chidambaram has offered to resign after the Dantewada massacre. He saluted the CRPF for their work, the poor cousins of BSF and armed forces. A CRPF recruit starts living with tents and end up there only. That the war should always be avoided as it never resolves anything. It hurts the poorest of the poor and it is more masculine in nature. You see both the side of this patriarchal social order, the war creates a new set of orphaned children who would never be able to live the same life after their fathers

are killed. A whole lot of family is destroyed. In this scenario you only see grieving wives, mothers and daughters. They look completely helpless because our social system remains the same. It is easier to blame state for everything as you become revolutionary for the same but difficult to fight against our own notorious social order which create not only Maoists but all the feudal elements of society which Ambedkar defined as 'graded inequality'. Most of these CRPF Jawans hail from poor peasantry who serve our nation.

The news of the killings of 76 Jawans of CRPF in an ambush by the Maoists in Dantewada district of Chhatishgarh naturally angered the entire nation. What is more shocking is the propaganda war unleashed by the media. What hurt most is the grim faced anchors in the TV studios of Delhi preaching the nation about possible action plan against maoists. In the olden days, we used to hear the national broadcast from the prime minister or chief ministers on such occasions whenever a crisis confronted the nation by addressing

directly to the people on such issues and informing them about government's policies and programmes. Mrs Indira Gandhi addressed the nation on All India Radio, prior to sending armed forces in Golden Temple in June 1984 while VP Singh spoke to the nation on Lal Krishna Advani's arrest in 1990 while Narsimha Rao promised the nation to rebuild the Babari Masjid after its demolition on December 6th, 1992. But all that is history. With the mushrooming of hundreds of news channels, nationalism sells along with sex, scandals, religion, cricket and corporate. Now, the PM does not speak on such incidents. Instead we hear an Arnab Goswamy with his poked face and fascist statements about the situation. He says, 'Today, this country has to decide, which side they are. Whether they are on the side of Indian state or with the Maoists? 'These Maoists are terrorists, no less than Talibans. They kill people, extort money and have killed our brave Jawans', he virtually shouted. With the right wing expert sitting on the table, Arnab and every other of his ilk is inviting a few 'sympathizers' for their chat show to hound them. The problem is with these so called sympathizers also who have virtually run out of ideas and romanticize an idea which can never be supported in the democratic system. Long ago, I wrote about Nepal that even the worst form of democracy is better than the most efficient autocratic regimes. Secondly when they know that Arnab and company will not allow them to make their point, why should they join in the debates. We all look for our own truth and information. So none of us are going to receive our information from Arnab and thankfully very few would watch him beyond Delhi and other metro- politan cities. Let us first deal with the issue of Maoist violence and media portrayal. In the war zones, you can not think that the casualties would be only on the one side. It is bound to happen both the ways. Even Chhattishgarh DGP Mr Vishwa Ranjan pointed that

out. We need to see why this desperation by our TV chatters. Do they want to ethnically cleanse the tribal regions so that our companies go there and grab their land? We all know that the Maoists, however strong they are, can not win a battle against the state as mighty as India. They are actually ruining generation of tribals in this false exercise. India is simply not Nepal or Venezuela and a revolution can not emerge from just Dantewada. Arundhati Roy often support tribal's right to pick up guns to defend their sovereignty, making tribal and Maoists as easily interchangeable terms which is unacceptable. More over, we should also ask the question: do the Maoist fight war against the land grab by the corporates or they want to fight against Indian state representing what they call a fake democracy. What kind of democratic structure do they want to give us? We too are saying that our democracy need changes and it is becoming corporatized on American pattern. We do want proportionate representation for Muslims, for dalits, for tribal. We want their representation and not representation in their name which most of these revolutionaries and their ideologues seems to be doing. In 1975 Jaya Prakash Narain had appealed to forces to not to obey the order of the government. That was a democratic call.

In the historic Lahore Convention, Havildar Chandra Singh Garhwali refused to fire on the Congress workers terming them as fighting for the freedom of the nation. But why the Maoists consider the poor police men and tribal working in the government jobs as state agents.

