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## Control of the Cyber Space and Civil Liberties in the Country Pushkar Raj

India is a democratic country. We pride in the best protections provided to our freedoms in our constitution comparable with the citizens of any democracy in the world. However, lately these liberties have come under severe strain due to various acts of the Indian government. One of the actions that has the potential to restrict our right to freedom of thought and expression is recently notified rules under the Information Technology (Amendment) Act, 2008. The rules came into force in mid April 2011.

When the original Act (enacted in 2000) was amended in 2008, the informed observers had apprehended that it might pose a serious threat to freedom of thought and expression of the Indian citizens. However one hoped that the rules would create a fine balance between the individual freedom and cyber security concerns. That hope now stands dashed as impact of the IT rules on the internet users become clearer.

Cyber communication is carried out through the intermediaries. Intermediary means any person who on behalf of another person receives, stores or transmits any information or provides any service with respect to that information. It includes telecom, network and internet service providers, web-hosting services, search engines, on-line payment and auction sites and cyber cafes. In a way it is the whole gamut of cyber world.

Thus if you wish to regulate and strangle the cyber communication exercise the control over the intermediary. It can be done by putting them under a liability that they debar certain categories of information which might be open to subjective interpretation. If the intermediaries are under coercive instructions not to host a huge body of information, then millions who generate that information exercising their rights of freedom of thought have no meaning for it. It is as good as not having that right if one is not allowed to exercise it fully through its dissemination. That is exactly what would happen with implementation of the above mentioned I T rules.

Under the new IT rules the intermediary is put under obligation to withdraw any information that is grossly ``harmful, harassing, blasphemous, defamatory, obscene, pornographic, paedophilic, libellous, invasive of another's privacy, hateful, or racially, ethnically objectionable, disparaging, relating or encouraging money laundering or gambling, or otherwise unlawful in any manner whatever." This is not only an exhaustive but also an extremely subjective list because these terms have not been defined under the rules. In fact one would argue that they cannot be defined conclusively. What is obscene for X might be artistic for Y. So legally speaking, if you write an article condemning ban on same gotra marriages dictated by some khap panchyats you might be accused of indulging in ethnically objectionable

writing; if you put to question Sai Baba's status to godhood you might be charged with defamatory writing; if you document seedy aspects of life of a public figure it could be invasion of his privacy; even calling for reforms in some religions could be termed blasphemous.

According to the rules notified by the government, contents that fall in the above mentioned category must be removed by the intermediary within thirty six hours upon its own knowledge or at being pointed out by the 'affected person'. This affected person could be anyone on earth. In other words, the rules are worse than a king's dictate in medieval times who one thought would give the other party at least a hearing before issuing an order!

What are the implications of such rules for a burgeoning cyber connectivity that has shaken dictatorships in the Middle East and connected people on issues like corruption and violence against women at home? What is going to be the fate of millions of blogs and campaigns through face book? What will happen to the life support of democracy- free movement of ideas, debate, dialogue, understanding and consensus- on vital social, economic and political issues? How does one reconcile the new reality with the fundamental right of freedom of

thought and expression guaranteed under Article 19 of the constitution? And at the individual level does not that convey a message: 'Do not think or write out of the box. Get into a pattern, conform to prevailing mores and values; become a robot and one dimensional human being!'

Besides, there is the question of individual privacy that is always prized by the human beings. The rules invade it by mandating that the intermediary must provide information on an individual or extend any such assistance to government agencies on a request in writing who are lawfully authorised to prevent, detect, investigate, prosecute cyber security incidents or any other offence. This obligation to part with information on an individual is a serious breach of law of the land as established in the Supreme Court judgment in People's Union of Civil Liberties (PUCL) Vs. Union of India (UOI) and Anr., (1997)1 SCC 301. The court had held that the telephone tapping is a serious invasion of an individual's privacy and had prescribed guidelines for that which includes authorization from a high level official- union or state home secretary.

So while your phone conversation might be tapped after being authorized by a top government functionary, but any sub- inspector

of police might, in the name of investigating an offence, go through your hundreds of emails or ask for details of your phone calls from the intermediary on a simple request. This means that while the government itself wishes to intercept or monitor a citizen's privacy it will follow the procedure, but it would not do so when it would take almost the same information from an intermediary! Now this is really contradictory, guile and unacceptable.

At a larger level this contradiction is at the heart of Indian society and polity today. While we celebrate procedural democracy with periodic elections we have been cutting on its substantive part in our public life. Public assemblies and protests are becoming rare. When they are organized they are brutally broken up sending the message across the country that they are not allowed anywhere. Similarly cyber world is also sought to be monitored and controlled. New I T rules are enough indication of such a well thought out policy. We must, however, not accept it sitting silently. We must spread awareness on them and garner enough public support against these rules so that they are forced to be abandoned. That is the only way to preserve our constitutionally sanctioned freedoms. □

#### **West Bengal PUCL:**

### **PUCL West Bengal Observed Anti-Emergency Day**

PUCL West Bengal observed Anti-emergency day by organizing a seminar on 'Democracy, Development and Human Rights' on 26th June 2011 at Srimati Art Gallery, Kolkata at 5-30 pm. PUCL State Convener, Ananda Mukherjee inaugurated the seminar by delivering a long speech highlighting the PUCL's achievement and struggle since its birth. He said that 'Democracy, Development and Human Rights' are inter related issues.

Neglecting human rights and

democracy, no development can take place. On the other hand without basic development of the living standard of the 90% countrymen, Democracy and Human Rights could not be restored. He also said that since 1948 the violation of human rights took place in our country by displacement of the people without rehabilitation in the name of development and Public interest. In 1948 at the time of laying foundation stone at the site of Hirakud river valley project, the first prime minister of India Jawaharlal

Nehru delivered speech to the residents of this area saying "If you have to suffer, you should do so in the interest of the country". Noted Gandhian Morarji Desai also threatened to the pong dam oustees that 'We will request you to move from your houses after the dam comes up. If you move, it will be good. Otherwise we shall release the waters and drown you all'. Citing these instances, Mr. Mukherjee expresses grave concern where agricultural lands are being snatched away from the farmers for

industrialization and real estate business without rehabilitating the displaced persons or giving them sufficient compensation, which resulted 13.1 lack tones overall food shortages in the last five years in West Bengal. He also spoke against all the black laws including UAPA, AFSPA, and Chhattisgarh Special Public Security Act citing them undemocratic and unconstitutional and urged the audience to support the movement of PUCL demanding immediate repeal of all draconian laws in our country.

Another speaker noted sociologist and veteran member of PUCL Dr Sajal Basu claimed that death due to hunger and malnutrition is the basic problem of our country in present times whereas the govt claimed 9% growth in GDP. It is very shameful when food grains are left

for rotting in the godowns even after the direction of Hon'ble Supreme court of India to distribute it within the poorest of the poor. Dr. Binayak Sen has been working on these basic issues from grassroots level at Chhattisgarh from long days before, he said. Where 78 % people of India still lives with income of less than twenty rupees per day, is it called development at all, he asked.

Noted anthropologist Dr. Pashupati Prasad Mahato started his speech narrating how the soil of the sons (tribals) have been exploited in this country since before independence period and were forced to migrate to the tea gardens of North Bengal as low wage labour from different parts of Bengal mainly from Purulia, Bankura and Midnapur, how the tribal people are still living in hunger of half fed condition every day. The cultural

ragging as well as cultural exploitation is still continuing upon them as the result of casteism. How many adivasis have become V.Cs in the different universities in West Bengal since independence, he questioned. Besides his speech Dr. Mahato hypnotized the audience by singing several tribal songs popularly called "jhumur" which depicted the day to day problems of livelihood, sadness, exploitation and torture upon the tribal people of jungle mahal from the time of indigo plantation, as narrated in the famous novel "Nildarpan" written by Dinabandhu Mitra. The programme was presided by Mr. Samarjit Banerjee. A vote of thanks was given by the joint convener of the West Bengal PUCL Mr. Amlan Bhattacharjee.

Ananda Mukherjee, Convener PUCL West Bengal □

## Book Published on Binayak Sen

Recently PUCL West Bengal has published a book in Bengali titled 'Kala Kanoon O Dr. Binayak Sen' written by its State Convener, Ananda Mukhopadhyay. The Book was dedicated to Smt Anasuya Sen, the mother of Dr. Binayak Sen. The book consisting of several writings including 'who is Dr. Sen', 'Dr. Sen : Victim of State atrocity', and 'UAPA : Fundamental rights is at stake'.

Writings of Justice Rajindar Sachar, Prof. Amartya Sen, Mr. Ram Jethmalani, Mr. Soli Sorabjee, and Press statement issued by All India PUCL and West Bengal PUCL took place in the annexure part of this book. This book is available with the state office of PUCL West Bengal. -**Ananda Mukherjee**, Convener, PUCL WB □

### Gujarat PUCL:

## Anti- Emergency Programmes held in Ahmedabad and Baroda

A public meeting was organised under the auspices of Peoples Union for Civil Liberties (PUCL) and Lok Andolan Gujarat at Kocharab Ashram, Ahmedabad under the chairmanship of Prakash N Shah. The programme took a serious note of the fact that the people are feeling suffocated owing to the emergence of undeclared emergency, which is taking away the democratic and human rights of the citizens. The following resolution was passed.

