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K. G. Kannabiran, Former President, PUCL & Doyen of the Civil Liberties Movement in India Is No More

(November 9, 1929 - December 30, 2010)

We in the PUCL are extremely sorry to learn that our former National President, KG Kannabiran breathed his last in the evening on 30 December 2010 at his Secunrabad residence after being unwell for quite some time. In his death the country has lost a devoted civil liberties activist, a prominent lawyer and a learned writer and the PUCL activists a friend, philosopher and guide. His opposition of the emergency regime in 1975 as well as of the black laws, which endangered the civil liberties and human rights of the people and advocacy of the cause of those who became victims of the vendetta of that regime will always be remembered. He believed in the rule of law and fought tooth and nail the extra-constitutional means adopted by the State to silence the dissenters. He will always be remembered for more than 400 PILs he filed to protect the civil liberties and fundamental freedoms of the people in the Andhra Pradesh High Court and elsewhere.

The PUCL family pays its profound respects to the departed leader of the civil liberties movement in the country and conveys to his family members our condolences in their hour of personal loss and grief.

Prabhakar Sinha, President, PUCL National;
Mahi Pal Singh, Secretary, PUCL National □

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 □

For Whom Revolution was Unavoidable

Rajindar Sachar

India's famous human rights activist and eminent lawyer of the Andhra Pradesh High Court, KG Kannabiran died on 30 December 2010. He breathed his last silently in his house. Before his death he asked his family members not to make his corpse an object of advertisement or sloganeering. He was born in 1929.

In the year 1976 Jaya Prakash Narayan formed the People's Union for Civil Liberties and Democratic Rights (PUCLDR). His aim in the formation of the PUCLDR was to establish an organization free from political ideologies through which people connected with various political parties could be brought on a common platform for the defence of civil liberties and human rights. KG Kannabiran was one of the National Executive members of the PUCL along with Justice VM Tarkunde, Asghar Ali Engineer, MM Thomas, Girish Karnad, Nani Palkhiwala, PG Mavalankar, Nikhil Chakravarty, Arun Shorie, Surendra Mohan, Ram Jethmalani, and Madhu Limaye etc. Kannabiran remained the President of the PUCL for fifteen years from 1995 to 2009. He did a lot of work for the poor working class. In fact, he was a human rights activist apart from being a lawyer. Working as a human rights activist in defending the victims of State persecution he fought cases in lower courts as well as in the Andhra Pradesh High Court for a long time.

As a lawyer working for the defence of human rights he played the most prominent and historical role in the case of the murder of Shankar

Guha Niyogi. Pleading his case in the lower court, ultimately he succeeded in getting the murderers convicted and punished from the High Court. In Andhra Pradesh also his contribution as a human rights activist has been noteworthy. In mediating between the Maoists and the Government for resolving the problems through talks also he played a very prominent role there on many occasions. His second biggest contribution was in connection with fake encounters. He said that whenever there is an encounter, an FIR should be registered and a magisterial enquiry should be conducted in the case. KG Kannabiran had a profound knowledge of history and was a specialist of laws related to civil and democratic rights. He also wrote many books. Following the leftist ideology he continuously fought for democratic rights of the people. He also appeared before the Bhargava Commission constituted to consider the matter of fake encounters and put forth the arguments of the Naxalites. But when his pleas were not heard, he thought it wiser to resign from that committee. He had been appointed on the committee as an advocate on behalf of the government. For a long time, KG Kannabiran was a supporter of the right of revolution of the People's War Group as a matter of principle. Because of his commitment to the human rights in the legal and social context he came into contact with all the prominent human rights activists of the country. It was at that time that I also came into contact with him. My relations

with him were quite informal. He called me Rajindar and I called him Kanna. Whenever he wrote something, he always gave it to me for reading before its publication.

Kannabiran was against bringing in the problem of caste in the fight for human rights. In fact, he was one of those intellectuals who believed in humanism. He continuously wrote in favour of the human rights. For him the question of defence of civil liberties was very important. He looked at all such cases sympathetically. He was such a lawyer who never met the Chief Justice or any other Judge in favour of any party in any case. He believed in the capabilities of individuals and institutions. He was adept at settling matters with honesty, ideological commitment and in an unbiased manner.

Kannabiran followed the path of democratic ideals. He sympathized with the Maoist ideology. From his experience slowly he understood that for life revolution is unavoidable although he was a strong opponent of the very nature of the State as well as the Naxalite violence. To understand Kannabiran's ideology it is essential to know that once he said that he was neither a Gandhian nor a hypocritical fool. Before his death at the age of 81 his brain had stopped working. In Kannabiran's death the country has lost a social warrior of civil liberties.

(English translation of the article 'Kranti Jiske Liye Apariharya Thee', published in the Hindi newspaper Dainik Bhaskar dated 3 January 2011. Translation by Mahi Pal Singh). □

Human Rights organizations - Human Rights Forum, Andhra Pradesh Civil Liberties Committee (APCLC), People's Union for Civil Liberties (AP), Organization for Protection of Democratic Rights, Civil Liberties Monitoring Committee - held a public meeting on January 5th at the Auditorium, Potti Sreeramula Telugu University, Nampally for commemoration of late. KG Kannabiran. - Jaya Vindhyala, General Secretary, PUCL Andhra Pradesh. □

Defending Human Rights and Human Rights Defenders

Dear friends

Binayak Sen needs no introduction. It is well known that as a gold medalist of Christian Medical College, Vellore, all the doors of opportunity to pursue the highest possible goal for himself stood open before him, but he chose to devote his life to the service of the poor of Madhya Pradesh (from which Chhattisgarh has been carved out). His spirit of selfless service to the deprived is evident from the fact that he has been serving for the last 29 years or so the poor and neglected tribals as well as the others living there. His bold and determined opposition to the Government sponsored '*Salwa Judum*' (which was held to be unacceptable even by the Supreme Court) was not inspired by any desire to help the Maoists but by his care and concern for the helpless tribals who were undergoing untold suffering due the illegal (*Salwa Judum*) operation in Chhattisgarh. The State Government and its bureaucracy were fully aware of the fact that he had no interest in promoting the cause of the Maoists, and it was due to this certainty that they unhesitatingly granted him permission to visit Narain Sanyal detained in the Raipur jail. Had it not been so, some of the officials who granted him permission to visit Sanyal and the jail officers concerned would have been prosecuted for acting as accomplices or punished for being negligent in their duty. No action is known to have been taken against any of them because nothing wrong was done by anyone.

Dr Sen invited the wrath of the State Government for opposing its illegal and fascist operation against thousands of innocent tribals in the name of fighting the Maoists, whom they did not identify. Outraged by the atrocities committed by the police and security forces against innocent tribals in the name of fighting the Maoists, he rose to defend the

human rights of the helpless poor and became a victim of the vendetta of the Chhattisgarh government, which implicated him in a false case to immobilize him and terrorize other human rights activists and all conscientious citizens. Dr Sen was released on bail on the orders of the Supreme Court after two years, and now has been sentenced for life on the charge of sedition. Reputed jurists and former judges of High Courts have termed the verdict from being 'nonsensical to scandalous'. Such strong opinions have been expressed because the verdict is based on almost non-existent evidence. To cite only a few examples, the court has based its verdict relying on an unsigned letter, which does not figure in the list of documents seized from Dr Sen's flat during the search by the police. Even this planted letter does not contain incitement to violence or any other objectionable act. The court has also ignored the contradiction between the statements of the State before the Supreme Court and the trial court about the place of arrest of Piyush Guha, a co-accused in the case. It was submitted to the apex court that he was arrested from Mahindra Hotel while the trial court was told that he was arrested from Station Road. Guha has alleged that he was arrested at Mahindra Hotel a few days earlier and kept in illegal detention for a few days. These glaring and crucial contradictions do not seem to have any significance for the trial court. The main charge against Dr Sen is that he acted as a courier between Narain Sanyal and the Maoists. However, the officers concerned of the jail categorically told the court that Binayak Sen met Sanyal in their presence and there was no question of letters being taken to or out of the jail. In spite of the lack of evidence, he has been held guilty of sedition and sentenced to imprisonment for life though the Supreme Court has held that the

charge of sedition cannot be sustained unless there is incitement to violence. It is noteworthy that even the British government did not award Tilak or Gandhiji a term for life when they were held guilty of sedition.

The judgment abounds in absurdities and legal infirmities and is unlikely to be upheld by any judicious court on appeal. There is firm legal ground to hope that the miscarriage of justice would be undone and Dr Sen would soon walk out a free man

Binayak Sen's conviction, the detention and prosecution of Ms Seema Azad (Joint Secretary, UP PUCL) and thousands of other innocent persons all over the country expose the false claim that the right to life and personal liberty, equality before the law, an impartial and independent criminal justice system and the existence of the rule of law are a reality. In fact, they are nothing more than a mirage for the overwhelming majority of the population. They can never be a reality unless the people are made aware of these rights and mobilized to fight for them democratically and peacefully. As a first and most crucial step, we should carry on an awareness campaign through meetings, booklets and pamphlets to reach the multitude who do not read newspapers or have access to the electronic media. The emphasis should be to make them aware of their right and encourage, then to fight for them employing peaceful means. Some of the points to which attention may be drawn are suggested below. Others may be added, but the campaign should go on as an important task of the organization.

a. Article 21, which guarantees the right to life and personal liberty is meaningless for 80 % of Indians who live on Rs 20.00 a day and do not have the means to approach the Supreme Court or High Courts,

which alone have the power to give any relief under their writ jurisdiction.

b. Article 21 has proved to be a total failure in protecting the life and personal liberty of the people. Had Article 21 been an effective means of protecting our life and personal liberty, draconian and anti-democratic laws like Preventive Detention Act 1950, Maintenance of Internal Security Act 1971 (MISA), TADA, NSA, POTA AFSPA, UAPA and a slew of other such Central and State laws (and their misuse) would have been declared unconstitutional and the State could not have been allowed to kill so many people in police firings, fake encounters and the police custody.

