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**Annual Subscription : PUCL BULLETIN**  
 w.e.f. March 1, 2010

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## Food Security Bill: A Step towards Securing Right to Life Pushkar Raj

It is an almost agreed fact that a large number of people in our country die prematurely due to hard physical and mental struggle in their life span coupled with absence of adequate means of food, shelter and medication. Life of the poor in the country is shortened by the strain they go through in life that is spent in constant search for the means of survival like food and work. The new food security bill will give some relief to this section of society who might live a little longer with a relative ease. Accompanied by the Mahatma Gandhi National Rural Employment Guarantee Scheme (MNREGS), a source of income in lieu of work, the availability of food on subsidized rates will come as a huge relief to a sizable section of the society that stands at the bottom of the economic hierarchy.

The food security bill, despite serious flaws, is a significant piece of legislation. Firstly, it is the culmination of PUCL's petition on right to food in 2003 that has now branched into several parts of monitoring of welfare schemes of the government by the court and vigilant civil society groups. These include, besides others, welfare measures for the homeless people in urban areas who are entitled to a roof over their head at least in the night and school going children who are provided with the mid-day meal in schools. The court intervention by the PUCL has brought certain entitlements of the citizens out of the realm of charity and placed them firmly into the domain of rights.

Secondly, it is an interesting coincidence that food security is being extended to poor in India at a time when a number of European countries are feeling the heat of unsustainable living standards and cutting on social security benefits to their population. Greece and Italy are under severe economic stress while other European countries are trying to come to terms with negligible growth rate. It is an indication that one stage of post-colonial world society is over and we are entering a new phase that calls for close scrutiny and questioning of development paradigm of the Western capitalism. India would do best to learn from these developments and not imitate western model of development thereby avoiding falling into the ditch of series of economic depressions that the West is often finding itself lately.

However, presently the overall health of the nation in time to come will depend on how this ambitious food security programme delivers at the ground level. This will be a serious challenge in light of the fact that a huge

economic package is being released without concurrent reforms in the administrative sector that determines overall state of governance. Will the food reach the intended target group is something no one is willing to bet. The very process of identifying the target group is rightly being questioned. Besides, the past experience has shown that much of sanctioned resources are cornered by the administrative machinery in collusion with economically, socially and politically powerful people. There have been serious allegations of institutionalized corruption in MNREGS and nationally and internationally sponsored health schemes in some states. In India's largest state- Uttar Pradesh- people have gone to the court on that count. As the present bill falls short of

universalizing food entitlement, it will create procedural complexities of distribution and is fraught with dangers of misappropriation. If this writing on wall is not acknowledged and addressed the whole exercise of extending well meaning benefits to the poor will be in serious jeopardy.

The government's argument that there are not adequate resources for providing food cover to the whole population does not hold much ground. It merely lacks political will and has misplaced priorities of servicing the coffers of corporate sector instead of looking after the needs of the common masses. The Indian economy is growing at an average of 7.5 per cent per annum, meaning there is no dearth of money.

While the government has given away Rs. 4.6 lak crores worth of tax exemptions and incentives (read subsidy) to the big industry during the last fiscal year, the total food subsidy is estimated to be around 2 lak crores annually if food entitlement is universalized. More importantly while subsidy for the rich has jumped from 4.37 in 2009-10 to 4.60 in 2010-11, subsidy for the poor that stood at 1.54 crores in 2010-11 was reduced to Rs. 1.44 lak crores in 2011-12. Add to this the income tax arrears of ten big corporate and individual defaulters and you get about 104 lak crores more. Thus resource crunch argument has a little basis and it will be a politically and socially a very significant measure if the public distribution of food is universalized. □