In Gujarat, the process of globalisation and liberalization together with mentality of so called nationalism are disrupting the regime of law and order. On the other hand, the victims of communal riots and those displaced by the development

are waiting for rehabilitation. People at large feel distressful against problems like price rise, unemployment, commercialisation of education and health service. As if this is not enough, a new kind of emergency has been added by depriving the people in the grab of development. In the name of development and industrialization. Farm land of thousands of farmers are snatched away and given in largesse to the industrialists. The fertile and high value land is being acquired by the government in Gujarat and country at large in the name of SEZ or some other industry. In this situation, wherever and whenever people voice their resentment then Govt. has a

tendency to neglect and crush such protests. By disregarding peoples basic needs and their fundamental rights, trumpets of development are being blown. Today, the women are, at every stage, being made victims of rape, women' feticide, insecurity, sexual harassment, humiliation, unequal wages etc. in some large number of regions there problem of drinking water, and elsewhere the question of their respect and equality and at the other lack of security in their day to day life.

In the state, the Government cunningly created a situation of undeclared emergency. Anti people policies framed by it are shattering the lives of the people. In regard to rights of the labourers, poor farmers,

Adivasis, dalits, minorities and women, a new kind of serious atmosphere has been created. The Government has formed a daily habit of refusing just demand and strangling their rights.

Whenever the concerned citizens and activists in the state raise their voice for restoring rule of law then they are blamed as anti development elements. The Govt. is denying the peoples rights for carrying on non violent agitation in a democratic way to secure people's rightful demands. All the activists striving for people's primary need and fundamental rights are relegated in the peoples' eyes as criminals. Let us all get together raise voice of resistance to save our fundamental rights to protest against the unbearable and difficult times our country and state are passing through and to halt the excess heaped upon the poor people in the guise of development. In the past, we had unitedly fought against the emergency and once again the new dawn of freedom has emerged. Let us recollect that and get united to fight against the hidden, manifest undeclared emergency and then and then only this celebration of ours of anti emergency day will turn out to be true and proper.

The resolution was moved by Shri Gautam Thaker and Supported by Dwarika Nath Rath.

Noted women activist Ms. Ila Pathak, Shri Ikram Mirza, Shri Mahadev Vidrohi, and others participated in the discussion

In the presidential address Shri

Prakash bhai Shah appealed all stand up to protect the Human Rights and democratic rights.

### **26th June, Anti-emergency Day observed in Baroda.**

26th June known as Black day on Indian democracy when in 1975 under the then Prime Minister Indira Gandhi led Congress Government at center clamped internal emergency by suspending all democratic rights of citizens.

PUCL and Vadodara Nagrik Sangharsh Manch organized Citizen's Meeting at Baroda on 26th June.

Mr. Gautam Thaker, General Secretary, Gujarat PUCL, spoke about suffocating days of emergency period which is reflected in Gujarat at present. He cited example of police manhandling of girls students who were protesting peacefully against corruption in Gujarat University.

Well-known Journalist Prakashbhai Shah, spoke about declared emergency in 75 and undeclared one going on in the name of development in Gujarat. Democratic rights of farmers, students, labour are been curtailed in state.

Trupti Shah of Shariyar spoke about how women are affected by the anti-people policies of government and how State becoming atrocious in dealing with welfare of society.

Shri Uttambhai Parmar from Surat spoke about three emergencies in our country namely, one which Indra Gandhi brought in 1975, then 6 Dec (Babri Demolition) and third

liberalisation policies which every government whether Modi or Manmohan singh is following. He highlighted the case of textile industries of Surat where 8 hrs works is silently replaced to 12 hrs back-breaking work.

Renu Khanna of Shisu Milap-Sahaj spoke of poor condition of health in women. Jadish Patel talked of deteriorating workers in industrial especially of chemical industries. Rohit Prajapati of Paryavaran Suraksha Samiti talked about environment issues in Gujarat. A. N. Shaikh of AITUC narrated about problems of trade-union and curtailment workers rights in the era of Globalisation and liberalisation. Mukesh Semwal of All India DSO spoke about new changes in education and how important positions like VC are been reduced to yes-man of State Government. Ashok gupta rendered a poem on sorry state of country. Citizens from all walks of life attended the programme. Meeting was conducted by Dhirubhai Mistry and Chaired by Dr. JS Bandukwala.

A Human - chain was formed in kalagodha area after the meeting. Many citizens from various walks Vadodara city and volunteers of various organizations like Shariyar, Shishu-milap, CPI, CPM, PSS, Jyoti Karmarchari Mandal, SUCI(c), Mahila Sanskrutik Sanghatan, All India DSO, Janta Dal (secular) holding placards demanded restoration of democratic rights in the state.

Dwarika Nath Rath □

### **News :**

## **Skeletons in NREGS Cupboard**

Theoretically, third-party evaluation of the National Rural Employment Guarantee Scheme, now renamed after the Father of the Nation, is to be welcomed. Hopefully, it will yield an objective feedback on a gigantic public sector failure in large parts of the country. Details of the evaluation of what was touted as a flagship welfare scheme have been a matter of political conjecture since 2004,

when the United Progressive Alliance assumed office. Far from benefiting the target group to the extent possible, the NREGS has been reduced to a subject of inter-party wrangling before elections, whether to Parliament or the Assemblies. But the scope of this third-party evaluation would seem to be limited if it covers only 100 districts across the country.

Nonetheless, the broad trends ought to be discernible through any honest review. As a facet of public policy, it is an issue of tremendous import. It devolves on Mr Jairam Ramesh, the new rural development minister, to ensure that the data will be in the public domain without the citizen having to take recourse to the RTI Act.

The third-party review, seven years

after the scheme was launched, would appear to be the brainchild of the Planning Commission. Neither ministerial representatives of the Centre nor the states are to be involved in the exercise. While the composition of the third party is yet to be announced, Yojana Bhavan is intent on inducting the services of "professional and selected

institutes". The exercise has to be decidedly academic; there has been a surfeit of political projections by the various parties over the past seven years. Such surveys have only obfuscated the reality to suit the party in power in the states. The primary stipulation of 100 days of work a year has not been fulfilled. In parallel, going by the

Planning Commission's projections, the number of Maoist-affected districts has risen from 60 to 78 and barely 5.5 crore households have benefited out of the target group of 11 crore. The third-party review might expose more skeletons in the NREGS cupboard. So be it. Courtesy: Statesman Editorial, 24 July 11 □

## Aadhaar: on a Platform of Myths R. Ramakumar

The Aadhaar project, just as its failed counterpart in the U.K., stands on a platform of myths. India needs a mass campaign to expose these myths. Two countries, two pet projects of the respective Prime Ministers. Unmistakable parallels in the discourse. "The case for ID cards is a case not about liberty, but about the *modern world*," wrote Tony Blair in November 2006, as he was mobilising support for his Identity Cards Bill, 2004. "Aadhaar...is symbolic of the new and *modern India*," said Manmohan Singh in September 2010, as he distributed the first Aadhaar number in Nandurbar. "What we are trying to do with identity cards is make use of the modern technology," said Mr. Blair. "Aadhaar project would use today's latest and modern technology," said Dr. Singh. The similarities are endless.

Mr. Blair's celebrated push for identity cards ended in a political disaster for Labour. The British people resisted the project for over five years. Finally, the Cameron government scrapped the Identity Cards Act in 2010, thus abolishing identity cards and plans for a National Identity Register. On the other hand, India is enthusiastically pushing the Aadhaar, or unique identity (UID), project. The UID project has been integrated with the Home Ministry's National Population Register (NPR). The "National Identification Authority of India Bill" has been tabled in Parliament. Globally, observers of identity policies are watching if India learns anything from the "modern"

world.

The experience with identity cards in the United Kingdom tells us that Mr. Blair's marketing of the scheme was from a platform of myths. First, he stated that enrolment for cards would be "voluntary". Second, he argued that the card would reduce leakages from the National Health System and other entitlement programmes; David Blunkett even called it not an "identity card," but an "entitlement card." Third, Mr. Blair argued that the card would protect citizens from "terrorism" and "identity fraud." For this, the biometric technology was projected as infallible.

All these claims were questioned by scholarly and public opinion. A meticulous report from the London School of Economics examined each claim and rejected them (see "High-cost, High-risk," *Frontline*, August 14, 2009). This report argued that the government was making the card compulsory across such a wide range of schemes that it would, de facto, become compulsory. It also argued that the card would not end identity fraud in entitlement schemes. The reason: biometrics was not a reliable method of de-duplication.

The Indian discourse around Aadhaar is remarkably similar. Almost identical arguments are forwarded in support of the project to provide a population of over one billion people with UID numbers. I argue that Aadhaar, just as its failed counterpart in the U.K., is promoted

from a platform of myths. Here, there is space for three big myths only.

### **Myth 1: Aadhaar number is not mandatory.**

This is wrong; Aadhaar has stealthily been made mandatory. Aadhaar is explicitly linked to the preparation of the NPR. The Census of India website notes that "data collected in the NPR will be subjected to de-duplication by the UIDAI [Unique Identification Authority of India]. After de-duplication, the UIDAI will issue a UID Number. This UID Number will be part of the NPR and the NPR Cards will bear this UID Number."