See the irony, most of the killings by the Maoists are rural poor or Jawans of police force. They join the forces for serving their families. Maoists call them state agents. Hence the cycle of repression start. In the war zones all become repressive and the biggest casualty in this is the voices of sanity and freedom. They are hounded by both the governments as

well as Maoists. None of them want the other voices to come in between. Unfortunately, those who pretend to be leading dissents or speaking for the Maoists too are well connected in the power structure and no one dares to ask them how they arrived at Maoist camps. They have been using the media war to spread their own message to world.. But if a local journalist in Chhattisgarh or Delhi, tries to write on the Maoists, he or she would be hounded by the police and would face virtual arrest.

The problem here is in the entire debate of illegal land grabbing, encroachment of forest by big companies, mining and threat to environment and ecology the civil society has receded into the background as war of words and deeds has taken an ugly turn between the Maoists and the government. Both of them seem to working on their own long term agendas. The Maoists and their sympathizers are living in their own dream world of a 'people's democracy which is even afraid of internet and Google surfing. while the government wants to seize the land and distribute to the companies Maoists are gaining ground because of government's complete failure to understand tribal sentiments. How can you expect a tribal to respect our police when the very policemen is a 'vardi walla gunda' as remarked by a judge in Allahabad High court long back.

All is not well as there is systematic erosion of tribal rights in India. The Special Economic Zones, the mining companies, the big dams, the hugely built Ashrams, the cowsheds everything is being developed in India's richest areas of Chhattishgarh, Orissa and Jharkhand which inhabit our poorest population. Is not it an irony that the reporters reporting from these places are adding extra masala to their embedded reporting as how difficult it is for the Jawans to fight the battle in the mosquito ridden area but then did they ever thought of how a tribal might be living in these areas for years. Did we care

for them? Fundamentally, we feel that if the government can not improve their livelihood, it has no right to demolish their natural habitat.

But our desi nationalists who would like our jawans, who are sons of the soil, children of our peasants, kisans, die for their brand of nationalism by killing their own tribal people. It is an irony that our media which should have been more balanced in reporting and analyzing things becomes hysterical and start spreading panic. Both the chief of Armed Forces General V.K.Singh and Air Chief Marshal Y.P.Naik have not shown interest in fighting an internal battle where the police forces are more than enough to tackle the situation arising out of the Naxal violence.

Now, the reports are coming that there is little interaction between police and the local tribal community. How can there be an interaction if there is no governance. If the government servants did not venture into the villages and get their salary without working in the villages, then one can understand the relationship between the tribal and the government servants. How can a government servant who is suppose to help the rural poor treat them worst than their servant be expected to get information from the same people. The Maoists have won the imagination of a number of the tribals whether it is through their violence or whether providing instance justice to many of them, the fact is they have been getting local support. And it is therefore important to create environment where the tribal do not feel betrayed even when this is too late.

Unfortunately, the governments have only helped them as other dissenting voices who believe in democratic struggles are being suppressed as the Maoists movement. There are movements against land acquisition all over the country. There are voices against illegal land grabbing, against displacement of the people particularly Dalits and tribal, for the forest rights and they are not Maoists

yet all of them have been clubbed jointly as notorious human rights activism. Not just the government but mostly these irresponsible TV channels and newspapers have started making these arguments as if human rights have suddenly become the worst word. Yes, we claim our self to be the largest democracy only when this democracy enables the big companies to grab land and do whatever they wish to do. When the democracy gives space to the marginalized, then these non state actors try to bulldoze our voices through their TV channels and news rooms. Have we discussed the issues of tribal rights in our parliament? Why are our tribal leaders silent on all these issues? Where are they hiding? All those social justice wallahs who jump and stall parliament for their bills keep quiet on tribal issues. Have the Dalit, backwards, the minorities, have no voice on this national issue? Why this has become an issue between the upper caste leaders, parties and commentators.

Similarly, our intelligence agencies do not know the ideological stuff and hence every democratic protest for them becomes a Maoist strategy to gain ground which end up in goofing up the entire things. It is not just the fault of intelligence, when our media terms every human rights defender as Maoists, then we can understand their quality of education and understanding of India. In the name of anti Maoist operation, the government should not annihilate an entire tribal population as well as all of us who are talking sanity and raising the issue of violence against forest and tribal.