## Convention for Repeal of Sedition Law

As per a decision taken in the joint meeting of human rights organizations on 16th Dec 2011 at New Delhi, a Convention of all concerned will be organized at the Gandhi Peace Foundation from 11.00 am to 5.00 pm on 31st January 2012 to devise strategy for collecting one million signatures to be presented to Parliament and to take forward the movement for repeal of the outdated, pre-Independence British period and illegal Sedition Law under which all kinds of social, land rights, forest rights and anti-nuclear activists are being booked. A press conference will also be organized on 30th Jan 2012 at New Delhi. A review meeting of representatives of all the organizations will be held to take stock of the preparations at 4.00 pm at the Gandhi Peace Foundation on 9th Jan 2012. – **General Secretary, PUCL** □

## Minutes of Meeting on National Campaign Against Sedition and Other Repressive Laws

### Introduction

The daylong meeting was convened to discuss the follow-up to the decision taken by national level human rights organisations on 5<sup>th</sup> and 6<sup>th</sup> May, 2011 to launch a nation wide anti-sedition laws campaign. The decision taken in the May, 2011 meeting in which members from PUCL, PUDR, APDR, CPDR, CDRO, APCLC and many other organisations participated was that a million signatures should be collected and presented to the Speaker of the Lok Sabha demanding the repeal of sec. 124A

IPC and sec. 2(o) (iii) of the Unlawful Activities Prevention Act (UAPA), 1967 and other anti-sedition laws/provisions in other legislations.

The follow up meeting on 16<sup>th</sup> December, 2011 held at Gandhi Peace Foundation, Delhi, had over 40 people participating representing PUCL, PUDR and other human rights organisations, mass movements, advocacy groups, media and concerned citizens.

### Summary of Proceedings

Pushkar Raj, General Secretary, PUCL welcomed the participants and briefly explained the purpose of the

meeting. He also informed that subsequent to the May, 2011 meeting he had met the head of the Parliamentary Petitions Committee who suggested that a formal representation/petition be filed by PUCL demanding the repeal of anti-sedition laws. Following this, PUCL filed a detailed representation/petition before the Parliamentary Petitions Committee which was referred to the Home Ministry. Pushkar was informed that there would be a formal response within 45 days from the Home Ministry after which the Petitions Committee

would invite oral presentations to the Committee in support of the demand for repeal of anti-sedition laws. During this process other organisations could also seek to appear before the Committee and present their views. On behalf of PUCL, Pushkar sought the support of all other human rights organisations to make this a broader collective action. It would be very effective if the National Campaign were to produce a comprehensive document detailing the manner in which anti-sedition laws like sec. 124A IPC and UAPA and other laws are routinely abused against citizens protesting for their rights and demanding better governance across the country and the impunity with which the state and police get away by making a mockery of the 'rule of law'. Detailed case studies would enhance the value of such a document which could then be presented to the Speaker of both the Lok Sabha and the Chairman of the Rajya Sabha during the budget session in March-April, 2012. Pushkar also explained that he had had discussions with a number of MPs from different political parties who also were in general agreement that the anti-sedition law should be repealed both for historical as also practical considerations considering that it had been used against both political parties, when they were in opposition as also against citizens. V. Suresh, National Secretary, PUCL briefly presented an overview of the discussions and decisions taken during the May, 2011 meeting. Welcoming the initiative taken by PUCL, Gautam Navalakha of PUDR, said that there was general agreement amongst all other human rights organisations to launch a collective campaign and that we should concretise the campaign strategies which could be communicated to groups not present in the meeting. Gautam also proposed that the National Campaign could be formally launched on January 30<sup>th</sup> 2012, Gandhiji's

martryrdom day, which would be symbolic of the fight launched by Gandhiji against anti-sedition laws under which he had himself been jailed and convicted. Paramjit, also of PUDR, stressed the need to centrally produce campaign literature and educational material which could be translated into regional languages by local organisations. He also stressed the importance of mass campaigns including monthly meetings in different state capitals to build public pressure demanding repeal of anti-sedition laws.

Rajindar Sachar, former PUCL President stressed the importance of focusing the campaign only on the anti-sedition laws so that nationwide opinion can be built up demanding its repeal. He highlighted the way it was abused against freedom fighters and recalled Nehru's promise for its repeal and said that Nehru's promise in Parliament should be used to pressurize the Central Government to repeal the law.