The NPR is the creation of an amendment in 2003 to the Citizenship Act of 1955. As per Rule 3(3) in the Citizenship Rules of 2003, information on every citizen in the National Register of Indian Citizens should compulsorily have his/her "National Identity Number." Again, Rule 7(3) states that "it shall be the responsibility of every Citizen to register once with the Local Registrar of Citizen Registration and to provide correct individual particulars." Still further, Rule 17 states that "any violation of provisions of rules 5, 7, 8, 10, 11 and 14 shall be punishable with fine which may extend to one thousand rupees."

The conclusion is simple: Aadhaar has been made compulsory, even before passing the Bill concerned in Parliament. Under the project's guise, the State is coercing individuals to part with personal information; this coercion comes with a threat of punishment.

### **Myth 2: Aadhaar is just like the social security number (SSN) in the United States.**

There is a world of difference between the SSN and Aadhaar. The SSN was introduced in the U.S. in 1936 to facilitate provision of social security benefits. A defining feature of SSN is that it is circumscribed by the Privacy Act of 1974. This Act states that "it shall be unlawful for any...government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number." Further, federal agencies have to provide notice to, and obtain consent from, individuals before disclosing their SSNs to third parties.

The SSN was never conceived as an identity document. However, in the 2000s, SSN began to be used widely for proving one's identity at different delivery/access points. As a result, SSNs of individuals were exposed to a wide array of private players, which identity thieves used to access bank accounts, credit accounts, utilities records and other sources of personal information. In 2006, the Government Accountability Office noted that "over a 1-year period, nearly 10 million people - or 4.6 per cent of the adult U.S. population - discovered that they were victims of some form of identity theft, translating into estimated losses exceeding \$50 billion."

Following public outcry, the President appointed a Task Force on Identity

Theft in 2007. Acting on its report, the President notified a plan: "Combating Identity Theft: A Strategic Plan." This plan directed all government offices to "eliminate unnecessary uses of SSNs" and reduction and, where possible, elimination of the need to use SSN to identify individuals. It's quite the contrary in India. According to Nandan Nilekani, Aadhaar number would become "ubiquitous"; he has even advised people to "tattoo it somewhere," lest they forget it!

### **Myth 3: Identity theft can be eliminated using biometrics.**

There is consensus among scientists and legal experts regarding the limitations of biometrics in proving identity. First, no accurate information exists on whether the errors of matching fingerprints are negligible or non-existent. A small percentage of users would always be either falsely matched or not matched at all against the database. Second, errors of matching would stand significantly amplified in countries like India. A report from 4G Identity Solutions, contracted by UIDAI for supply of biometric devices, notes that:

"It is estimated that approximately five per cent of any population has unreadable fingerprints, either due to scars or aging or illegible prints. In the Indian environment, experience has shown that the failure to enrol is as high as 15 per cent due to the prevalence of a huge population dependent on manual labour."

A 15 per cent failure rate would mean the exclusion of over 200 million people. If fingerprint readers are installed at Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS) work sites and ration shops, and employment or purchases made contingent on correct authentication, about 200 million persons would remain permanently excluded from accessing such schemes.

The report of the UIDAI's "Biometrics Standards Committee" actually accepts these concerns as real. Its report notes that "fingerprint quality, the most important variable for determining de-duplication accuracy, has not been studied in depth in the Indian context." However, this critical limitation of the technology has not prevented the government from leaping into the dark with this project, one whose cost would exceed Rs.50,000 crore.

It is said that the greatest enemy of truth is not the lie, but the myth. A democratic government should not undertake a project of the magnitude of Aadhaar from a platform of myths. The lesson from the U.K. experience is that myths perpetrated by governments can be exposed through consistent public campaigns. India direly needs a mass campaign that would expose the myths behind the Aadhaar project.

Courtesy: the Hindu 17 July 2011

(R. Ramakumar is Associate Professor with the Tata Institute of Social Sciences, Mumbai.) □

### **News :**

## **SC Sets up Panel for Sex Workers' Rehabilitation**

New Delhi, July 19, DHNS: The Supreme Court on Tuesday constituted a committee to monitor the rehabilitation of sex workers and directed all states and Union Territories to determine those who are willing to join the mainstream and provide them help to lead normal life.

Maintaining that a sex worker can live with dignity only if she earns a

livelihood through technical skills rather than by selling her body, a bench of justices Markandeya Katju and Gyan Sudha Mishra also asked the Centre and states to come out with suggestions and recommendations for improving the condition of sex workers within two weeks.

"We may reiterate that this exercise has been done because the word 'life'

in Article 21 of the Constitution of India has been interpreted in several decisions of this court to mean a right to 'life with dignity'.

"It is only if a sex worker is able to earn a livelihood through technical skills rather than by selling her body that she can live with dignity, and that is why we have requested all the states and the Centre to submit schemes for giving technical training

to them," the court said.

The panel set up by the government would comprise senior advocates Pradeep Ghosh and Jayant Bhushan and representatives of three NGOs. The court passed the direction while dealing with a petition relating to improving the condition of sex workers.

The panel will suggest ways and

measures to prevent human trafficking, rehabilitation of those willing to leave what is considered one of the oldest professions and provide better amenities to those willing to continue with their status. The court also directed that representatives of the Centre and all state governments should attend meetings to be fixed by the panel's chairman from time to time.

"Since this is a continuing mandamus, we will focus on Delhi, Kolkata, Chennai and Mumbai as this problem of sex workers is more acute and on a much larger scale in these metropolitan cities. However, this does not mean that we will not take up other cities into consideration," the court said.

Courtesy: Deccan Herald, 19 July 2011 □

## **Andhra Pradesh PUCL:**

### **I. PUCL-AP Demanded White Paper on Dog Bite Cases in AP**

The Andhra Pradesh state unit of People's Union for Civil Liberties (PUCL) demanded the Government of Andhra Pradesh to publish a white paper on dog bite cases in the state. It said the report should contain the details of number of rabies deaths, funds being spent for eradication of rabies, conditions of primary health centers and role of NGOs in controlling rabies and dog bites.

This demand was made at a round-table conference organized by PUCL-AP on June 4, 2011 at Hyderabad. About forty people participated in the discussion. Presiding over the meeting, PUCL State President Mrs Jaya Vindhya said that it is shameful to know people are dying due to dog bite due to lack of proper medical facilities at reputed Government Hospitals in the state. "This reflects how the government is withdrawing from the arena of health care", she observed. Accusing the government failure in

checking dog bite incidents, she said "every month over 35,000 dog biting cases are taking place in Andhra Pradesh and every week at least one death occurs due to dog bite. She lamented that the state government is seemed to be the least bothered with these incidents.

She alleged that some NGOs have been using government funds in the name of the sterilization program, but doing nothing to control the stray dog's population in the state. According to her, there are about 20 lakh stray dogs in Andhra Pradesh, of which three lakhs are in Hyderabad city alone.

Expressing her displeasure over poor sterilization programme in the state, she demanded that the government should take action against NGOs those are misusing government funds. She demanded an ex-gratia payment of Rs 10 lakh to the next of the kin of those who died due to dog bites.

However, Joint Director of Health Dr C Shankaraiah asserted that there is no dearth of anti-rabies vaccine in Government Hospitals, including Primary Health Centers. According to him, out of 35,000 dog bite cases only one person is dying per year in the state

Stating that vaccines are being administered timely, he admitted that at some centers the facilities are inadequate to keep up vaccines. He assured adequate funds are being provided to control dog bite menace.

PUCL City General Secretary Mohd. Riyazuddin deplored that some NGOs who have been raising hue and cry when civic body kills rabid dogs are silent when people are being killed by those dogs.

Socialist Party Central Committee Member Prof Keshava Rao Jadhav, Dr Sangha Mitra, PUCL State Vice President Iqbal Khan also spoke.

Ms. Jaya Vindhya, President, PUCL Andhra Pradesh □

### **II. Fact Finding Report on Police Assault on Fathima Begum by Hyderabad Police**

The report contains facts that came into light when a committee comprising PUCL state President, Jaya Vindhya & Twin Cities General Secretary, Riyazuddin went on an investigation of the attack of Fatima begum by the Falaknuma Police at Hyderabad.

Fatima Begum was residing in Falaknuma, Hyderabad. Her husband's name is Hussain Bin

Mohammad. On 27-06-2011, at 6:00 P M she approached the P.U.C.L office stating that she was beaten by the Falaknuma Police station police of Hyderabad. She named Sub-inspector (S I) Anjaneyulu for it and further alleged that the S I warned her that the police would lodge false cases of prostitution and drug trafficking against her daughters and open all the old cases on her

husband.