2. The principle of equality before the law is a cruel joke. The operation of the legal system is absolutely pro-rich and pro-privileged and anti-poor. The number of under trial prisoners detained for petty offences and the impunity enjoyed by the privileged section of society who go scot-free even after committing the most heinous crimes provide irrefutable proof of this fact.

3. There is no rule of law in the country, and the criminal justice system is so designed as to allow it to be manipulated by the microscopic minority in its favour and against the poor or those espousing their cause if they stand in its way. Had the rule of law prevailed in the country, 90 % of the ruling elite comprising mainstream politicians, the rich of all kinds and bureaucrats would have been in jail and most of the under trial prisoners languishing the jails free men.

4. There are more draconian laws with far greater repressive and unbridled power than existed before the Independence whereas a truly democratic country should have had no need of laws to oppress/repress her own people.

5. These laws are needed by the microscopic minority, which has hijacked our democracy and is using the power and the resources of the State to serve its own narrow self-

interest at the cost of the rest of the people. In fact, it is violating the letter and spirit of the Constitution, which mandates that the State shall endeavour 'to minimize the inequality of income' and 'eliminate the inequality of status' by maximizing both the inequalities. It is also maximizing the concentration of the resources of the nation in a few hands against the mandate of the Constitution, and in order to control popular protests against renegeing of the pledges contained in the constitution and betrayal of the people, it has been acquiring more and more unbridled power to repress.

6. Justifying repression in the name of development is a camouflage to conceal the sinister design of serving the interest of the rich-MNCs, big corporations and other vested interests. **Development, as a human right, mandates that the development policy should ensure that the people are both participants in it and its beneficiaries.** The big industries being set up in the tribal areas fail this test. The locals do not have the know how to be participants in the ventures, and far from being beneficiaries they are their helpless victims.

The people should be mobilized to demand:

1. That the Constitution should be amended to make the right to life and personal liberty a reality so that innocent persons do not lose them as at present, and if their innocence is proved, they are compensated for their loss and the public servants responsible for causing the loss are duly punished.

2. The Constitution should be amended to ensure that the draconian laws, which vest the State with unbridled power to deprive the people of their life and personal liberty or the power to misuse or use arbitrarily any law with impunity, are declared unconstitutional.

3. That the criminal justice system should be reformed to ensure that even the most high and mighty

occupying positions of power or the rich with the power of money at their command do not roam free, as they are allowed to do now and get punished for the crimes they commit while ensuring that no innocent person - poor or rich - suffers.

4. The system of policing should be so reformed as to ensure that it is not under the direct control of the government; to prevent its manipulation as is prevalent at present. The police should serve the community rather than the government. The police reform should ensure its impartial and democratic functioning (reflected in their respectful treatment of citizens) cleansing it of its imperial and repressive character.

5. The State must implement the pledge of 'minimizing the inequalities of income', 'eliminating the inequalities in status, facilities and opportunities' and adopt policies to ensure that 'the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment' as enshrined in the Directive Principles of the State Policy in chapter IV of the Constitution.'

The cause of unrest lies in the betrayal of the people by renegeing on the pledge to them, and the key to peace lies in implementing the economic policies contained in the Directive Principles of the State Policy.

6. The policy of development must ensure that the people **are participants in and beneficiaries of projects and not their victims.**

It is only by winning the support of the common man for human rights by fighting for his rights that human rights and their defenders can really be protected and human rights promoted. That is also the real goal of the human rights movement.

Sd./-

Prabhakar Sinha, President PUCL National 

Flawed Evidence and Conclusions

Madabhushi Sridhar

The constitutional validity of the charges of sedition and conspiracy that were used to implicate rights activists such as Binayak Sen merely for their anti-establishment political thoughts needs to be challenged. The action ridicules the constitutional guarantee of freedom of expression.

The sections of the Indian Penal Code that deal with "conspiracy to wage war against the government" (121A) and "sedition" (124A) are draconian in terms of their definition and ambit and carry a disproportionate quantum of punishment. Section 121A was not a part of the original IPC of 1860: it was inserted by an amendment in 1870. After Independence it was amended in 1951, just to replace 'British India' with 'state'. In order to punish the nationalist leaders who were fighting against the Government of India and the rulers of princely states also, the British brought in an Ordinance in 1937. It amended the IPC to add to the definition "local government," expanding the power to grant punishment for conspiracy against any government. Section 124A was used against nationalist leaders to punish anyone who advocated freedom.

In the Meerut Conspiracy case, the accused were charged with conspiracy to wage war for having formed a union on the lines of trade unions in Soviet Russia. They were convicted by a sessions court. The Allahabad High Court held that unless it was a conspiracy to overawe a government by means of criminal force or show of criminal force, such a finding would be wrong.

Section 124A defined as an offence, exciting disaffection against the state; it was replaced with 'sedition' in 1898. The English law meaning of sedition is basically libel of government, but its ordinary English meaning is "stirring up rebellion

against the government" (Kedarnath v State of Bihar, AIR 1962 SC 955). But in Niharendu Majumdar (AIR 1942 FC 22 (26)), the Federal Court gave a liberal meaning to 'sedition': "The acts or words complained of must either incite to disorder or must be such as to satisfy reasonable men that is their intention or tendency." But in Bala Gangadhar Tilak (ILR (1898) 22 Bom 112), the court held that if a person excited or attempted to excite feelings of disaffection great or small, he would be guilty under this section. This meaning was later was confirmed by the Privy Council.

After Independence, it was argued before the Supreme Court that Section 124A was ultra vires of the Constitution insofar as it sought to punish merely bad feelings against a government, and that it was an unreasonable restriction.

The First Amendment to the Constitution in 1951 incorporated 'public order' in Article 19(2) as a ground on which the state could impose reasonable restrictions by law. Thus, the inclusion of 'sedition' was held constitutional by the Supreme Court in Kedarnath. But the Constitution-makers did not specifically state that 'sedition' should be a ground to restrict free speech. Though the additional ground of 'public order' is held to be valid for restricting freedom of expression, sedition cannot be read into the wide expression 'public order.'

Hence, punishing Binayak Sen for "conspiring to commit sedition" is unreasonable and unjustified, besides being unconstitutional. Mere adverse criticism of the state is not sedition, unless it is coupled with incitement to violence or disorder. When it is not sedition at all, where does the charge of "conspiracy to sedition" stand? Dr Sen did not even know what the term sedition meant. He asked, and the judge answered: '

Rajdroh'.

When two officers of the Punjab Education Department raised the slogan "Khalistan Zindabad, Raj Karega Khalsa," they were convicted of 'sedition'. But the Supreme Court set it aside (1995(3) SCC 214), saying the court should look at whether it had led to a consequence detrimental to the nation's unity and integrity. It pointed out that Section 124A should not be used to violate freedom of expression. Free speech can be reasonably restricted if that would result in violence or public disorder. Such an event linked to the relevant communication needed to be proved before pronouncing a person guilty of sedition. Going by this interpretation by the Supreme Court based on its own judgment in Kedarnath v State of Bihar, even if it is proved that Dr Sen acted as a courier, he cannot be convicted of sedition because it was not proved that any public disorder resulted.

A crime has to be proved by the prosecution beyond reasonable doubt. Even if a single reasonable doubt is left unanswered, a conviction is not possible. The prosecution has not, then, discharged the burden of proof. Raipur Additional Sessions Judge B.P. Verma was supposed to explain all the reasonable doubts raised by the defence to establish the conviction, but he did not do so.

Charging Dr Sen of 'sedition' under Section 124A is uncalled for and he cannot be convicted for that offence even if the court considered that the prosecution had fully discharged the burden of proof. The interpretation of the section by the Supreme Court has to be followed as the law, along with the penal provisions of the IPC.

When the investigating police officers were the only crucial witnesses, their evidence has to be corroborated as they are not independent witnesses. Sentencing the accused solely based on their evidence is

unreasonable and unjustified. The judgment should at least appear to be an independent opinion and be supported by a convincing articulation of available evidence. There are at least six bad aspects of evidence, reasonable doubts and unreasonable contradictions involved.

1. The allegation is that Dr Sen ferried letters from Narayan Sanyal to leaders outside the jail. It could be reasonably believed that there would have been close supervision affording no opportunity to hand over letters from a Maoist leader to Dr Sen, a PUCL office-bearer. Yet, the judge considered the letters as key items of evidence to link Dr Sen to a conspiracy to commit the crime of sedition. When three of the accused were not convicted for the crime of "conspiracy to wage war" under Section 121A based on these alleged letters, how can the same letters form valid evidence to convict him of "conspiracy to commit sedition" under Section 124A read with 120B of the IPC?

2. The reasonable doubt that was raised by the defence that an unsigned, computer-printed letter (labelled article 37) supposedly sent by the Maoists to Dr Sen was an introduction, has not been clarified. Nobody had signed it: it bears only

the signatures of two seizure witnesses. Thus there is a reasonable doubt whether this letter was recovered from Dr Sen's home or planted later. The letter found no mention in the attested list of documents recovered. A copy of it was not given to Dr Sen, though copies of all the other seized articles were. Nor is it mentioned in the seizure memo.

3. When doubts over how the letters could have been handed over to Dr Sen while the police/jail officials would have been closely watching any transactions, persisted, not disproved by any other evidence, either direct or indirect, how can those letters being found with Pijush Guha be taken as a basis to convict Guha? The prosecution did not explain how the letters exchanged hands. The judge ignored the testimony of two jailors that it was not possible for Sanyal to hand over anything to Dr Sen in jail. The judge relied on the examination-in-chief of members of the jail staff, who stated that Dr Sen would pass himself off as Sanyal's relative. Under cross-examination, they admitted that applications to meet Sanyal were made by Dr Sen as the PUCL general secretary, on the PUCL letter-head. These applications are part of the court's record.