The only way to curb this menace of violence is to respect democratic voices of dissent and not consider them as anti national. On an emergency measures, the government must declare moratorium on further acquisition of land in forest zones. The forest act must be implemented and land must be redistributed among tribal. The

National Commission for Tribal must be reconstituted and given more authority so that it can play an active role in resolving some of the issues relating to tribal.

Hundred years of hierarchical system was challenged by Dalits through democratic process. Ambedkar's ideals brought a silent revolution in India, without any guns. Today, Dalits not only actively participate in democracy but also lead in many places. Of course, violence against them exists but then they have succeeded and produced leaders, writers and whole new breed of youngsters who look forward for a bright future challenging the Brahmanical hegemony which is crumbling. Similar situation lies with backward communities whose leadership is emerging despite all shortcomings. It is in this context, we need to look the issue of tribal as why their leadership has not emerged to speak for them. This is a crisis of tribal identity and their voices need to be heard.

Ironically, there is a commonality among those who claim to be working for tribal. It is the absence of tribal voices. You have seen commonality among Congress, BJP and CPM on the women's reservation bill, all of them were together in saying that all women are same and that there is no issue of Dalit and Muslim women. That they are more than enough to represent them too. Now, you can add CPI Maoists too in the list as none of them have tribal voices at their top level and leadership to Bengal and Chhatisgarh being imported from Telengana region. All of them are claiming to represent tribal interest except for the tribal themselves. Where have the tribal leadership gone? Could this have been possible if the issue of dalits and backwards were concerned? See how the backward castes and Dalits and Muslims are fighting against the combine onslaught of the brahmanical parties in this democratic structure for their right. Many governments including that in

Australia, New Zealand and Canada offered apology to indigenous people for their marginalization and isolation. That the modern development modules are displacing tribals and the natural resources for the benefit of a few who owned up big companies including big business houses and media companies. An elected government has every right to take control of the areas under its jurisdiction and react to the armed struggle. The only concern that all the civil rights activists feel is the victimization of innocent and the

scuttling of the voices of social movements and dissent. In healthy democracy, political, cultural dissent is part of life and need to be respected with counter arguments and not by shunning their voices. Moreover, the government and Mr Chidambaram can well use media to launch their public relation offensive against the Naxals but it needs more public relations of its image with tribal population and thankfully, none of them would be watching either Arnab Goswamy or Barkha Dutt. Chidambaram would do well to

communicate his message to tribal and send his officials to them and win their heart by their good will and a complete moratorium on the further acquisition of land would be a great gesture apart from some more efforts like returning of tribal land and providing new services to them would be the bigger counter offensive than a mere media exercise which simply talk of Maoists and completely ignores the tribal interest and virtually making the Maoists the sole voices of tribal which is unacceptable. □

Fact Finding Report of Forceful Closure of University College Mangalore by ABVP Activists

Name of the victim: H. Pattabhirama Somayaji

Occupation of the Victim: English lecturer, University College, Mangalore

Date of Incident: 26/02/2010

Time of Incident: 1030hrs

Place of Incident: University College, Hampanakata

Weapons used: None

Associated with organization: Human Rights activists, Movement for protecting Indian food culture

PUCL Enquiry Team: P B Dsa, Kabir, Harsha Raj Gatty

Summary of the incident as per the victim H. Pattabhirama Somayaji On 25th February 2010 H. Pattabhirama Somayaji addressed as a key note speaker in a protest rally organized by “Movement for protection of the Indian food culture” against the Karnataka State Government attempt to introduce a new bill against Cow Slaughter.

Following this event on 26th February 2010 a group 80 students of the university college, Hampanakata shouted slogans against their lecturer H. Pattabhirama Somayaji and created a ruckus in the campus.

This group accused H. Pattabhirama Somayaji of supporting anti-government activities and further an anonymous petition was submitted

to the Principal of university college Mangalore

This group claimed itself to be representing the student’s council of the University College Mangalore, affiliated to ABVP (Akhila Bharathi Vidya Parishath).

The group announced a compulsory closure of all the regular classes on 26th February 2010 and told their fellow students to vacate the college campus.