When she approached the PUCL office she had a wound on her head and a bandage was tied on her head. She stated that on 25/06/2011 between 10:30p.m-11:00p.m, S.I Anjaneyulu and three civil dressed people knocked the door of their house. She stated that they told her and her husband to report to the Circle Inspector (C I) at the Police

Station that night on the charges that their son had stolen a pulsar and kept at home. They told the police that they bought the bike on finance and could show the papers of the bike but they didn't listen to them and took them to the Police Station. The C.I was not present at the Police Station and the civil dressed man pushed her husband and started beating him with sticks and kicks. When Fatima went to the rescue of her husband, the S.I Anjaneyulu pushed her towards the wall and she was hurt on her head. Her husband then ran from the Police Station and ran towards his house. There he informed the incident to his daughters-(1) Samina Begum-22yrs, (2) Samiha Begum-21yrs, (3) Asia Begum-19yrs, (4) Asha begum-18yrs.They came to the Police Station and took her to the hospital. Fatima Begum was given medical treatment at the Hospital and it was about 4 AM on the next day i.e26-06-2011 in the morning by the time treatment was finished. She further stated that she was threatened by the police officials that if they disclosed this incident then they would foist cases against them. The PUCL took the case to the State Human Rights Commission on 28-06-2011. The State Human Rights Commission has ordered the ACP, Falaknuma division for a report on this issue and posted the case to 11-10-2011. Fathima Begum's husband, Mr. Hussain Bin Hameed had been missing since 25-06-2011 after the incident. It has been noticed there were 12 female constables & 10 male constables at Fatima Begum's house on 28-06-2011 in the name of searching for Mr. Hussain Bin

Hameed. PUCL President, Jaya Vindhyaala and Twin Cities General Secretary, Riyazuddin went to the Falaknuma Police Station for an enquiry on this matter. The Falknuma Police Station and Falaknuma Division A.C.P office and Traffic Police Station are located in the same area. The gate security was present at the entrance and he allowed us to enter without any objection. We asked whether the A.C.P and C.I were present at the office, but we were informed that only A.C.P was present. We entered the A.C.P office at around 2:30p.m. We asked him about the attack on Fatima Begum and inquired why the CI and other police had raided Fatima Begum's home and why were they posted there. The ACP told that the police did not harm anyone and had committed no mistake. He further told us that Fatima Begum willingly hurt her head and blamed it on the Police officials. If Fatima Begum had willingly hurt her head then it would have been different from the actual one. The injury was on the sideward of the right side of the head. The ACP became short tempered and started shouting at us, saying that, they were staying away from their families and serving the public. He further stated that we were violating the rules and we should not support the criminals. We demanded that the ACP that he should take action on the SI. He replied that he would look into it if we filed a complaint against him. We went out and prepared a complaint against SI, and gave it to the ACP. The CI said that he called Fatima Begum's husband as there were many cases on him. We asked them then why did they call Fatima Begum without any lady constable, to this

they had no answer.

#### Conclusion

- The Police constables were soon withdrawn from Fatima Begum's house only after our complaint. However he did not take any action against his own staff that had indulged in violence at the house of the victim.
- The SI Anjaneyulu had a habit of harassing women, earlier too a lady who was subjected to harassment by the SI under the Falaknuma Police Station shifted her house from that area.
- Fatima Begum's daughter, Sahina Begum had complained against her husband for torture at the Police Station. The S.I Anjaneyulu insisted her to come to the Police Station, regularly came to her house and harassed her on phone and asked her to come to the police station. She did not oblige him. This might be the reason that angered the police S. I and he decided to attack the family.
- The ACP and the CI are supporting the SI Anjaneyulu. They are not even calling for an investigation on this issue. It has been alleged that the said police official is efficient in collecting money and distributing it among the officials.
- PUCL demands that strict action is taken against SI Anjaneyulu and it is ensured that the necessary compensation be given to Fathima Begum.
- PUCL demands that proper medical facility should be made available to Fatima Begum.

Ms. Jaya Vindhyaala, President, AP PUCL □

#### News :

## Salwa Judum is illegal, says SC J. Venkatesan

In a blow to both the Chhattisgarh government and the Centre, the Supreme Court has declared as illegal and unconstitutional the deployment of tribal youths as Special Police Officers - either as

'Koya Commandos', *Salwa Judum* or any other force - in the fight against the Maoist insurgency and ordered their immediate disarming. The ruling - issued on Tuesday by Justice B. Sudershan Reddy and

Justice S.S. Nijjar on the writ petition filed by social anthropologist Prof. Nandini Sundar and others - strongly indicted the State for violating Constitutional principles in arming youth who had passed only fifth

standard and conferring on them the powers of police.

The Bench said "the State of Chhattisgarh shall forthwith make every effort to recall all firearms issued to any of the SPOs, whether current or former, along with any and all accoutrements and accessories issued to use such firearms. The word firearm as used shall include any and all forms of guns, rifles, launchers etc., of whatever calibre." Writing the order, Justice Reddy directed the State of Chhattisgarh to immediately cease and desist from using SPOs in any manner or form in any activities, directly or indirectly, aimed at controlling, countering, mitigating or otherwise eliminating Maoist/Naxalite activities in the State of Chhattisgarh.

The court directed the Centre and the State of Chhattisgarh to provide appropriate security forthwith, and undertake such measures "as are necessary, and within bounds of constitutional permissibility, to protect the lives of those who had been employed as SPOs previously, or who had been given any initial orders of selection or appointment, from any and all forces, including but not limited to Maoists/Naxalites."

The Bench made it clear that the

State of Chhattisgarh should take all appropriate measures to prevent the operation of any group, including but not limited to *Salwa Judum* and Koya commandos, that in any manner or form seek to take law into private hands, act unconstitutionally or otherwise violate the human rights of any person.

The Bench said "the measures to be taken by the State of Chhattisgarh shall include, but not be limited to, investigation of all previously inappropriately or incompletely investigated instances of alleged criminal activities of Salwa Judum, or those popularly known as Koya Commandos."

The Bench held that the policy of the State violated the rights under Articles 14 and 21 of the Constitution of those being employed as SPOs in Chattisgarh and used in counter-insurgency measures against Maoists/Naxalites, as well as of citizens living in those areas.

The Bench was of the view that effectiveness of the force "ought not to be, and cannot be, the sole yardstick to judge constitutional permissibility. Whether SPOs have been effective against Maoist/Naxalite activities in Chhattisgarh would seem to be a dubious, if not a debunked, proposition given the

state of affairs in Chattisgarh. Even if we were to grant, for the sake of argument, that indeed the SPOs were effective against Maoists/Naxalites, the doubtful gains are accruing only by the incurrance of a massive loss of fealty to the Constitution, and damage to the social order."

The Bench said "The primordial value is that it is the responsibility of every organ of the State to function within the four corners of constitutional responsibility. That is the ultimate rule of law."

It said "Indeed, we recognise that the State faces many serious problems on account of Maoist/Naxalite violence. Notwithstanding the fact that there may be social and economic circumstances, and certain policies followed by the State itself, leading to emergence of extremist violence, we cannot condone it."

The Judges said "The attempt to overthrow the State itself and kill its agents, and perpetrate violence against innocent civilians, is destructive of an ordered life. The State necessarily has the obligation, moral and constitutional, to combat such extremism, and provide security to the people of the country."

*Courtesy: the Hindu, 5 July 2011* □

**Press Statement: July 16, 2011**

## **PUCL against Government Move to Recall SC Order Appointing SIT on Black Money**

PUCL views with great concern the decision of the central government to move the court to recall its order appointing SIT on black money by deliberately portraying this action as 'overreaching' by the court and based on personal views of the judge rather than on considerations of national interest.

This self praise by the government to shift the blame for its disgraceful inaction against black money calls for condemnation. The action of the central government and the language used in the petition casting aspersions on the court as being motivated by extraneous

considerations is a matter of deep concern to all liberal elements in the society and more to the PUCL which recognizes the crucial role of the court in preserving human rights and the rule of law as mandated by the Constitution. PUCL calls upon the central government to withdraw its petition, which, PUCL is of the firm view, will otherwise cause a conflict between the courts and the government a position which is inherently unacceptable.

PUCL calls upon all democratic forces in the country to support its stand and condemn this undemocratic position of the central

government. Already the Chief Minister of Chhattisgarh has announced his decision to similarly move the court against the Court's order which had held Salwa Judum (an organisation which was being patronized by the state government) leading to violent killing amongst the tribal people. PUCL urges the Central and the state Government to show due respect to the verdicts of the Courts in the interests of the people and the nation.

**Prabhkar Sinha**, President;  
**Pushkar Raj**, General Secretary  
National PUCL □

News :

## Police Killed for Getting Accelerated Promotions

The Delhi High Court Monday asked the union home ministry to pay compensation of Rs.15 lakh each to the families of two businessmen over 14 years after they were killed by a police team in a staged shootout here. Justice S. Muralidhar of the Delhi High Court said: "Compensation of Rs.15 lakh will be awarded to each of the families. However, the amount shall be distributed equally among the widow and the children." According to Muralidhar, as Delhi Police is under the ministry of home affairs of the central government, the

compensation should be paid by the ministry.

"The encounter had taken place in Connaught Place, which is under the jurisdiction of the Delhi government, but Delhi Police being under the ministry of home affairs, the compensation would be borne by the ministry," said the judge. Businessmen Pradeep Goel and Jagjit Singh were gunned down March 31, 1997 by the now-suspended Assistant Commissioner of Police S.S. Rathi and nine other policemen in central Delhi's business and shopping hub Connaught Place.

The case was transferred to the Central Bureau of Investigation (CBI), which indicted the entire 10-member police team and prosecuted it for the killings. The "callous" action of the police was aimed at getting accelerated promotions by claiming to have killed two gangsters, the CBI alleged. Rathi was, at that time, considered an "encounter specialist" of the Delhi Police - a term used for those frequently engaged in shootouts with criminals. CBI also accused Rathi of feeding false information to senior police officers to claim innocence.