4. After the police searched Dr Sen's house and collected the material, they carried it in an unsealed bag. This lapse raises doubts about the possibility of the introduction of letters at a later point. The fact that the bag was not sealed was recorded on video, which was not considered in the court.

5. Judge Verma chose to ignore most of the cross-examination, relying only on the special public prosecutor's examination-in-chief. If the witness contradicted what he stated in chief during cross examination, evidence loses value.

6. The Chhattisgarh police could not prove that Dr Sen and Guha ever met. A hotel owner and hotel manager told the court they had never seen Dr Sen visiting Guha in their hotels. But this finds no mention in the judgment. Instead, the testimony of one Anil Singh is relied upon: he had apparently passed by when Guha was arrested, and overheard Guha telling the police that the letters found on him had been given by Dr Sen. These letters find no mention in Guha's arrest panchnama. Guha, points out the judge, is an accused in a Naxalite case in West Bengal.

(The author is a Professor at the National Academy of Legal Studies and Research University of Law, Hyderabad.)

Courtesy The Hindu, January 3, 2011 □

'Verdict Politically Motivated' - Amartya Sen

Srijana Mitra Das

Nobel laureate Amartya Sen on Saturday said the verdict of a Chhattisgarh court sentencing doctor-activist Binayak Sen to life on sedition charges smacked of "political motivation" and hoped that it would be struck down by a higher court.

"The matter is sub-judice. But as an Indian citizen and a human being, I must exercise my own judgment to ask if this is correct. Sedition means pulling the state down by violence. It cannot be suggested Binayak did this," he said at an event to release a book on Binayak Sen.

"On the contrary, his writing indicates violence is wrong. There is a deep moral argument against sedition here," he said.

Sen said he was amazed by the judgment that is now being challenged by the jailed doctor who's been accused of conspiring with Maoists. "It has a threatening nature and seems to have political motivation. Any intelligent person would find that the judiciary acted very peculiarly. I hope the high court or Supreme Court quashes this."

Binayak Sen's story, the Nobel laureate said, was one of dedication.

"It is about the dedication of a great human being. It brings to light a miscarriage of justice. It focuses attention on Indian democracy. And it shapes vision of a future to which Binayak makes a big contribution."

The economist, who is an advocate of humane growth, said, "Economic growth is very important but not an object in itself. It deals in things, not human beings. Binayak and others, including myself, believe that to judge a nation's progress, you must see what is happening to people's lives."

(Courtesy Sunday Times of India, Jan 9, 2011) □

Binayak Sen's Conviction Outrages the Conscience of the Nation

Mahi Pal Singh

The way former Judges of the Supreme Court and High Courts, lawyers, civil liberties activists and intellectuals reacted spontaneously and immediately after Binayak Sen's conviction and imprisonment for life by a Raipur court on 24 December 2010 it became clear that the judgment has outraged the conscience of the nation in general and the rights conscious and democratic civil society in particular. It soon became clear that the judgment had not been delivered on the basis of evidence and merits of the case. Demonstrations against the biased action of the government of Chhattisgarh, in its attempt to silence the voice of activists championing the cause of the tribals, by filing cases on concocted charges and trumped up evidence and also the judgment started being organized throughout the country.

This judgment has, instead of closing the case, raised many questions for which answers have to be found if there has to be democratic governance and the rule of law in this country. Some people have questioned the organization of demonstrations and protests against this conviction of Binayak Sen and ask whether those doing so do not believe in the rule of law and the wisdom and independence of the judiciary. Is it because Binayak Sen is a human rights activist, there should be different laws for him? Then, where will the principle of equality before the law stand? If he, and the other accused, has any grudges against the judgment, shouldn't he go to the higher court with an appeal for redressal of his grievances instead of his sympathizers raising a hue and cry on the roads? These are indeed very pertinent questions and have to be, and must be, answered.

First, yes, Binayak Sen is a prominent human rights activist of the country and protests are taking

place because of that. His is a famous case and activists all over the country know that the charges against him are concocted and blatantly false. In his prosecution and persecution they clearly see an attempt by the State to throttle the voices that rise against the wrong policies of the government resulting in the denial of civil liberties and the right to live a dignified life to the ordinary and marginalized people. But innumerable smaller Binayak Sens suffer in the same manner everyday and their voices never get raised. Ask any lawyer and he/she will tell you so. Does that mean that their cases should never be raised? Nobody is asking for any special treatment to Binayak Sen. He will, and in fact, has appealed against the Session Court's judgment to the High Court. And hopefully, he will ultimately get justice and walk out a free man. Does that mean that through his case, the civil society should not raise the question of undemocratic laws being misused by the political masters of the country for their own political ends and to hide their own failure to govern in a democratic manner? Binayak Sen's case is just one of many such cases, but it has given an opportunity to the civil society to come to a common platform and raise vital questions of democratic governance.

Second, why do governments see human rights activists in an adversarial role? Is it not the duty of the government to rule, nay run the country, in a democratic and transparent way so that the benefits of development reach the poorest of the poor also, as they do the richest of the rich? Do human rights workers not help the administrators in identifying the dark corners where the benefits of development never reach? Do they not do what the government should on its own be doing - empowering the people to enjoy full realization of their rights? Do these human rights activists, as

the government would have us believe, create the menace of Naxalism/Maoism, which they undoubtedly are, or is it the failure of governance by the ruling classes which forces empty stomachs and feeble hands to lift arms against the State after being pushed against the wall for demanding what they rightfully deserve? If the administrators are responsible for the root cause of the problem, should they not be tried for aiding and abetting the creation and sustenance of the menace of Naxalism/Maoism, which they contrive to thrust upon innocent and well-meaning individuals and activists?

Third, Binayak Sen may ultimately be declared not guilty and set free. But will the judiciary automatically compensate him and his family for his incarceration, trauma and humiliation faced by his family for years together and a lot of money, which has been and will be spent on going to the Courts? Will such compensation ever be given to the countless victims of suffering at the hands of the State? And does monetary compensation, even if given, bring back the important years, health and normality of life, which they would otherwise have enjoyed? And the other important question is: How many innocent victims of police and political harassment can afford to go to the higher courts for justice in this country in which even onion can sell at Rs 70-80 per Kg. and 75% people manage to earn Rs. 20/- or less a day to barely keep their body and soul together?

The last question is: If someone beats me I go to the police; if the police beats me I go to the Court; but if the judiciary beats me, where do I go? Should the judiciary not ensure by itself that the cases get decided on their merit after serious perusal of the evidence and not on personal perception of political

atmosphere in the country or ideologies? What does the following remark of the judge in this case while awarding penalty suggest: 'Currently, the manner in which terrorist and Naxal organizations are killing Central Security Forces, police officials/police personnel, simple tribals, and innocent people with barbarity/cruelty, has spread fear, terror, and unrest in the entire country, state, and society. Looking at that, this court does not find it appropriate to give the benefit of the

Criminal Relief Act to the accused or by showing kindness by penalizing them with the minimum sentence.' (English translation of this portion of the judgment in Hindi). In another judgment sentencing some accused under POTA in New Delhi, Additional Sessions Judge RK Gauba said in the verdict that the challenge posed by terrorism had to be met "head-on by a multi-pronged strategy", adding further: "India's war against terrorism is to be waged not only by security measures but also

by all organs of the State, including the judiciary which must share the responsibility of dealing with such elements with an iron hand." (Reported in the 7 January 2011 issue of The Times of India). Do such judgments not smack of political overtones, going beyond the judicial limits? Loaded with such a mindset, can a judge remain absolutely flawless and unbiased in his/her judgment? This is a question the judiciary itself should ponder over and decide. □

Raipur, 26th December, 2010

Note on the Binayak Sen Judgement

As you are aware the Second Additional District and Sessions Judge of Raipur Sh. B. P. Verma convicted Binayak Sen, Pijush Guha and Narayan Sanyal for rigorous life imprisonment on the 24th of December, 2010. A ninety two page judgement was delivered by Judge BP Verma on the 24th of December, 2010. What follows is a quick analysis of the facts of the case and the judgement that has finally been delivered.

Important Dates of the case

The FIR was lodged on the 6th of May, 2007, when Pijush Guha's arrest was shown. Dr Sen was arrested on the 14th May, 2007 from Bilaspur and Narayan Sanyal was only made an accused in July 2007, who was already an under trial detained in the Bilaspur Jail in another case. The Charge sheet was filed in August, 2007. The charges were framed on 27th December, 2007 and subsequently the trial began. The trial lasted for two years where 97 prosecution witnesses and 12 defence witnesses deposed. Many of the prosecution witnesses were policemen. Three judges presided over the two year trial. They were Judge Saluja, Judge Ganpat Rao and finally Judge B P Verma (a judge awaiting confirmation). The judgement would have taken longer had it not been for the Supreme Court, which on a bail application filed by Pijush Guha ordered in

October, 2010 that the trial be completed in three months.

The Analysis of the Judgement

The Second Additional Sessions Judge, Raipur B.P. Verma sentenced human rights defender Binayak Sen, Kolkata businessman Pijush Guha and Maoist ideologue Narayan Sanyal for rigorous life imprisonment and shorter prison terms, to run concurrently under Sections 124A read with Section 120B of the Indian Penal Code, Sections 8(1), 8(2), 8(3) and 8(5) of the Chhattisgarh Vishesh Jan Suraksha Adhiniyam, 2005 (Chhattisgarh Special Public Safety Act) and Section 39(2) of the Unlawful Activities Prevention Act, 1967. Narayan Sanyal has been additionally sentenced under Section 20 of the UAPA Act, 1967. Briefly put Section 124A read with Section 120B of IPC pertains to sedition and conspiracy for sedition; CSPSA, 2005 makes culpable membership of, association with, and furthering the interests, financially or otherwise, of organizations notified and banned under the Act as unlawful. UAPA, 1967 seeks to penalize membership of a terrorist gang or association, holding proceeds of terrorism, or support given to a terrorist organization.