Observations by the PUCL enquiry committee

PUCL enquiry committee interviewed H. Pattabhirama Somayaji on March 2, 2010 at the university college Mangalore and made the following observations.

- 1 H. Pattabhirama Somayaji had participated in a protest rally on 25th February 2010 with authorization from the concerned officials from the Dakshina Kannada district administration.
- 2 H. Pattabhirama Somayaji had rightfully used his fundamental Right to speech & expression (Article), Right to assemble peacefully () in accordance with the provision of the constitution.
- 3 The protest rally in which H. Pattabhirama Somayaji addressed as a key note speaker has no relation

whatsoever with any educational institution or student body. Therefore the involvement of the University college student council is questionable.

- 4 An entire working day of University College was brought to a halt due the interruption by the student’s council over nonacademic matter.
- 5 The protest also caused an indefinite loss of education to other students who were forced to vacate the premises during regular working hours.
- 6 Vartha Bharathi, the regional Kannada news paper on its daily edition dated February 27, 2010 had quoted that it was Ashwath and Bhavani Shanker, the students of University College who led the strike against H. Pattabhirama Somayaji on 26th February 2010.
- 7 Over 250 students of the University College have jointly signed a petition supporting the innocence of their lecturer Pattabhi Somayaji on March 1, 2010.

Conclusion

Pattabhi Somayaji has been actively opposing anti-people’s policy, violation of human rights and destabilizing undemocratic machineries in the society for several

years. Therefore his contribution to the welfare of the society is very well recognized.

It is a well accepted fact that political activism creates a strong civic consciousness among the students. Some of the political parties and factions like ABVP (Akhila Bharathi Vidya Parishath) are increasingly exploiting the potential of the youngsters for propagating their agenda within the campus.

Therefore this petition is to bring to the immediate attention of the district

administration to provide adequate protection to Social and Human activists like H. Pattabhirama Somayaji.

Also we strongly recommend that Ashwath and Bhavani Shanker, the students of University College be directed to Educational counselors for their deviant behavior that resulted an obstruction to the regular functions of a educational institution.

Important recommendation

As a long term measure to cure this ailment of young students getting exposed to activities and evil forces

which would corrupt their minds and ruin their careers the government should seriously consider shifting of this institution to another place on the outskirts of the city. The present location is not suitable for an educational institution. The structure being of a historical nature it can be placed under Historical Monuments under the control of the central government.

The above report was prepared by Harsha Raj Gatty, General Secretary, PUCL Mangalore

March 4, 2010 □

Implementation of Protection of Women from Domestic Violence, Act 2005: A Case Study of Gurgaon

Isha Khurana *

Introduction

Protection of Women from Domestic Violence, Act 2005 (PWDVA) was brought into force on 26th Oct, 2006. PWDVA recognizes domestic violence as the violations of the human rights of a woman and this must be the guiding principle for interpretations of all the provisions of this Act.

PWDVA reflects the socio-legal ethos of 21st century. Till date, the problem of domestic violence was just another private matter but PWDVA aims at making this menace of domestic violence an issue of public concern and thus, making it responsibility of the State to end such violence and ensure basic human rights. This act moves a step ahead by laying out provisions for relief and compensation instead of being directed at penalizing perpetrators.

Observations:

The protection officer

The Act lays down the requirement of appointing a protection officer (PO) to whom the incidents relating to domestic violence be reported. In Gurgaon, the PO is prohibition cum protection officer. The cases relating to prohibition are few in number and so there are no such hurdles affecting efficiency of the officer as she is mainly concerned with the office of protection officer.

Furthermore, there is a requirement of a messenger and police constables among the staff of PO as the summons have to be served and orders have to be complied with. The PO's staff consists of one male and female constable, one multipurpose work and data entry operator is to be commissioned soon. But still there is dearth of staff and infrastructure. At times the PO has to visit the residence of various complainants but has no transport facility and no other government agency including police is obliged to cooperate in such a situation.