*Courtesy : Mid Day , 4 July 2011* □

## Why India is in Dire Need of Electoral Reform

Soutik Biswas

Nearly a third of MPs - 158 of 543, to be precise - in the parliament face criminal charges. Seventy-four of them face serious charges such as murder and abduction. There are more than 500 criminal cases against these lawmakers.

These MPs hail from across the political spectrum.

Twelve of the 205 MPs or 5% of the lawmakers in the ruling Congress Party face criminal charges. The main opposition BJP fares worse with 19 of 116 - or more than 16% - of its MPs facing charges. More than 60% of the MPs belonging to two key regional parties, Samajwadi Party and Bahujan Samaj Party - who profess to serve the poor and the untouchables - face criminal charges.

Then there are allegations of rampant vote-buying by parties, especially in southern India.

The Election Commission seized more than 600 million rupees (\$13.3m; £8.3m) in cash in Tamil Nadu in the run-up to the state elections in April. It believes that the money was kept to buy votes.

In an US embassy cable leaked by Wiki Leaks in March, an American official was quoted as saying that

one Tamil Nadu party inserted cash and a voting slip instructing which party to vote for in the morning newspapers - more innovative than handing out money directly to voters. The party concerned denies the charge.

Independent election watchdogs believe that candidates routinely under-report or hide campaign expenses. During the 2009 general elections, nearly all of the 6753 candidates officially declared that they had spent between 45 to 55% of their expenses limit.

After the recent state elections - in three states and one union territory - elected legislators declared that the average amount of money spent in their campaigns to be only between 39% and 59% of their limits in their official declarations. A total of 76 legislators declared that they did not spend any money on public meetings and processions.

There is something seriously amiss in the state of democracy in India. That is why, most believe, the country urgently needs electoral reforms.

India's most respected election watchdog Association for Democratic Reforms (ADR) has rolled out a pointed wish-list to clean

up India's politics and target corruption. I am sharing some of them:

- Any person against whom charges have been framed by a court of law or offences punishable for two years or more should not be allowed to contest elections. Candidates charged with serious crimes like murder, rape, kidnapping and extortion should be banned from contesting elections. India's politicians have resisted this saying that opponents regularly file false cases against them.
- To stop candidates and parties seeking votes on the basis of caste, religion and to stop divisive campaigns, a candidate should be declared a winner only if he or she gets more than 50% plus one vote. When no candidate gets the required number of votes, there should be a run-off between the top two candidates.
- Voters should have the option of not voting for any of the candidates.
- A law against use of excessive money in elections by candidates.

- Despite the clamour for the state funding of elections, it is still not clear how much elections cost in India. Political parties do not come clean on their revenues and expenses, and until there is a clearer picture of how much they spend, it will be difficult to fix an amount. So political

parties should give out verifiable accounts, which should be also available for public scrutiny. The desire for electoral reform is not new. Since 1990, there have been at least seven hefty comprehensive government-commissioned reports for such reforms. The Election Commission of India

has been saying since 1998 that candidates with pending criminal cases against them should not be allowed to contest. If there is an overwhelming consensus about these reforms, why have governments sat on it for more than two decades? Ask the politicians. **Courtesy: BBC** □

**Press Release:** 6 July 2011

## **PUCL Supports the Movement against Privatisation of Water in Delhi**

Addressing a dharna by SUCI (Communist) activists at the Police Headquarters, ITO, New Delhi, Justice Rajindar Sachar, former Chief Justice of the Delhi High Court and Ex-National President, PUCL described the move by Delhi government to privatise/sell water to the people of Delhi. He said that even as per a government survey just 18 per cent households in rural India have access to basic amenities-drinking water, sanitation and electricity and urban areas enjoy these facilities in 68 per cent households. Drinking water, he said, is the single most requirement for keeping alive after oxygen. Any government, which fails to provide

even that minimum requirement has no right to be in power. The attempt by the Delhi government to 'sell' water means that it wants to deprive the already suffering masses of whatever water they have access to and to make it available to the rich in plenty even for wastage. He said that on behalf of the PUCL he condemns this anti-people and anti-poor move. He also assured all possible support of the PUCL to the agitating activists in their fight against this move to deprive people of their right to have water. The dharna was also addressed by Krishan Chakravarty, Polit Bureau member of the SUCI (Communist) among others. It was attended by some 200-250 activists of the SUCI

(C) and some members of the Delhi PUCL. Delhi PUCL General Secretary Shivakant Gorakhpuri and Mahi Pal Singh, National Secretary, PUCL were also present. Earlier the SUCI (C) activists, including a large number of women, had marched from the Red Fort to the Police Headquarters at ITO where they were stopped by the police. Later a delegation of the SUCI (C) submitted a memorandum to the Chief Minister's office and the activists dispersed after resolving to take the agitation to all areas of Delhi and to intensify their demand to withdraw the proposed move to privatise water in Delhi. **Mahi Pal Singh**, Secretary, National PUCL □

### **Orissa PUCL: Press Statement**

## **Escalation of Violence and Appeal for Peace**

*People's Union for Civil Liberties* (PUCL) expresses its deep concern at the escalation of violence and killings by the Maoists as well as by the State. What is most distressing in this spiral of violence is that the ordinary citizens, mostly adivasis, are being made to pay a heavy price and there is a gross violation of human rights by both the sides. PUCL thinks that the agreement reached between the Govt. of Orissa and the Maoists through mediators in the wake of the abduction of the Malkanagiri Collector and a junior engineer was an opportunity for resolution of conflict and for prevalence of peace. Though both the parties blame each other for breach of agreement, the state

should have addressed with right earnest the issues raised by the Maoists, particularly, related to land and release of adivasis languishing in jails, which PUCL believes, would have contributed immensely for the resolution of the problem. Sadly, the state continues to resort to indiscriminate arrests and 'encounters' to tackle the Maoists. The Maoists, on their part, showing little regards for human rights, have been killing unarmed adivasis in the name of 'police informers.' This is unacceptable. It also needs to be noted that the government's tactic of use of force to suppress any dissent is being applied not only against the Maoists. What is being witnessed presently

in Dinkia and Govindpur area - where people are resisting POSCO to save their land and livelihood - is a clear testimony to the state's approach to use brute force to suppress any democratic struggle, no matter what the issue is. In this context, the recent judgment of the Hon'ble Supreme Court is worth quoting. While analyzing the Maoist problem in Chhatisgarh it states: "The problem rests in the amoral political economy that the State endorses, and the resultant revolutionary politics that it necessarily spawns." It further observes, "That violent agitator politics, and armed rebellion in many pockets of India have intimate linkages to socio-economic

circumstances, endemic inequalities, and a corrupt social and state order that preys on such inequalities has been well recognized".

*We in PUCL, appeal to the Govt. of Orissa to deal with the armed rebellion of Maoists as well as all other democratic struggles of people in the light of the pronouncement of the Hon'ble Supreme Court so that*

*peace can prevail. We also appeal to the Maoists to refrain from killing in the best interest of dignity of human life and human rights.*

**Ms. Pramodini Pradhan**, Convenor  
PUCL Orissa ☐

### **National Council Meeting**

PUCL National Council meeting will be held on 27th and 28th August 2011 in Jaipur, Rajasthan. You are requested to convey this to all the members of the National Council from your state. Meanwhile, a separate letter is being sent to all the members through surface mail. – **Pushkar Raj**, General Secretary, PUCL

To: All the PUCL State Presidents and General Secretaries.

To: All the National Council members and National Executive members. ☐

#### **News:**

### **Few in UPA Concerned About the Plight of Dalits**

**Suresh Nambath**

Ruling combine dominated by upper caste Hindus.

"While the UPA has focused on bettering the lot of the Dalit community, it is dominated by upper caste Hindus, very few of whom are genuinely concerned about the plight of dalits," the American Embassy said in a cable sent under the name of Ambassador David Mulford on June 22, 2005 (35177: confidential), and accessed by *The Hindu* through WikiLeaks.

'Little upward mobility'

"This ensures that dalits will continue to be an oppressed, discriminated group in India. Although the GOI [Government of India] has passed legislation and established government bodies to administer these laws, it has failed to attack the root of the problem," the cable said. "There are success stories, but acts of violence and prejudice against dalits, combined with

government negligence, persist and there is little upward mobility among the dalit population."

The Embassy wrote that without a broader, more comprehensive approach to teaching tolerance and equality early in primary schools, it is unlikely that the social acceptance of caste-based discrimination will fade any time soon.

"The increasing dominance of the private sector in the economy could also result in greater economic polarization if there is no mechanism in place to combat job discrimination."

Embassy interlocutors reported that after one year of United Progressive Alliance (UPA) rule, limited government efforts to improve the socio-economic status of dalits have shown little success. "Government reservation laws do not extend to the private sector, the largest and fastest growing segment of the

economy. Most experts believe the key to ending discrimination is a comprehensive education campaign starting at the primary level to teach acceptance of dalits, a topic completely absent from India's public school system."

Failure to organise

"Despite the political success of dalits such as current Minister for Chemicals and Fertilizers Ram Vilas Paswan, dalits' failure to organize at the national level has limited their ability to demand equal rights. Until the Indian majority increases pressure to change the status quo, many dalits will remain trapped below the poverty line in manual labor jobs with few mechanisms for upward mobility," the cable went on.