To hold the three accused guilty under the above mentioned laws, the judgment had to establish beyond reasonable doubt that the accused were either directly indulging in

sedition activities as individuals or as members of an organization, or conspiring to abet and further seditious activities of individuals or organization. Also, the judgment was to establish beyond reasonable doubt that the accused were either members of organizations notified as unlawful under CSPSA or/and UAPA, or conspiring to abet and further the activities of such unlawful organizations. Judge Verma's verdict weaves a flawed legal narrative trying to establish the aforementioned links.

Judge Verma's narrative hinges on the following points:

- Narayan Sanyal is a member of the highest decision making body, Politburo, of CPI (Maoist) a seditious organization and notified as unlawful under the CSPSA and UAPA. As a basis for this, the judgment cites the content of certain journals purported to be organs of the CPI (Maoist) and certain cases lodged against him for Maoist activities in the states of Andhra Pradesh and Jharkhand. The above-mentioned magazines have been reportedly seized from co-accused Pijush Guha who has contended that they were planted on him by the police. The judge has unquestioningly accepted the version of the police on the basis of the supposed testimony of

the seizure witness Anil Singh, ignoring the objections of Pijush Guha and co-accused Binayak Sen to the effect that the seizure witness had claimed to overhear a conversation between Guha and the police in a situation where the police had Guha in their custody, and any statement made by Guha to the police in a custodial situation is inadmissible as evidence under the Indian Evidence Act, 1872. It should not be forgotten that the seizure witness Anil Singh did not accompany the police when they came to apprehend and search Guha, but was supposedly a passerby, who was stopped by the police when Guha was already in their custody. The judge has held Narayan Sanyal to be a member of CPI (Maoist) on the basis of cases against him in other states in which he has not yet been pronounced guilty.

- The central point around which the verdict's narrative is woven is the arrest and seizure of certain articles, including the abovementioned journals and three letters supposedly written by Narayan Sanyal to his party comrades, handed over to Binayak Sen when he met Sanyal in jail, and then handed over by Sen to Pijush Guha who was supposed to pass it on to Sanyal's party comrades. This supposedly establishes a chain binding the three in a conspiratorial relationship. According to this supposed conspiratorial chain, Narayan Sanyal is a leader of a seditious organization also notified as unlawful and as such banned; Binayak Sen conspires with Sanyal to pass on his letters to his party comrades through Guha, thus both Sen and Guha assist in the activities of a seditious and unlawful organization. In constructing this conspiratorial chain, the Judge has relied on forensic evidence

testifying that the letters were indeed written by Sanyal, but for them being in possession of Pijush Guha, he has relied solely on the evidence of police officers and seizure witness Anil Singh whose versions have been contested by Guha but ignored by the Judge. Guha's statement before the Magistrate which was recorded when he was produced on the 7th of May, 2007 says that he was arrested on 1.5.2007 from Mahindra Hotel, kept in illegal custody blindfolded for six days and finally produced before a Magistrate only on 7.5.2007. The Judge has ignored even Guha's statement to this effect made before the Magistrate as soon as he was produced. Judge Verma has said in his verdict that Guha has failed to produce any evidence in favour of his statement, **thereby putting the onus of proof on the accused and not the prosecution, which is bad in law. (Neither the CSPSA or UAPA (2004) puts the burden of proof on the accused.**

- The Judge has also ignored the contradiction between the police affidavit filed before the Supreme Court while opposing the bail application of Binayak Sen and the police version presented in the charge sheet filed in the sessions court. In the Supreme Court the police said that Guha had been arrested from Mahindra Hotel (which Guha has alleged in his testimony) but in the sessions court the police have said that Guha was arrested from Station Road where the police supposedly seized the aforementioned incriminating articles in the presence of seizure witness Anil Singh. The police's flimsy argument, that the discrepancy was because of a typographical error in the affidavit filed before the Supreme Court, has been fully accepted by Judge Verma.

Actually, the police officer responsible should be tried for either filing a false affidavit in the Apex Court, or lying in the Sessions court under oath. Accepting Guha's testimony would have rendered the seizure witness's statement implausible on which the Judge has centrally relied for his narrative. This would have in turn resulted in a complete collapse of the case against all the accused, especially so against Guha and Binayak Sen, against whom there was no material evidence of either being a member of CPI (Maoist) or being in conspiratorial relationship with Narayan Sanyal, the principal Maoist character in Judge Verma's narrative.

- Once the central conspiratorial point and incident has been constructed in the judicial narrative, conspiratorial linkages between the three accused and their common causes and actions before the incident also needed to be established. This has been attempted in Pijush Guha's case by a reference to his frequent visits to Raipur and a case pending in district Purulia, West Bengal. Judge Verma has ignored the fact that Guha was made an accused in the Purulia case after 6.5.2007, the date on which he is said to have been arrested in Raipur. This fact strongly generates a suspicion of afterthought by the police of the two states acting in collusion. Judge Verma's verdict also naturally ignores the fact that Pijush Guha's frequent visits are explained by his being a tendu leaf trader trading in the areas of Chhattisgarh.
- Binayak Sen's supposed conspiratorial relationship with Narayan Sanyal and his seditious Maoist causes is sought to be established by the following:

1. **Testimony of the so-called Landlord of Narayan Sanyal**

Deepak Choubey' in his testimony stated that he accepted Narayan Sanyal as a tenant in his house on the recommendation of Binayak Sen some time before Sanyal's arrest.

The Judge has ignored the fact that Deepak Choubey did not own the house but acted on behalf of his brother in law. More crucially, the Judge set aside Sen's objection that Choubey's assertion came in response to a leading question by the Public Prosecutor. Judge Verma's verdict makes no reference to Sen's objections against this witness going beyond his statement under Section 161 of the Cr.P.C., and the fact that the witness admitted in cross examination that an earlier statement recorded by the police at the time when allegedly a Maoist leader was arrested from his house was not brought on record. This casts doubt as to the veracity of the statement made subsequently since the same could be manipulated so as to suit the Prosecution story. Judge Verma rejected Sen's contention that Choubey's statement was made under duress because the police threatened to implicate him in context of the said arrest. It also does not take into account the contradiction with the police's own version that Narayan Sanyal was arrested from Bhadrachalam in Andhra Pradesh to which effect police officers of Andhra Pradesh have testified.

2. **Binayak Sen's thirty three meetings in eighteen months with jailed Narayan Sanyal.**

The judge without giving any reason has ignored Sen's contention that he was merely performing his duty as a human rights activist and a physician in addressing the legal and health issues of an ailing undertrial prisoner on the request of the undertrial's family. The Judge has not considered the documents exhibited by the defence showing that Sen had permission from the Senior Superintendent of Police for his jail visits. Instead, Judge Verma's verdict makes a convoluted argument by holding that Sanyal's sister-in-law's (Bula Sanyal's) phone calls to Binayak Sen in this regard proved a conspiratorial relationship between him and Narayan Sanyal, whereas Bula Sanyal is a housewife absolutely unconnected with any kind of Maoist/unlawful activity. Since the prosecution failed to produce even a single jail official or any other eye witness testifying to any letter or message, oral or written, being passed by Narayan Sanyal to Binayak Sen in their jail meetings, the verdict makes much fuss about certain entries in jail registers referring to Sen being Sanyal's relative, ignoring the defence contention that these entries were filled in by the jail officials, and not by either the visited or visitor, as apparent from the face of the record. On the contrary, all the applications Binayak Sen submitted to the jail officials, requesting a meeting with Sanyal, were

written on the letterhead of his organization - PUCL (a Civil Liberties and Democratic Rights organization founded by leading Sarvodaya leader Jayprakash Narayan). These visits were duly permitted by the jail officials and transpired in their full view and hearing.

3. **Binayak Sen's relationship with the CPI (Maoists)**

3.1 That Binayak Sen had a close relationship with CPI (Maoist) is sought to be established by the unsubstantiated testimonies of police officials claiming that Sen and his wife Iliana Sen had assisted alleged hard core Maoists Shankar Singh and Amita Srivastava. Sen has not disputed that Shankar was employed by Rupantar – an NGO founded by his wife Iliana. Nor has he disputed that he and Iliana knew Amita Srivastava whom the latter, on the recommendation of a friend, had helped find a job in a school. But the Judge has just accepted the police's word, without any other testimony or material evidence whatsoever that Shankar and Amita were Maoists.

3.2 Judge Verma has also wrongly concluded, on the basis of hearsay by the police, that one Malati employed by Rupantar was the same person as Shantipriya, also using the alias Malati, a Maoist leader's wife convicted for 10 years in a case tried in another court in Raipur. The judge has not even mentioned or verified the defence evidence put on record that the Malati

employed by Rupantar was actually Malati Jadhav, whose address was provided by defence witness Prahlad Sahu.

3.3 Judge Verma's narrative seems to have a particular fondness for police hearsay as he has blindly accepted, without any corroboration by another witness or any material evidence, wild allegations made by police officials Vijay Thakur and Sher Singh Bande, officer in charge of Konta and Chhuria police stations respectively that Binayak Sen, his wife Iliana Sen and other PUCL members and human rights activists attended the meetings of Maoists in their respective areas. These officials have gone well beyond their Section 161 statements introducing documents not earlier annexed with the charge sheet, and all defence objections in this regard were overruled by the Judge.

3.4 But a certain planted letter, exhibit A-37, takes the cake in Judge Verma's narrative. This unsigned letter, supposedly written by the Central Committee of CPI (Maoist) to Binayak Sen, was claimed by the police to have been seized from Sen's house when the police ran a search there. But this letter finds no mention in the seizure list, neither has it been signed by Sen nor the investigating officers nor the search witnesses as per proper procedural requirement. The said letter was also not part of the copy of the charge sheet received by Sen in the court. But the Judge has completely overlooked this obvious planting of

evidence, accepting the ridiculous explanation provided by investigating officers BS Jagrit and BBS Rajput that the Article A-37 probably stuck to another article (chipak gaya tha) and hence could not get signed by either Sen or the investigating officer or search witnesses. It is no surprise that the judge has also ignored the very valid testimonies of defence witnesses Amit Bannerji and Mahesh Mahobe in this context.