It has been observed that the women approach the protection officer either directly or through referral of police or Court. However majority of cases reported in Gurgaon are direct cases. When the cases are reported to the PO the first step should be to file a Domestic Incident Report (DIR). In Gurgaon it was seen that the PO does not file a DIR directly but waits till it is certain that the incident is going for litigation. This approach is incorrect as the purpose of DIR is to make a public record of the complaint at the pre-litigation stage that maybe relied upon by the aggrieved woman if she chooses to pursue legal proceedings at later stage. Thus it is very necessary that the DIR is filed when the aggrieved woman comes to the PO.

The Gurgaon District Magistrate opined that a number of cases are filed for merely claiming maintenance. According to the magistrate the woman file cases alleging several types of violence for getting a maintenance order passed. Once the interim order of maintenance is passed the aggrieved party does not turn up again to proceed further. However it should be noted that the provision of interim order is there for immediate relief; it is not the final verdict.

The study of cases in Gurgaon bring forth some common features of incidents that are reported primarily from the rural background. These are physical violence in form of beating, demand of dowry, insults for not bearing a male child, name calling etc. In most of these cases the woman in question has been married before the age of 18.

Demand for dowry and eviction from the shared household have been common accusations among the urban women. Besides in the district there have been some NRI cases also in which NRI husband has abandoned his wife and left the country. Incidents involving women above 50yrs. suffering from domestic violence by their husbands or sons have also come to light.

Issues in Justice Delivery

The statistics speak for themselves. Out of 126 cases registered or transferred in the court since October 2009 under the Domestic Violence Act only 19 have been come for hearing. Out of these only in two cases an order of interim relief was passed. The other 17 were either dismissed on default or withdrawn as there was compromise between the parties.

In the interim order so passed in the two cases, there is no mention of the compliance. It is noted that the women cannot do anything with a Court decree in their hands. They need some help of the PO or the police to ensure that the order is complied with. The court order given in the respective case should mention the mechanism of compliance through the police or the PO. More importantly till now there has not been any contested case of DV Act in Gurgaon, primarily because both the parties involved in the dispute have never appeared together in the Court.

An interaction with the police personnel of the district revealed that they do not have even the skeleton knowledge of the Act. It is especially regrettable because in case of an incident of domestic violence women are likely to approach the police at the first instance. The situation is worsened with the fact that there is no service provider which is registered with Women and Child Development, Haryana. In Gurgaon the cases of domestic violence are heard in the family court that takes too long for hearing defeating the purpose of any relief and justice that generally is required on an immediate basis.

Although the free legal aid is the right of every citizen, but in practice it remains on paper and unreachable to the needy. Survivors are assigned a lawyer by the Chief Judicial Magistrate but, the lawyer is under no compulsion to take that case. Even if he takes it up he is under no serious obligation to take it to the logical conclusion. In many cases the lawyers either do not take up the case or do not fight till its final verdict leaving it in between. Besides the

legal aid lawyers demand exorbitant sums of money from their poor clients. Similarly the medical aid is also a far cry. Even the Government hospital in Gurgaon charges money (Rs. 100) for a medical checkup which will act as evidence in the Court.

The Act lays down various types of relief and orders for the victim but for these, no set procedure has been prescribed in the Act. It merely advises to follow the procedure laid down in Cr.P.C. One needs to take into consideration that the Act prescribes the time limit of 60 days for the passing of the final judgment in the Court. However this does not seem possible following the Cr.P.C. that is an apparent contradiction and an impediment in implementation of the Act.

In many cases respondent resides far away from the place of filing the report. This makes service of notice a tedious exercise due to several factors like lack of diligence of part of the police. On top of it in various cases respondent falsely takes the plea that summons were not served.

Recommendation:

The Act is a recent piece of legislation and therefore there are no uniform patterns of its interpretation and application. It is important therefore that some concrete guidelines be framed for different stakeholders that can provide clarity to each agency on its particular role. For this regular trainings and awareness programmes should be organized by the Government for implementing agencies and the beneficiaries.

It is suggested that since the cases of Domestic Violence need to be solved at early as possible therefore there is need for creating the special courts exclusively meant for violence against women. It may include other offenses like molestation cases, dowry or rape etc. These courts should be fast track courts and should deliver justice as early as possible. Appointment of female judges in these courts will also be a positive step.

**The writer is the second year student of Ram Manohar Lohia National Law University, Lucknow* □

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