*(This article is a part of the series "The India Cables" based on the US diplomatic cables accessed by The Hindu via Wikileaks.)*

*Courtesy the Hindu* ☐

### **Death Sentence of Mr. Bhullar Should be Commuted**

PUCL views with grave concern the presidential approval to the death Sentence of Professor Davinder pal Singh Bhullar. PUCL reiterates its stand that the death sentence is a barbaric practice that is inconsistent with the norms of a civilized society and therefore unacceptable. In the present case the fact is that there has not been any eye witnesses; evidence is based on confession under police custody; the person has served about 16 years in jail, 10 of which have been in solitary confinement; and he is on the verge of insanity make it more critical that his death sentence be commuted. It may be noted that the Supreme Court had given a split verdict on the guilt of Mr. Bhullar. While two judges agreed with the sentence the third judge was not convinced of the same, leading one to believe that the prosecution's case was not foolproof. By that logic the possibility cannot be ruled out that Mr. Bhullar is innocent. It would weigh heavily on the conscience of nation if such 'probably innocent' person goes to gallows. - **Pushkar Raj**, General Secretary ☐

**Letter:**

Dear Friends

A recent Convention organized by *People's Union of Civil Liberties* (PUCL) and participated in by other Human Rights organizations heard accounts of widespread and systematic misuse of the sedition law across India. All forms of democratic struggles - from farmer's agitations to citizens protesting against state policies - have been criminalized and prosecuted under

sedition laws. Consequently, thousands of ordinary citizens have not only suffered violation of fundamental freedoms and liberties but also forced to undergo major personal, emotional and financial hardships due to imprisonment and in the process of seeking legal remedies.

The Convention, therefore, resolved to launch a nation-wide signature campaign to collect at least a million signatures to present it to Parliament

demanding the immediate repeal of Sedition Law, i.e., Sec. 124 (A) IPC. Please spare a few minutes and sign the petition.

You may, if possible, encourage your friends and colleagues to do the same.

The Petition is available at <http://www.petitiononline.com/pucl/petition.html>

With thanks

**Pushkar Raj**, General Secretary, PUCL National. □

**Text of the Petition to the Parliament:**

## An Appeal to the Parliament to Repeal the Sedition Law

Colonial era sedition law contained in section 124 A of the Indian Penal Code, makes creating hatred or contempt for or disaffection towards the government established by Law in India, an act of sedition punishable with imprisonment for life, whether such disaffection, hatred or contempt is created by words spoken or written or by signs or visible representation. This section forms part of chapter VI of the Indian penal Code that deals with "offences against the State", a passage that deals with serious offences including waging war against the State.

Section 124 A was introduced by the British Government in 1870 when the colonial government felt that such a draconian law was needed to suppress the freedom struggle. Some of the most famous sedition trails of 19th and early 20th centuries were those of Indian nationalist leaders including Tilak, Gandhi and

Maulana Azad. All the repressive laws used by the British against the freedom struggle have been retained in Independent India, despite constitutional provisions mandating scrutiny.

Jawaharlal Nehru's views were totally against this provision when he said in 1951, "Take again Section 124 (A) of the Indian Penal Code. Now so far as I am concerned that particular Section is highly objectionable and obnoxious and it should have no place both for practical and historical reasons, in any body of laws that one might pass. The sooner we get rid of it the better."

In fact, it is the constitutional right of every citizen to expose the misdeeds of the government he/she disapproves of and create disaffection and disloyalty among the people and work for throwing it out of power through democratic means - of course without resorting

to violence. Hence, the law is incompatible with democracy in which anybody who is dissatisfied with the government has the right to create disaffection against it and seek its removal at the next election.

In fact, it is the legitimate right of every citizen to expose the misdeeds of the government it disapproves of, create disaffection and disloyalty among the people and work for throwing it out of power. Disloyalty to a government is different from disloyalty to the State. Of late this provision is being used by the State to suppress the peaceful people's movements and Human Rights activists. Using sedition law to silence peaceful criticism is the hallmark of an oppressive government. The Indian parliament should immediately repeal this Colonial Era Sedition Law. □

**On the 35th anniversary of the imposition of Emergency rule in the country:**

## PUCL: It's History of Struggle in Fighting the Structures

**Mahi Pal Singh**

**Introduction**

*The People's Union for Civil Liberties* (PUCL) was founded by Jayaprakash Narayan, and originally named as *People's Union for Civil Liberties and*

*Democratic Rights* (PUCLDR) in 1976, in the wake of the internal Emergency which was imposed by Indira Gandhi, the then Prime Minister of the country, on the nation

on the midnight of 25th and 26th June 1975. The imposition of the Emergency was intended by her to destroy the democratic fiber of the country in order to concentrate

unlimited power in her own hands. With the declaration of the Emergency Fundamental Rights of the people enshrined in the Constitution, including the right to life, liberty and freedom of speech and expression were suspended, more than a lakh of persons including ailing Jayaprakash Narayan, Morarji Desai, Atal Behari Vajpayee, LK Advani, Madhu Dandavate, and all the other leaders of opposition parties were illegally detained under the Maintenance of Internal Security Act (MISA), the most draconian law at that time, without trial, stringent censorship was introduced on newspapers and, above all, even the right to life could not be enforced by the courts. Virtual dictatorship was imposed on the country and all the institutions of democratic rule faced severe threat at the hands of Indira Gandhi. The lawyers led by eminent persons like Chief Justice MC Chagla, Chief Justice CJ Shah, Justice VM Tarkunde, Ram Jethmalani and others waged a relentless battle against the Emergency and the consequent suspension of the fundamental rights.

Jayaprakash Narayan had been instrumental in the formation of the Citizens For Democracy (CFD) earlier before the Emergency was declared. CFD was established as a result of the mass movement built up by JP in response to the political and economic crisis in which the country had been plunged through Indira Gandhi's attempt to subvert the freedom of the Judiciary. The CFD was established on April 13, 1974 with Jayaprakash Narayan as its President and VM Tarkunde as the General Secretary. It was then that Jayaprakash Narayan called for a movement against this tyranny and subversion of democracy. Lakhs of People joined the massive protest rallies on the call of JP and thronged the meetings organized by him. Mass opinion was mobilized in

favour of safeguarding the Indian democracy. When the Emergency was imposed and the very institution of democracy was subverted, a national seminar was held at New Delhi on October 17, 1976 to consider how the civil liberties of the people could be defended. Acharya JB Kripalani inaugurated it and a decision to form the PUCLDR was taken. It was originally intended to be an organisation free from political ideologies, bringing those concerned about defending civil liberties and human rights from different backgrounds onto a common platform. The PUCLDR was a loosely organized group of people who were working with Jayaprakash Narayan. (Justice) VM Tarkunde was elected as its President and Krishna Kant as General Secretary.

Jayaprakash Narayan died on October 8, 1979, after a prolonged kidney problem. In the year 1980 Indira Gandhi returned to power. Her Government resumed its assaults on rights of the people. Efforts were made once again to put some life in the PUCLDR and to bring about co-operation among various civil liberties groups. Learning a lesson from the past experience, it was decided that the organization should be put on a more firm footing. A conference of all those interested in the cause of civil liberties was called. A consensus emerged among civil liberties activists and various political parties that such an organization should remain non-partisan. The founding conference held in November 1980 drafted and adopted the constitution of the PUCL declaring the aims and objects of the PUCL and made it a membership based organization, aiming to have branches all over the country. The organization was re-christened as the People's Union for Civil Liberties (PUCL). What is different about this organization from a score of human rights NGOs, which have come up over the years, is that in order to

protect its independence, neutrality and credibility the PUCL does not accept any funds from the government, foreign countries and the corporate world and manages its working solely with the funds collected as membership and donations from friendly donors only. Besides, though members of political parties can join the organization, they cannot be elected as its office bearers at the State or national level so that the organization remains free from political influences too. The PUCL believes in upholding the rule of law and does not believe in the use of violence even for laudable objects.

The founding conference of the PUCL elected (Justice) VM Tarkunde as its President and Arun Shourie as the General Secretary. Later, Dr YP Chhibbar was appointed as Executive Secretary. Those elected as President and General Secretary in the following years were: President: VM Tarkunde (1982 to 1984); Prof. Rajni Kothari (1984 to 1986); (Justice) Rajindar Sachar (1986 to 1995); K.G. Kannabiran (1995 to 2009). General Secretary: Arun Shourie (1982 to 1986); Prof. Rajni Kothari (1982 to 1984); Dr. Y.P. Chhibbar (1984 to 2008); Prof. Dalip S. Swami (1986 to 1990). (Justice) VM Tarkunde was named Advisor in 1986 and remained in that capacity till his death on 22 March 2004.

During the last 35 years of its existence, the PUCL has not only gained credibility and fame as the largest civil liberties organization of the country, it has established itself, through filing of various Public Interest Litigations (PILs) in the courts of law, launching movements against draconian laws like the MISA, Prevention of Terrorism Act (POTA), Armed Forces Special Powers Act (AFSPA) and the Unlawful Activities (Prevention) Act (UAPA) for the defence of civil liberties and democratic rights of the people. It has also initiated and been

at the forefront of the movements for making free and compulsory education a fundamental right, granting of the right to information and the right to food and for introduction of judicial, police and prison and electoral reforms, thereby intending to make elections free from muscle and money power. It has raised the question of accountability of all public servants, including the politicians, and also the question of judicial accountability. It has fought against all sorts of communalism and societal violation of human rights of the Dalits. The PUCL has had former Justices, Chief Justices, leading lawyers, academics and intellectuals as well as social and human rights activists as its members. Today it has a nationwide network with State Branches in almost all the States.