3.5 The verdict lets the cat of its ideological bias out of the bag, however, when it accepts above the Supreme Court's wise judicial pronouncements which were brought on record in the case by Sen, the testimony of a mere district collector KR Pisda in charge of Dantewada district that *Salwa Judum* was a peaceful and spontaneous protest movement of the tribals against the atrocities committed by the Maoists, and not a brutal and armed vigilante operation sponsored by the state. Later in his judgment Judge Verma insinuates that Binayak Sen's principled opposition as a human rights defender to such a non-legal, repressive, brutal vigilante operation indulging in mayhem and violence put him in the Maoist camp against whom the *Salwa Judum* was targeted.

Not taking into cognizance the evidence provided by the Defence

The statement made by Binayak Sen, the evidence that he brought on record as to his work as a human rights activist, and the newspaper reports which were exhibited by the defence carrying statements of the then DGP Police threatening to take

human rights activists to task, which reveal prima facie malice and motive have not been taken into consideration by the Judge, who appears to have considered and relied only upon that interpretation of the evidence that supported the prosecution case without a reasoned consideration of the lacunae and contradictions therein, the objections of the defence and the evidence adduced by Sen, or even the well settled legal principles on which the defence rested its arguments.

Using the legal provision of sedition as a political instrument

While weaving a narrative of sedition against Binayak Sen and other accused in the case, the Sessions court verdict violates a well laid judicial principle of the Supreme Court in matters of sedition. In *Kedarnath Singh Vs State of Bihar* the Supreme Court has held that the provision of sedition in the Indian Penal Code must be interpreted in a manner consistent with the fundamental freedom of speech and expression guaranteed by the Indian Constitution. In this regard the Supreme Court held that the offence of sedition, which is defined as spreading disaffection against the state, should be considered as having been committed only if the said disaffection is a direct incitement to violence or will lead to serious public disorder. No speech or deed milder than this should be considered seditious. The Sessions court verdict in the case against Binayak Sen and others fails to establish that the words or deeds of the accused were a direct incitement to violence or would lead to serious public disorder. This would be the case even if it were established beyond doubt that Binayak Sen had passed on Narayan Sanyal's letters to Pijush Guha, or Pijush Guha was likely to pass on these letters to other members of the CPI (Maoist), or that Narayan Sanyal was a politburo member of the CPI (Maoist).

Iliana Sen, Sudha Bharadwaj, Kavita Srivastava □

Press Note: Bhopal, 1st January 2011

Madhya Pradesh Unites to Strive for the Release of Binayak Sen

More than five hundred people including representatives from more than two dozen people's movements and non-government organizations and individuals gathered at Bhopal on 1st of January for a public meeting followed by a rally till Neelam Park in demand for the

release of Dr Sen. The forum of people's movements in MP - Jan Sangharsh Morcha, People's Union for Civil Liberties (PUCL), Indian Revolutionary Student's Union, MP Mahila Manch, Right to Food Campaign, Bhopal Group for Information and Action, Kisan

Adivasi Sangathan, Shramik Adivasi Sangathan, Jagrit Adivasi Dalit Sangathan, Bhopal Gas Peedit Mahila Udyog Sangathan, and a number of individuals participated in the programme.

Sunil, Anurag Modi. Abdul Jabbar, Chittaroopa Palit, on behalf of the Madhya Pradesh Solidarity Group □

UP PUCL:

On the conviction of Binayak Sen many protest programmes were organised in Uttar Pradesh. They were organised at Balia on 26th December, Allahabad on 27th; Gorakhpur on 28th; Banaras on 31st

in which a large number of teachers of Banaras Hindu University and Mahatma Gandhi Kashi Vishwavidyalaya participated; Lucknow on 31st December and 2nd January; a big rally at Sone Bhadra

and a torch procession at Bareilly on 12th January, 2011. In all the programmes the release of Seema Azad was also demanded. - Chitranjan Singh, Secretary, National PUCL □

Mockery of Justice

In a meeting organized on 25 December 2010, the Bihar PUCL General Secretary and Editor of Manwadhikar Patrika Ramashray Prasad Singh strongly condemned the conviction of Binayak Sen. He said that the conviction carrying a life imprisonment of well known public health doctor and human Rights activist Binayak Sen by a Raipur sessions court on charges of 'sedition' and 'waging was against the Indian State' is an example of degrading the prestige of justice administration.

Singh added that Binayak Sen the president of the Chhattisgarh PUCL and National vice president of the organization is a pioneer of health care to marginalized and indigenous communities in Chhattisgarh. He said that the charges against Dr Sen of allegedly aiding outlawed Maoist rebels in Chhattisgarh have not corroborated by any of the witnesses or concrete evidence produced in court. Every human Rights activist of the country considers it a false and politically motivated case. He further said that Dr Sen raised his

voice against the false encounter and other human Rights violation by state Police, Paramilitary forces and Salwa Judum.

Others who addressed the meeting were advocate Rammurti Prasad Singh, Basisth kumar Ambast, Prabhakar Sharma, Prabhakar Maharaj, Virendra Sahu, Raj Kumar, Ramesh Prasad Singh, Sanjeev Kamal, Pankaj Kumar, Sakuntala Devi, Brajesh etc. - **Niraj Kumar**, Sub-Editor *Manwadhikar Patrika* & PUCL Activist □

City Activists Flay Sen's Conviction

The activist from *People's Union for Civil Liberties* (PUCL) demanded freedom of human right activist Binayak Sen who has been sentenced for life imprisonment by the Sessions Court at Raipur in Chhattisgarh. PUCL termed it as a conspiracy against the human right activist so that no one can raise a voice

for the tribals and down trodden people of the community. "Today its Sen's turn, tomorrow it could be anyone of us," said Dinesh Shukla, a political analyst and member of PUCL. He demanded that the human rights commission and office of Lokayukta should be established in the state as early

as possible. Secretary of PUCL (Gujarat unit), Gautam Thakar, asked for creating awareness about human rights among citizens, especially the youth and students.

Rohit Prajapati & Trupti Shah, 27th December 2010 □

Civil Liberties and Human Rights Activists Pay Glowing Tributes to KG Kannabiran

A condolence meeting in the memory of leading lawyer, constitutional expert and civil liberties activist and former National President of the PUCL KG Kannabiran, who died on 30 December 2010, was organized on 8 January 2011 at the Gandhi Peace Foundation, New Delhi by the People's Union for Civil Liberties. More than 100 people including representatives of PUCL Delhi and Rajasthan, PUDR, NAPM, CPI (ML) Liberation, RDF, Amnesty International, INSAF, Lokraj Sangathan attended it. Leading human rights activists, lawyers and intellectuals including Justice Rajindar Sachar, Swami Agnivesh, N.D. Pancholi, Kavita Srivastava, Rakesh Shukla, G.N. Saibaba, Kavita Krishnan and Nitya etc. addressed the meeting. Medha Patkar of the Narmada Bachao Andolan could not reach the meeting because her train had been delayed. Condolence messages sent by Salil Shetty, Secretary General, Amnesty International, Dr George Mathew, former President, PUCL-Delhi, Ravi Kiran Jain and Sudha Ramalingam, National Vice-Presidents, PUCL,

Yogesh Kamdar, former Vice-President, PUCL, G. Kurinji, Vice-President PUCL, Tamil Nadu and Puducherry, Rajendra K. Sail, former President, PUCL Chhatisgarh, Aruna Roy, Shankar Singh and Nikhil Dey, MKSS, Sudha Bhardwaj, General Secretary, PUCL Chhatisgarh and Roshan Lal Batta and Rajendra Mohan Kashyap, President and Secretary of Punjab and Chandigarh PUCL were also read out.

Speakers after speakers paid glowing tributes to KG Kannabiran recalling his contribution to the cause of civil liberties. He was not only the founder member of the Citizens for Democracy formed by Jayaprakash Narayan in 1973 but also of the PUCDR in 1976, Andhra Pradesh Civil Liberties Committee and Lokraj Sangathan. He not only fought against the excesses of the Emergency regime of 1975-77 but also continued to defend the civil liberties of the people till his death at the age of 81. All the speakers praised his role as an interlocutor between the Naxalites and the State of Andhra Pradesh; in the case of murder of Shankar Guha Niyogi and fake encounter killings. His filing of

more than 400 PILs and appearing in various courts to defend the rights of the people through them was also lauded. Nitya, a leading lawyer, stated that Kannabiran was in the easy approach of all activists and never refused to give legal advice or other help whenever approached. Harish Dhawan said that Kanna wanted every educated person to study literature to benefit from the centuries old accumulated wisdom and culture. He was deeply read in English as well as Tamil literature and recited long pieces of poetry from Tamil, his mother tongue, and often quoted them in his writings. Kavita Krishnan of CPI (ML) Liberation described him as a prominent and true champion of the people's cause. Swami Agnivesh said that the true tribute to him would be to draw inspiration from him and fill the void created by the death of people like Surendra Mohan and KG Kannabiran. Two-minute silence was observed in memory of the departed leader of the civil liberties movement.

The meeting was presided over by Sanjay Parikh, Vice-President, PUCL.