#### **The PUCL Bulletin and Fact-finding Reports**

The PUCL also started publication of the 'PUCL Bulletin' in 1980, which publishes fact-finding reports on custodial deaths, fake encounters, and atrocities on Scheduled Castes/Tribes, communal violence and cases of gross human rights violation received from the State Branches, the most prominent among them being the fact finding reports on the anti-Sikh riots of 1984 (During October 31 to November 3, 1984 there were large scale killings of Sikhs in the wake of assassination of the then Prime Minister Indira Gandhi. In Delhi a joint team of People's Union for Civil Liberties and People's Union of Democratic Rights published a report titled 'Who are the guilty?' after detailed investigation and collection of evidence.), on the anti-Sikh flare up in Bidar, Karnataka, on communal riots in Hashimpura, Meerut in May 1987 by a PUCL team consisting of Justice Rajinder Sachar, I. K. Gujaral, AM Khusro, and Dalip Swami, a comprehensive report on the situation in Kashmir by Justice VM Tarkunde, Justice

Rajindar Sachar, Prof. Amrik Singh, Inder Mohan, N.D. Pancholi, and others. The demolition of Babri masjid in 1992 and the subsequent anti-Muslim violence at a number of places including Mumbai, State sponsored anti-Muslim Gujarat riots of 2002 and the anti-Christian riots of Kandhmal perpetrated by the Hindutva forces engaged the attention of the PUCL and various fact-finding reports on these riots were published in the Bulletin. It published a detailed report on the Hindutva Parivar's war against the Christian minority entitled 'Crossed and Crucified' by PUCL Bhubneshwar & Kashipur Solidarity Group, Delhi. The Bulletin also carries press statements on incidents of human rights violation, which happen all over the country. Articles on various human rights issues by prominent writers and leaders of human rights movement are also published in it. Because of the authentic material published in the Bulletin, research scholars make use of its material for their research work. Editorials written by (Justice) VM Tarkunde, Dr YP Chhibbar, (Justice) Rajindar Sachar, Dr RM Pal, KG Kannabiran, Dr George Mathew, Prof. Prabhakar Sinha and others have been providing insight into various issues of human rights and democratic governance and clarifying the stand of the PUCL on these issues.

The PUCL had instituted an annual 'Human Rights Journalist award of the year' for the best work done by a journalist for the promotion and protection of civil liberties and human rights, which carried a citation, and a cash award of Rs. 20,000/-. It has however been discontinued for paucity of funds. An annual JP Memorial Lecture on March 23rd by a prominent speaker continues to be the organization's regular feature. An annual lecture in memory of Justice VM Tarkunde has also been started in collaboration with The Tarkunde

Memorial Foundation on 3rd September. The text of both the lectures is published in the PUCL Bulletin.

Besides, many law students from Law Institutes from all over the country come to the PUCL office every year as interns to get their first experience in research work. Some of their best research papers are published in the Bulletin.

In July 1994 PUCL was awarded the first M.A. Thomas Human Rights Award instituted by the Vigil India movement for its extraordinary work for the propagation and protection of civil liberties and human rights of the people.

#### **PUCL and the Role of the Radical Humanists**

The PUCL has been led by leading radical humanists from its very inception. Being the followers of MN Roy, the revolutionary freedom fighter, philosopher and intellectual, who was a strong votary of the democratic freedoms of the individual and participatory grassroots democracy for the empowerment and emancipation of the people whom he considered the sole source of the sovereign power of the State, the PUCL in its attempt to fight against the dictatorial Emergency regime of Indira Gandhi in order to defend the civil liberties of the people was the fraternal and natural ally of the radical humanists. That was the reason why Jayaprakash Narayan asked Justice VM Tarkunde, the leading light among the radical humanists committed to the defence of democratic freedoms, to head the PUCLDR in 1976 and he was the natural choice as the President of the PUCL when it was formed in 1980. Besides him, there were hundreds of radical humanists who joined the PUCL and many have played an important role in the organization. C.R. Dalvi has been active in Mumbai. M.A. Rane not only filed many Habeas Corpus

petitions in the Bombay High Court for the release of those detained during the Emergency, but also served the Mumbai Branch of the PUCL for a long time and was its Secretary till his death on 24 July 2008 apart from being the President of the Mumbai Branch of the Indian Radical Humanist Association. Apart from being the Secretary of the Indian Renaissance Institute, which was founded primarily as a research and publication institute with the purpose of development of the Renaissance Movement and is the parent body of the Indian Radical Humanist Association, N.D. Pancholi has been a founding member of the organization and has participated in many important fact-finding enquiries. He has also been a Vice-President of the Delhi PUCL along with Fr. T.K. John, Dr. Anup Saraya etc. and he was elected as the President of the Delhi PUCL in December 2010. A close associate of MN Roy and well-known Royist ideologue and thinker, Dr. R.M. Pal has been a President of the Delhi PUCL. He also edited the PUCL Bulletin for a long time from March 1984 to September 2010. He has led the movement for free and compulsory education as a Fundamental Right through his editorials besides writing very strongly against communalism and societal violation of human rights of the Dalits. Among the younger generation, Gautam Thaker, General Secretary, Gujarat PUCL, has been amongst the leaders of the civil liberties movement in the State besides being the President of the Gujarat Branch of the Radical Humanist Association and Mahi Pal Singh, also the President of the Delhi Branch of the IRHA, served the Delhi PUCL first as its Treasurer and for more than five years as its General Secretary. He was elected as the PUCL's National Secretary at its Ranchi Convention in 2009. He is also the Editor of the PUCL Bulletin.

### **Onslaught of New Economic**

### **Policy**

The economic policies based on the principles of globalization and privatisation have, in their wake, brought to this country imported consumer goods from developed countries for which India has provided a market with a vast potential, even if at the cost of the closure of a very large number of local manufacturing units resulting in the unemployment of a still larger workforce. This has done tremendous harm to the conditions of physical survival of those for whom keeping together their body and soul was never an easy task. At the same time the increased inclination of the youth belonging to the middle class, (in any case, the elite sections have always shown a tendency to be consumerist going to the extent of a blatant and vulgar display of their wealth earned, nay, amassed through the exploitation of the working classes, corrupt means or speculation in the share-markets - those legally sanctioned, unproductive gambling houses of the rich meant to deprive the unsuspecting people belonging to the lower middle class of their hard-earned and frugally saved money, if our experience of the last 19 years is any evidence), has taken away all his sense of honour, human dignity and the commitment to protect his civil liberties and human rights. His commitment towards his fellow human beings and their welfare has also received a serious jolt as a result of the mad pursuit of his self-centered motives.

To cater to the needs of the elite sections of our society, including the neo-rich, who have reaped the fruits of the new economic order, and also the not-so-rich, who emulate the other two classes because people from these classes spending a lot of money on luxuries, (and also the trigger-happy film hero killing people with impunity), attract them to the extent of becoming their role models,

are coming up the costly shopping malls and multiplexes in all metropolitan cities as a result of which the new culture of consumerism has drowned the culture of human rights discourse in the country.

How else should one interpret the trend as reflected by the print as well as the electronic media where indecent photographs - so much so that, thanks to the efforts of the journalistic fraternity, some sections of the papers have come to be known as 'porn pages' - and stories from the film and fashion world and descriptions of marriages and parties of the rich invariably fill a large portion of the front pages of most of our national dailies and they also get a place of prominence on the news channels, and people's struggles, protests and movements even for their basic rights and tales of their sufferings and deaths due to hunger, mal-nutrition and at the hands of various agencies of the state hardly find a mention even in an obscure corner of the newspapers? Otherwise, how does one explain the complete obliteration of everything related to the imposition of the Emergency in the country on 26th June, 1975, the greatest danger to democracy, civil liberties and human rights this country has faced ever since attaining independence in 1947, from the newspapers and the electronic media even on the anniversary of that black day, and of any reports of meetings held on that day to observe anti-Emergency day to keep alive a continuous struggle for the protection of our civil and political rights from the next day's newspapers, as if the Emergency had never been imposed in this country, or perhaps to remember such events is considered a useless exercise to be undertaken only by some intellectuals in their seminar rooms as a ritual having nothing to do with the present day life. **(to be contd...)** □

# Honour Killing: A Curse on Civilized Society

Amrisha Srivastava\*

## What is Honour Killing?

India is known as the Land of culture with diversity. There are many cultures prevailing in Indian society but while the world is facing the problems of terrorism, criminalization and war but we, the largest democracy in the world, hear of "honour killing" in addition to rape, murders, terrorist activities, and violence under every possible pretext. "Honour killings" may be defined as murders by families on family members who are believed to have brought "shame" on the family name.

The apparent "shame" could be caused by a victim refusing to enter into an arranged marriage or for having a relationship that the family considers to be inappropriate. This "shame" on the family honour comes from a variety of alleged offences, such as allegations of premarital or extramarital sex, refusing an arranged marriage, attempting to obtain a divorce from an abusive husband, or simply talking innocently with any man who is not a relative.

"An honour killing is carried out because the honour of men in the family is perceived to have been injured," I A Rehman, secretary-general of HRCF, was quoted as saying. Usually women are the victims of the honour killings but men are also may be killed in the name of honour (Amnesty International 1999). Honour killings are not confined in India, it occurs in other countries also (Human Rights Commission of Pakistan).

Honour killing is more prevalent where a member of a lower class (social status or wealth status) marries a person of relatively higher class (high social or wealth status). The United Nations Population Fund (UNFPA) estimates that the annual worldwide total of honour-killing victims may be as high as 5,000. Honour killing is a human rights

violation and a crime, although those responsible for such crimes are typically not held fully accountable by the state.

## Some case studies

1. In Shivangana, Northern India, 20 year-old Megala and 24-year-old Sivakumar, were told that they could not marry as they were related. Despite Megala's love, her family married her off in June. She eloped with Sivakumar ten days after the wedding. Her family traced the couple and killed Sivakumar with sickles. The killers included Megala's father and brother. Megala says that everyone in her village, including her mother, justified the killing of her lover as she fetched shame to her community and village.
2. In June a news story hit the headlines that a girl and her lover were brutally killed by the girl's family members, and hanged them as exhibits in front of their house. For the cause of loving a person in the same caste, the cultureless caste fanatics, in the name of honour, subjected the girl Monica (18) and her lover Rinku to brutal inhuman laws as both belonged to same Jat community of Haryana's Nimriwali village. The father of Monica, her brother, uncle and cousins are suspected to be behind the crime and are absconding. They had done this under the guidance and protection of Khap Panchayats, the apex body of caste based council.
3. In **(Sujit Kumar and others v State of UP2002 (45) ACC79at80)**, Justice Katju said *'The barbaric practice of honour killing is frequently reported in Pakistan which is a state based on feudal and communal ideology. So, the court is*

*shocked to note that in our country also which boasts to be secular and liberal, these killings have been taking place from time to time. police and other authorities do not seem to take steps to check these disgraceful and barbaric acts. In fact such 'honour killings', far from being honorable are nothing but pre meditated murder. This observation by Justice Katju shows that in a country whose constitution says that we are secular should not practice such killings. This shows disrespect towards other religions and human race also.*

4. Other reports of honour killings (although not all of them are due to inter-religious/caste marriage) were presented at the AIDWA conference held in New Delhi on 11 January 2004. They include:
5. Geeta Rani, a 20 year old Rajput girl from Hoshiarpur in Punjab spoke of how her husband, a Jat Sikh youth, was murdered in front of her by members of the Rajput community. Geeta had married Jasbir in September in the previous year, only to lose him within a month. Her only crime was that she had married a non-Rajput.
6. Rohtas Kumar, a Dalit from Jhajjar in Haryana narrated how his community was ostracised and humiliated by upper caste Jats after two Jat girls eloped with a Dalit youth. He said that even though it was clear to everyone that the girls had eloped on their own, a case of kidnapping was registered. Tension ensued in the village as the Jat caste panchayat announced a public boycott of the Dalits. Essential supplies were denied to them; they were even forbidden to draw water from the village well. The girls

## Organisational Queries

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the Life members and Patron members as compared to Annual members.

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

**Pushkar Raj, General Secretary** □

who were found later by the villagers were brought back to the village and killed within a day.

As the slogan says, "**there is no honour in killing**". It is very unfortunate that the caste system in India has turned into a social evil for many. This makes us wonder that how many people have lost their lives in the name of honour. And there are many more who are at the gunpoint of this rigid belief system. It is a false notion that honour killing only involves the killing of women. Men are equally victims of this practice, especially when it affects the reputation of a particular caste and community. Many grooms have been killed father or the brother of the bride.

### Why Does It Happen ?

India's social system is based on a caste hierarchy but over the years people living in the cities have come out of the rigid caste framework. There has been an increase in the number of inter-caste marriages between couples in the cities. In fact the government helps those above the age of eighteen in such matters. But somehow the laws never seem to reach the villages, and they continue to function on their own belief system. The problem in the villages is the strong presence of a panchayat or informal court that consists of members of the same caste and decides all matters relating to their community. This informal 'court' passes judgment on issues of marital discord and land

disputes, water disputes and so on. Many times, villagers give more importance to judgments passed by this self-appointed court than the judgments passed by the local legal court, often referred to as 'legal panchayat'.

Khap Panchayats play the lead role among these panchayats. They have their own laws and believe that marriages should not be other than same gotra. Honour killings are socially approved and justified by khap panchayats (courts/council of local elders), particularly in the state of Haryana. In Delhi's Wazirpur area, local khap leader Ravinder Naagar justified the murders of Monika and her husband Kuldeep by her brothers, saying: "Why should we regret? They (Kuldeep and Monika) got what they deserved. They broke the age-old traditions of our community. They caused immense embarrassment to us [across castes]. Undoubtedly Caste system is the master of this Cultural Crime.

Honour killing occurs when there is:

- Marital infidelity
- Pre-marital sex
- Flirting
- Even failing to serve a meal on time that can be perceived as impugning the family honour.

### Action taken by Indian government

- In an attempt to protect couples from honour killings, protection homes for boarding and lodging have been identified by Haryana government to ensure the

security of couples who fear adverse consequences from their families and the society. A communiqué to the commissioners of police in Faridabad and Gurgaon has been sent by the Financial Commissioner and Principal Secretary of Home department, Haryana, and this has also been sent to other senior police officials across the state. A list that highlights these homes has been sent to all places in the state. Commissioner of Police, Faridabad, P. K. Aggarwal said, "So far the couples who have approached us either had an ongoing case in the court or had their marriage certificates in place. Also, we have not faced problems with any couple extending their stay in the accommodation." The state has also decided working women's hostel in Rewari and Sirsa, a girl's at Bhattu Kalan and Bhoria Khera as protection homes apart from Faridabad district. In at least 10 out of 21 districts of Haryana, the facility of protection homes will be provided within the Police Lines.

- On June 22, 2010 the Supreme Court issued notice to the Central Government and nine states in the face of rising Honour Killings across the country on the Public Interest Litigation filed by Shakti Vahini. The court wants to know what

*Cont. .... Pg. 20*

# PEOPLE'S UNION FOR CIVIL LIBERTIES

## MEMBERSHIP FORM

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**National Office: Dr Pushkar Raj**, General Secretary, PUCL, 270-A, Patpar Ganj, Opposite Anand Lok Apartments (Gate-2), Mayur Vihar-I, Delhi-110091 (Phone: 011-2275 0014)

**Cont. .... Pg. 18**

steps are being taken to curb such violence.

- In a landmark judgment in a Haryana honour killing case, a court here on 30th march 2010 awarded capital punishment to five persons and life sentence to one for murdering a couple on the diktats of a self-styled community panchayat for marrying against societal norms. It is the first case in which the boy's family had moved court against the honour killing after the 'khap' panchayat (caste-based council) had ruled against the couple's marriage. Those sentenced are the girl's brother Suresh, uncles Rajender and Baru Ram and her cousins Gurdev and Satish besides leader of the panchayat Ganga Raj. A driver Mandeep Singh was convicted of kidnapping and awarded a seven year prison term.
- Union home minister P. Chidambaram and Haryana C.M., B.S.Huda along with legal experts of the government said that any body involved in Honour killing can be booked under section 302, IPC, likewise, the planning and conspiracy of honour killing can be covered under section 120B, IPC (criminal conspiracy) and section 34 of the IPC.

**Conclusion**

Honour Killings are problem in a number of countries around the world. It is very unfortunate that the caste system in India has turned in to a social evil for many. How many young people have lost their lives in the name of honour and there are many more who are at the gunpoint of this rigid system. This is the violation of human right like right to life, right to liberty and right to equality in Indian Constitution.

In other countries also in the name of honour, these brutal crimes are increasing day by day. So it is our

responsibility to protect our next generation from the evil shadows of these Cultural crimes. If the existing legal system is not enough to control these heinous crimes then there should be some reforms in our legislation.

There also some action should be taken to change the mentality of the people, mentality in the sense that their thinking about the marriage system should be changed. They should accept their children as they are. There should be a positive obligation to protect their rights. The positive obligation to protect the rights thus includes the duty of states to make adequate provisions in their law for the protection of human life. This duty includes the effective enforcement of the law, taking reasonable steps of prevention, e.g., by providing a judicial system, police and security forces, and by carrying out proper investigations, prosecuting offenders as well as providing for adequate remedies for victims.

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**REGISTERED**  
*Postal Regn. No.:*  
**DL-(E)-01/5151/2009-2011**  
**Posting : 1-2 of same month at New Delhi PSO**  
**RNI No.:** 39352/82  
**Date of Pub.:** **AUG. 1, 2011**  
**Office :** 270-A, Patparganj  
Opp. Anandlok Apartments  
Mayur Vihar-I, Delhi-110091  
**Tel.:** 22750014. **Fax:**(PP) 42151459  
**E-mail :** puclnat@yahoo.com  
puclnat@gmail.com  
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**Chief Editor :** Pushkar Raj  
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**Printed and Published by:**  
Pushkar Raj, General Secretary, PUCL,  
270-A, Patparganj, Opp. Anandlok  
Apartments, Mayur Vihar-I, Delhi-110091  
for People's Union for Civil Liberties  
**Printed at:** Jagdamba Offset Printers,  
H-28, Jagat Puri, Delhi-110051