Mahi Pal Singh, Secretary, PUCL. (9.01.2011) □

Kannabiran: Doyen of the Civil Liberties Movement Sudhir Krishnaswamy

KG Kannabiran passed away on 30 December 2010. India will enter the second decade of the 21st century without its leading civil liberties lawyer for the last four decades. It would be contrary to Kannabiran's iconoclastic and irreverent manner to write a hagiographic sentimental obituary. The greatest tribute that I can pay to his life would be to recognise and celebrate his approach to law and lawyering that should inspire generations of lawyers to follow his path. My qualifications to write this obituary are tenuous: I am not a practicing lawyer by profession

nor am I a personal friend or confidant. So I cannot share with you war stories at court nor can I render an alternative account of his life and punctuate it with touching personal anecdotes. I write this as an academic lawyer who has followed his life and work from a distance but with an acute awareness that he embodies an approach to cause-lawyering that exemplifies the best traditions that any lawyer in India should aspire to.

The typical Indian lawyer revels in their anti-intellectual approach to law. They scoff at any attempt to theorise

law and insist on the irrelevance of these academic efforts to their everyday practice. Kannabiran was similarly disenchanted with academic theorising that employed obtuse prose and neologisms that required an academic translator to make such texts intelligible. However, he practised and refined an ecumenical approach to legal scholarship that would stand the most rigorous academic scrutiny. He engaged with the case law of the courts which he subjected to close reading and critical analysis in his court room practice as well as

writing. His essay on the evolution of the law of personal liberty in India after Independence is an excellent illustration of his ability to coherently weave together decisions of the Indian and US Supreme Courts, speeches in Parliament and the Constituent Assembly, Pashukanis, Dworkin and Anatole France to expose the misinterpretations of Article 21. Anyone who reads this essay is left in no doubt about the essential continuity of legal practice and legal theory - any good practitioner inevitably develops keen theoretical insights into law.

I met Kannabiran for the first time in Bangalore on the sidelines of an Alternative Lawyering Conference in 2001. The conference traversed varied engagements with law and the legal system that could be characterised as "alternative lawyering". I was struck by the steadfastness with which Kannabiran advocated an old-fashioned engagement with substantive law and the legal system. At a time when "revolutionary commitment" was assessed by the shrillness of your denunciation of law and the legal system and one's distance from the practice of law in the courts, Kannabiran stood out as a beacon of rationality and moderation. While

he was aware that "in a perpetually misgoverned society, any movement for good governance ... according to law becomes rebellion" he did not recklessly conclude that law was irretrievably an oppressive device that should be shunned and disregarded. His exceptional career as a human rights defender for over four decades stands testimony to the value of a critical but extensive engagement with law and the courts in India.

A civil liberties law practice in India requires one to grind out many days at the uninspiring and chaotic criminal courts across the country with few and irregular successes and more frequent failures. Our post-Independence paramilitary forces compound and accentuate the failings of our colonial police forces, making structural change look remote. In this bleak scenario, a civil liberties lawyer needs great fortitude and resolve to stick to this task.

Kannabiran's long innings holds out many lessons for those who will follow in his footsteps. His capacity to carry himself lightly and to avoid drowning under the weight of his political convictions endeared him to all those who came across him. I suspect that his deep engagement with history and literature allowed

him to develop a unique perspective to his work that allowed him to celebrate the victories and to bear the losses with equanimity. His draft of a letter to a judge titled "Sanjay Dutt in the First Person" highlights these sensibilities. The letter begins, "I am no Gandhi or Tilak or Castro, yet I think I have a right to make a statement. I am not like them, though I am as well known as they were in their days, but I am not as great." The letter then sets out a scathing account of the role of the criminal justice system in the 1993 Mumbai riots.

Kannabiran has left us with a rich legacy in the courts and through his writing. Ironically, he passed away in the same week that Binayak Sen was convicted of sedition as if to remind us of the enormity of the challenge to make India a reasonably civilised country governed by the rule of law. His response to this court order would not be to condemn the legal system and advocate its abolition, but to redouble one's efforts to compel the courts and our legal system to rectitude. Our dedication and efforts to achieve these tasks would be a truly worthwhile tribute to his life and work.

(Courtesy Sunday Guardian, 09 January 2011) □

Letter:

To the Presidents, General Secretaries All the State Branches of PUCL

Dear Friends,

As you are aware, in the PUCL National Council meeting held at New Delhi on 4 September 2010 it was resolved that all the State Branches would make efforts to enroll at least five donors every year who can donate Rs. 1,000/- or above to meet the expenses of the National office. Since the State Branches are in the process of renewing the membership of the existing members for the year 2011 and also enrolling new members, they are requested to take

up the enrollment of potential donors simultaneously. Such donors will receive the PUCL Bulletin for one year as a mark of appreciation of their helping the cause of promoting civil liberties and human rights undertaken by the PUCL.

You are also reminded that all the National Council members are expected to donate Rs. 1,000/- every year to the National office. You are requested to send to the National office the amount collected through these donations along with the

central share of membership (33 % of annual membership and 40 % of Life membership) for existing as well as new members. In case of amount of membership, please mention whether the member is an existing member or a new member. It helps the National office in updating the membership record.

Thanking you for your co-operation,
With regards,

Sd./-

Mahi Pal Singh, Secretary, PUCL National, January 15, 2011 □

Condolence Messages:

Amnesty International's Letter

Dear Mr Prabhakar Sinha, President, PUCL

Amnesty International is saddened to learn about the demise of KG Kannabiran, a former President of People's Union for Civil Liberties and one of the most prominent human rights lawyers in India.

Since the late sixties, Kannabiran has had a long and distinguished innings as a tireless defender of human rights. His work as a human rights lawyer in Andhra Pradesh, during and after the 1975-77 Emergency, remains extraordinary, coming as it did braving many a threat. During the late 80s and mid 90s, he led the Andhra Pradesh Civil Liberties Committee (APCVLC) producing several reports highlighting violations of civil and political rights. He later served as PUCL President with distinction. As a lawyer, he creatively interpreted several features of India's Constitution to defend the human rights of the most marginalized communities and ensure accountability for those sections of the authorities who violated their rights with impunity.

Throughout his career, Kannabiran maintained a fruitful association with the India team at Amnesty International's International Secretariat and Amnesty International India. He was in constant touch with Amnesty International and was always willing to share his knowledge with the India team here. Most recently, in April 2008, he wrote the preface for the report, Lethal Lottery: Death Penalty in India published by Amnesty International and the PUCL (Tamil Nadu & Pondicherry).

Amnesty International offers its heartfelt condolences to you in this hour of grief.

Salil Shetty, Secretary-General, Amnesty International. □

The death of Kannabiran not only creates a sadly felt gap in the movement for Human Rights and a struggle against misrule and unconstitutional governance, but also extinguishes the beacon of light to which the right thinking men on these aspects in India turn their eyes. He was accorded respect by the leaders of various revolutionary groups. From all the accounts that Kannabiran gave of his intellectual aims, methods and work, it could be seen that he was less scholar in the strict sense of the word than an intellectual. He applied his intellectual faculties to understanding and interpreting the world around him in any or all its aspects.

He had a very clear perception of the so-called Constitutional Governance. This perception is evident from what he said in his book, "The Wages of Impunity", "A bureaucracy trained to man the colonial power structure and a judiciary that was responsible for interpreting the Government of India Acts were neither prepared nor trained to cope with a constitution whose objectives were so different from those of the colonial administration. With a colonial mind set dominating administrative structures, it was impossible to compel the government to perform its fundamental obligations. At the lower level, governing has always meant allowing time to roll by without taking decisions. This state of affairs is not conducive to evolving the principles of an administration that will allow society to proceed towards the minimal transformation provided for by the Constitution. Restructuring an administration implies the existence of trained personnel with a commitment to the vision essayed by the Constitution,"

"Like all Human Right Activists, he wrote in "The Wages of Impunity", "I am not unmindful of the group violence perpetuated by various 'extremists or terrorists', leading to mindless killing and destruction. But the answer to this cannot be the abandonment of governance and civilised conduct on the part of the state. Impunity is never the answer. This sanction of impunity throws into question the legitimacy of governance and order and points to decay in the system. It is a matter that calls for a national debate. Unless human rights become part of political activity, unless human rights discourse forms part of the substrata of our political arrangements we will have no road to civilised governance. It was for this approach of him that he became an instrument in mediating between the Naxalites and the State in Andhra Pradesh. He regularly wrote for various magazines, newspapers and of course the PUCL Bulletin. The death of Kannabiran is a great loss to the Human Right Movement in this country and the Human Rights defenders have lost a selfless fighter.

Ravi Kiran Jain, Vice President, PUCL National □

In quick succession PUCL has lost two stalwarts. KGK was such an inspiration to all. Leading a very simple life, carrying so much learning in such light manner, his fragile self was full of staunch resolve to fight for civil liberties and human rights. When there was a threat to his life and we at PUCL wanted to send a representation to the then AP Chief Justice, he wanted no special protection and told us not to worry and that he was willing to face what ever is in store. Unperturbed by any rough weather he led the life he preached. Let us rededicate our selves to the causes KGK stood for.

I agree with everything said by Rajindar Sacharji about KG Kannabiran. I would like to add the following:

I respect and also agree with the wish of KGK that his corpse not be made an object of advertisement or sloganeering. Privacy in death is to be respected. I for one would like to remember a person as a live person and not see the dead corpse. Personally there were no rites performed even when my parents died. That is one's personal choice and belief.

Yet having said that, I feel that reaction to death, the feelings of the living towards death and dealing with death are different. To attribute motives to those who mourn by attending the last rites or those who go to pay homage is belittling the emotions of people who display a different form of respect / reverence to the dead. Condolence meetings are held not for seeking any advantage but for rededication to the cause the dead stood for.

Let PUCL find inspiration in the life and work of KGK.

Sudha Ramalingam, Vice-President, PUCL National □

Through his courageous life and his dignified conduct, Kanna (KG Kannabiran) demonstrated how one can be passionate without being dogmatic. It was not only possible, but also a pleasure, to conduct debates and discussions with him. His demise is a loss of an indomitable crusader for the cause of Human Rights and Civil Liberties as also - at a personal level - of a dear friend. Those who were fortunate in having known him shall always cherish the fond memories of this wonderful individual.

Yogesh Kamdar, former Vice-President, PUCL National □

It is very sad that the pioneers of the civil liberties movement in Independent India are leaving us in quick succession. In recent times YP Chhibbar, LC Jain, Sankaran, Surendra Mohan and KG Kannabiran have left us. My thoughts go back to the days when I worked with VM Tarkunde, Inder Mohan, Smitu Kothari and others as secretary of Delhi PUCL in the late 70s and early 80s. During those hard times Kannabiran was a great source of support and inspiration. When I began to work for the decentralization of power (in effect, power to the people) through Panchayats, he gave me legal and political advice on countless occasions; appeared in Court in support of our PIL for timely elections to the local governments.

The challenge before us is to build on the foundation these visionaries have laid, especially in the difficult days ahead. Binayak Sen's case is a precursor of things to come. I pay my respectful tribute to our dear human rights leader, friend and guide KG Kannabiran.

George Mathew, former President, Delhi PUCL □

It is hard to believe that KG Kannabiran, who was affectionately called KGK and Kannaji is no more with us.

Typical of his simplicity and humility, it seems that as he willed it, his funeral was conducted by his family members within hours after his demise.

As Navaneetham Pillai once said KGK was "a legend in the Human Rights movement". His loss is irreparable and irreplaceable.

He has left us behind, when his presence and guidance is required for all of us, more than ever before. .

2009/2010 has taken away from us such exemplary souls like Balagopal, Sankaran, Surendra Mohan and now Kannabiran.

Let us welcome 2011 drawing inspirations from the vision and missions of such champions of human rights and pay homage to them by rededicating ourselves for the cause they lived for.

Pon. Chandran, PUCL Coimbatore □

The untimely demise of KG Kannabiran, Ex-National President of PUCL, is highly sad. He was an indefatigable fighter of human rights and was always hankering for a law-abiding society. At the same time, Kannaji was always a disturbing presence to the powers of bureaucracy and their henchmen. The democratic values which he extolled are exemplary. PUCL has lost a paradigm of selfless fighter. Let the values cherished by him inspire us in our future endeavours!

G Kurinji, Vice-President, PUCL TN & Puducherry □

It is a sad day for the civil rights movement and people's organisations fighting for justice, peace and dignity. Kannabiranji's commitment and compassion for the cause of the poor and oppressed motivated many of us to continue to creatively relate to the people's struggles for civil liberties and democratic rights. His insights and advise in matters of complex legal matters have been very useful and inspiring.

The people of Chhattisgarh are highly indebted to Kanna's contributions to the people's movements, especially the Chhattisgarh Mukti Morcha. His choice of representing the CBI in Shaheed Shanker Guha Niyogi's Murder case at the MP High Court at Jabalpur, MP in 1997-98 was a difficult one for him, but unique and exceptional example. I remember that Kanna refused to accept the facility for staying at a Hotel with all expenses paid by the CBI. Instead, he chose to stay at a moderate Guest House, where the workers from CMM prepared food for him. His simple life, and tireless efforts to fight for justice in Shaheed Niyogi's murder case impressed all the trade union members who saw and heard about it.

During his stay at Jabalpur, he was threatened by the same forces/industrialists that were responsible for Shaheed Niyogi's murder. Although the state provided him with a security officer, Kanna refused to feel threatened, and

continued with his campaign inside the High Court to ensure that the murderers of Shaheed Niyogi do not go scot free. In this matter, he was assisted by Dr V Suresh, another human rights activist and advocate from Chennai.

When I was charged with the "Contempt of Court" by giving a speech on SHAHEED DIWAS on 1st July 1998 (paying homage to the martyrs of police firing on agitating industrial workers in 1992), just a few days after the High Court acquitted Niyogi's murderers who were earlier convicted by the District Court of Durg, Kanna asked me to divulge the full details of what I had actually said in my speech. He advised me not to apologize. I stood by what I had said in my speech that the High Court judgment was rubbish, and the concerned judges were sold out. That resulted in my conviction in Contempt of Court matter, with the MP High Court sentencing me with 6-months imprisonment, which was later reduced to 7 days by the Supreme Court of India, because my conditional apology was not acceptable to the Hon'ble Court.

The news that Kannabiran is no more adds to our sadness, coming immediately after the judgment in Binayak Sen's case. Kanna was deeply disturbed about Binayak being falsely implicated by the State in serious criminal offences.

We have lost yet another human rights crusader in Kanna. The only way we can honestly pay our homage to Kanna is by renewing our resolve to fight the forces of globalization, dictatorship and fascism.

In this hour of grief, we stand with the family, especially with Vasantha, who is not only a wonderful woman but has been a compassionate companion to Kanna in his life and work.

Rajendra K Sail, Former President, Chhattisgarh PUCL □

Indeed in the passing away of Shri KG Kannabiran we have suffered an irreparable loss of one of the firmest defenders of Civil Liberties and Democratic Rights, a brilliant lawyer of the people, and a very fine human being. We in Chhattisgarh also found him firmly by our side in the most difficult moments and times - be it the murder of Com. Shankar Guha Niyogi, the brutal repression by Salwa Judum or the incarceration of Binayak Sen.

Chhattisgarh PUCL will be there with you in spirit, and joins you in paying condolence to Shri KG Kannabiran.

Sudha Bharadwaj, General Secretary, Chhattisgarh PUCL □

A large part of the Indian nation will remember Kanna as their passport to justice in an unjust world.

He was a synonym, almost, for the Human Rights activist who placed intellectual integrity and human values at the centre of the discourse. His was a giant intellect used for service of those who suffered from distortions of State power, its misuse and double speak.

Kanna was also a Human Rights activist who wore the burden lightly. His extraordinary irony and wit helped many of us recover our sense of purpose when assailed by a sense of hopelessness.

We in the RTI movement, MKSS, and as members of the PUCL will cherish his contribution to building the core discourse on Human Rights for being able always to access him and his wise advice.

We hope too that we jointly carry on with his mission.

Aruna Roy, Shankar Singh and Nikhil Dey for the MKSS □

The PUCL Rajasthan is extremely saddened by the passing away of KG Kannabiran, former National President of *People's Union for Civil Liberties*. A distinguished human rights activist, an eminent lawyer with long years of experience in the courts. He was the President of the foremost civil liberties organisation in the country, the PUCL for 15 years. A prolific writer he breathed his last this evening at his home in Secundrabad. He had not been keeping well for the last few months. He is survived by his wife a fellow traveler and Academic Vasantha Kannabiran and two daughters and a son.

KG Kannabiran, a distinguished human rights activist, was instrumental in mediating between the Naxalites and the State in Andhra Pradesh along with Sankaran who also passed away some time ago. He was also the President of the Andhra Pradesh Civil Liberties Committee. He had filed more than 400 public interest litigation (PIL) cases single-handedly. In spite of being a prominent lawyer instead of running for money, he chose social service instead and fought all these PILs and many more cases without charging any money.

He had worked in the PUCL in the company of Justice VM Tarkunde, Justice Rajindar Sachar, Justice RB Mehrotra, Surendra Mohan and was for a long time President of the PUCL with Dr YP Chhibbar as its General Secretary. For the tremendous amount of work done by him in the field of civil liberties he was considered to be a one man army by his colleagues.

Kannabiran was a prominent and most scholarly writer on civil liberties and human rights. He regularly wrote articles for the PUCL Bulletin apart from writing for various magazines and newspapers. He wrote many books. *'The Wages of Impunity: Power, Justice and Human Rights'* published in 2004 is known to be his best and most read book.

PUCL Rajasthan remembers him very fondly particularly his visits to Rajasthan during the hosting of the national and State Conferences in Jaipur and Chittorgarh.

In Kannabiran's death the civil liberties movement in the country has suffered an irreparable loss. This loss is particularly shocking as it has come within a fortnight of the passing away of Surendra Mohan, another stalwart in the field and in less than a week of the recent unfair Judgement of conviction of Binayak Sen for life, which left Kannabiran extremely sorrowful.

Prem Krishan Sharma, President; **Kavita Srivastava**, General Secretary, PUCL Rajasthan □

KG Kannabiran (81) former national President of the PUCL and a prominent lawyer passed away in Hyderabad after a brief illness on Thursday evening. He is survived by wife Vasantha, two daughters and a son. The last rites were performed later in the evening in the presence of family members as per his wish.

Since the late 1960s, he began to defend political dissenters that eventually marked the beginning of his over three decade long Civil Liberties and Human Rights work. He went on to become the National President of the *People's Union for Civil Liberties* [PUCL].

With Leftist leanings, he advocated a dialogue between the government and the banned Communist Party of India [Marxist-Leninist] - Peoples War - later known as CPI [Maoists]. Kannabiran was always at hand to negotiate during deadlock between the State and the extremist organizations. He played a key role in the release of seven IAS Officers and others held hostage by the Peoples War Extremists in 1987. The Andhra Pradesh government sought his help when Congress MLA and son of former Union Minister P. Shiv Shankar were kidnapped by Naxalites from Hyderabad in 1991. Again in 1993, it was the help rendered by Kannabiran that ensured the return of another Congress MLA, IAS Officer and six others after they were taken hostage by Naxalites. In 1971, he filed a writ petition successfully challenging the Andhra Pradesh Preventive Detention Act, 1970 under which writers, poets and intellectuals had been arrested.

All members of the PUCL, Punjab & Chandigarh condoled his untimely death, among them were state president, **Roshan Lal Batta**, Rajender Mohan Kashyap, Ashok Nirdosh, Ravi Kant Sharma, Rajeev Godara, NS Sitta, AS Khaira, Mrs. Madhu P. Singh and Mrs. Gita Sharma. □

KG Kannabiran, the former President of the Andhra Pradesh Civil Liberties Committee & former National president of PUCL, leading advocate of civil liberties and human rights and prolific writer demise is a shock. He was one of the staunch civil liberties activists in India since 40 years. He breathed his last on his home in Secunderabad.

We, the Begusarai PUCL and Manwadhikar Patrika pariwar are highly saddened on the loss of a deeply respected guardian and one of our finest civil liberties activists KG Kannabiran.

This is a huge loss to the community of human rights in India. The vacuum created by his loss hurts us all.

We extend our heartfelt condolence to his bereaved family.

Ramashray Prasad Singh, General Secretary Bihar PUCL □

Gujarat PUCL:

8th Biennial Conference of PUCL Gujarat

Letter to H.E. the President for release of Binayak Sen.

Candle light Demonstration Liberty in Danger: Justice Sachar

The 8th Biennial conference of PUCL Gujarat was organized in Ahmedabad on Sunday the 26th December under the chairmanship of Prof J S Bandukwala. The issues like law and order situation in Gujarat and the human rights were the main issues discussed in the conference. More than 100 delegates coming from various parts of Gujarat attended the State Conference. This Convention was addressed by the Human Rights activists like Justice Rajindar Sachar and Girishbhai Patel. Seven resolutions covering various aspects of Human Rights and following demands were raised, discussed and adopted in the conference unanimously in the conference.

1) A full-fledged State Human Rights Commission should be formed in Gujarat as per the legal provisions of the National Human Rights Commission.

2) 'Lokayukta' (Ombudsman) be appointed in Gujarat immediately

3) Immediately stop indiscriminate acquisition of lands by the State in the name of industry and infrastructural facilities.

4) Not to deviate from the original planning, the Narmada water which was diverted in Gujarat, should be used for the agricultural growth and very small portion for the industries be allocated.

5) Request was made to the

Gujarat Govt. that labor laws should be implemented for the unorganized laborers, for protection of wages as per the rules and regulations and Occupational Health and grant of necessary Citizens' and Human Rights and privileges.

6) Pollution Control laws should be made more stringent and launch a special drive in the direction of its effective implementation.

7) Intensive efforts should be made for protection and promotion of human rights of women, Dalits, Adivasis, migrant laborers etc.

8) Resolution on Women's right.

The PUCL will fight for the human rights in the state uniting all the

concerned citizens, democratic forces and the voluntary organisations and the NGOs.

The Conference condemned the life sentence of Binayak Sen and sent a memorandum signed by the concerned citizens to the President of India urging to release Binayak Sen unconditionally. All the representatives present in the conference put their signatures on a letter addressed to H.E. the President, urging for release of Binayak Sen.

A candle light demonstration was organised by PUCL Gujarat against the arrest of Binayak Sen, the Civil Liberties activist, today at Law Garden, Ahmedabad. The demonstrations were led by Justice Rajindar Sachar, among those present in the demonstrations were Chunibhai Vaidya, Prakash N Shah, Girishbhai Patel, Prof J S Bandukwala, Ilaben Pathak, Gautam

Thaker, Dwarikanath Rath, Damyantiben Parekh, Indukumar Jani, Dineshbhai Shukla, Rajanibhai Dave, Hiren Gandhi, Ramesh Pimple, Dhuru Mistry, Manishi Jani, Bipinbhai Shroff, Meenakshi Joshi, Sanjay Bhave, Amit Dave, Bhavik Raja, Rohit Prajapati, Prof Laliwala, Trupti Shah, Vipul Pandya and others. The slogans to Free Binayak Sen were shouted.

This biennial Conference of PUCL Gujarat unanimously elected the following office-bearers.

President: Prof. J S Bandukwala; **Executive President:** Prakash N Shah; **General Secretary:** Gautam Thaker; **Secretary:** Renu Khanna; **Treasurer:** Dinesh Shukla; **Vice Presidents:** Ilaben Pathak, Ashwin Zinzuwadia, Dhuru Mistry, Ashwin Karia; **Organising Secretaries:** Meenakshi Joshi, J Steni, Balendu Vaghela, Jia Pathan, Parimal Desai; **Committee Members:** Mahadev

Vidrohi, Bipinbhai Shroff, Damyantiben Parekh, L S Karelia, Tapandas Gupta, Akhilesh Dave, Dwarikanath Rath, Uttambhai Parmar, Chandu Maheriya, Ikram Mirza, Girish Sundhiya, Iqbal Mirza, Rohit Prajapati, Jayesh Patel, Indukumar Jani, Babubhai Desai, Visnu Raval, Raju Purohit, Girishbhai Patel, M M Tirmirzi, Anand Yagnik, Aminben Yagnik, Kamlesh Bhavsar, Rajnibhai Dave, Sarup Dhruv, Bhavik Raja, Jayshri Joshi, Vipul Pandya, Paulomi Mistry, Sara Baldiwala; **Secretary – Janpath, Secretary - Gujarat Sarvoday Mandal, Secretary - Gandhi Peace Foundation, Manishi Jani, Trupti Shah, Sukhdev Patel, Trupti Parekh, Dimple Raval, Jagdish Patel, Sagar Rabari, Kishor Desai, Sudrashan Ayangar, Hajibhai Mirza (Corporator - Sarkhej)**

Gautam Thaker General Secretary, PUCL Gujarat □

Punjab PUCL:

PUCL Stands for "Violence Free Civil Society" under the Constitution of India

We Condemn All Kinds of Violence of the State, the Religion & the Maoists

In a meeting of the PUCL Punjab and Chandigarh Executive Committee held on 03\12\2010; it was unanimously resolved that the PUCL opposes and strongly condemns the proposed Legislations being passed by the Punjab Vidhan Sabha namely:

1. The Punjab Special Security Group Bill 2010.
2. The Punjab (Prevention of damage to Public and Private Properties) Bill 2010.

A delegation of the PUCL Executive Committee wants to meet the Governor of Punjab to register its protest and apprise him about the

Curtailment of Fundamental Rights of the Indian Citizens by such Draconian Bills as above being passed by the Punjab Vidhan Sabha.

His Excellency, Shri Shivraj V Patil, The Governor of Punjab and Administrator of the Union Territory of Chandigarh is not in the town till 10th January, 2011 as we were told by the Punjab Raj Bhawan officials that he is in Jaipur busy with his dual work charge of the Rajasthan State.

PUCL Punjab and Chandigarh feels that like Binayak Sen was sentenced to life imprisonment under an Act of

Chattisgarh State; similarly the Academicians, Doctors & Social Activists of the Punjab State will be thrown into jails; if the above proposed Draconian Bills became operative.

Therefore, it is the sacred duty of all freedom loving people of the Punjab State to block such Draconian Bills; otherwise some junior judge shall play havoc with the Justice System as it was done in the State of Chhattisgarh.

Rajender Mohan Kashyap, Secretary, PUCL Punjab & Chandigarh □

Press Statement

People's Union for Civil Liberties (PUCL) strongly condemns Gujarat Government's campaign of calumny against and attempt to frame under false charges human rights defender Teesta Setlavad of Citizens of Justice and Peace, lawyer MM

Tirmizi, victims survivors of Lunwada massacre and media person Rahul Singh for exposing Gujarat Police's callousness and cruelty in the Lunwada massacre and mass burial case.

Teesta Setlavad, her organisation CJP and lawyer Tirmizi with the help of the kin of the victim were instrumental in getting the High Court 2006 and then Supreme Court orders in 2008, respectively for a

dignified burial of the massacre victim's mortal remains. These were the victims of the 2002 genocide in Gujarat. It is well known that the Gujarat police had callously dumped the bodies of the Panam river at Lunawada in Godra district of Gujarat.

The national outcry following media reports sourced to the efforts citizens for justice and peace and the court judgments, forced the Gujarat Government to ultimately hand over the bodies for a decent burial. Following the rejection by the Gujarat high court of the victim's petition for a CBI investigation into the tampering of evidence in the lunawada case the Gujarat Government saw an opportunity to persecute whistle blowers and HR defenders.

As Rais Khan, the local CJP representative, dismissed from the organisation for irregularities, switched sides under the influence of the accused and the police in the Lunawada case, the Gujarat Government has increased its efforts to teach Teesta and other co-

activists, lawyers and journalists a lesson. Thus they have issued summons to the headlines today correspondent Rahul Singh, who as Sahara TV correspondent had publicized the Gujarat Government's misdeeds.

"PUCL fears that emboldened by Dr. Sen's conviction under trumped up charges in Chhattisgarh, the Gujarat Government make a swift to arrest Teesta and other human rights defenders, lawyers media persons and others, under trumped charges of doctoring with evidence in the Lunawada case. We see this as Gujarat Government ploy to influence the courts before its imminent hearings in the matter regarding registration of a criminal complaint against the chief minister and 61 others for mass murder, destruction of evidence and subversion of justice."

The PUCL has decided to lodge a complaint with the NHRC against this persecution.

Mahi Pal Singh, Kavita Srivastava (National Secretaries) □

Supreme Court orders Release of 61 Pakistani Prisoners

The Supreme Court on 12 January 2011 asked the Centre to release and repatriate 61 Pakistani prisoners, languishing in Indian jails even after completion of their jail term, after verifying their identity and without waiting for a formal court order. A Bench of Justices Aftab Alam and R M Lodha passed the order while issuing notice to the Centre on petitions filed by Jatin Desai, who brought to the court's notice that 877 Pakistanis, most of whom had crossed the border, had been languishing in prisons in India for a number of years.

Justice Alam also wanted the Centre to ensure setting up of a proper mechanism to deal with such cases

as the court was repeatedly coming across such cases.

It is noteworthy that the Delhi PUCL had earlier intervened in a similar case of 17 Pakistani prisoners who were detained at the Foreigners Detention Camp, Lampur, Delhi and it was through the intervention of the Union Home Minister, the NHRC and the Court that they were released and repatriated to Pakistan in 2010 and then the intervention of the PUCL was again required in the case of 11 African detainees, including five women, who were set free after they had gone on an indefinite hunger strike.

Mahi Pal Singh, Secretary, PUCL National □

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