A lively discussion followed with speakers from diverse fields sharing their views about how the anti-sedition laws are routinely used to harass, intimidate and muzzle individuals, groups and organisations for questioning state policies and asserting their democratic rights. The view that emerged was that it is important to see the abuse of the anti-sedition laws not just in isolation but as part of the widespread agenda of the State to delegitimise people's democratic assertions by stigmatizing people's protests and movements as being terrorist, anti-national, minority-fundamentalism, sectarian and the like.

Ajit, from the media, particularly spoke about the way in which the media functioned as spokespeople of the state and police by uncritically parroting the state's handouts as independent news-gathering. He highlighted the harassment of even those media organisations who took an independent line and tried to represent an objective presentation

of news and views and specifically made mention of the damaging reportage of incidents involving Muslim youth and groups. He stressed on the need to create an independent platform of media professionals, from all forms of media, to come out with news about events all across India with a view to not only disseminate information but also make the state, police and also media accountable.

Venkatesh Nayak from CHRI highlighted the importance of creating a sound data-base about the systematic use of anti-sedition laws across the country. He also referred to the National Crime Records Bureau (NCRB) as a source of all-India data but explained that since abuse of sec. 124A IPC and s.2(o)(iii) of UAPA will be by state police, we should access data state-wise. Towards this he suggested that the 'State Directorate of Prosecutions' in those states where such Directorates have been set up, and related bodies in other states be approached for more data on this subject.

Venkatesh also suggested that across all the states, different organisations and human rights activists persuade MPs and MLAs to raise STARRED and UNSTARRED questions in Parliament (both Lok Sabha and Rajya Sabha) and state legislative Assemblies. Since it is mandatory for the state authorities to provide answers, it would be an effective manner to gather data while at the same time bringing it to public attention.

PUCL-AP friends spoke about the misuse of UAPA and Criminal law Amendment Act against student protestors of the Telengana struggle and other human rights abuses committed by the state government. Anand Panini talked about the distorted media coverage in the Forebgsanj and Soni Sori issue stressed the importance of getting witness testimonies of people

implicated in anti-sedition cases including their relatives, as a useful and effective documentation.

Ravi Kiran Jain, national Vice-President of PUCL spoke about how human rights defenders themselves are targets of state repression and implication in false cases including under anti-sedition laws. He also shared his experience of the judiciary where in many instances, the judiciary, across different levels, tended to reflect greater executive mindedness than the executive itself. Himanshu Thakker spoke of overflowing prisons in Chhattisgarh and the rein of lawlessness in the state where targeting rights defenders had been made a fine art. Kavita Srivastava spoke of the targeting of Muslim youth in numerous cases in Rajasthan and also about the arrest of Togadia under anti-sedition charges. She stressed the importance of opposing the provisions against anyone, even if they have been used against right-wing Hindutva organisation leaders. The following issues came out of the experiences narrated by friends from Odisha, MP, Gujarat, Rajasthan etc:

- (i) Arbitrary and widespread invocation of sec. 124A IPC, sec. 2(o)(iii) UAPA and other repressive laws in a wide variety of cases for the most ridiculous or unacceptable of reasons, and consequent hardships faced by those arrested by way of continuous incarceration due to denial of bail as also their families.
- (ii) Failure of judiciary to take note of the fabricated nature of charges, the lack of prima facie material supporting the charges invoked and functioning merely like a post box and not playing its mandated judicial role.
- (iii) Long periods of incarceration and difficulties in getting bail; consequently the costs of litigation, losing livelihoods and wages during the period of arrest, difficulties of families, and so on.

(iv) Uncritical and biased media reporting.

The following are the important decisions taken during the meeting.

1. To launch the '**All India Campaign against Sedition and other repressive Laws**' as a collective campaign of human rights movements, organisations, mass movements, rights bodies, professionals and concerned citizens.
2. A Steering group to be formed with representatives of different organisations which had participated in the May and December 2011 meetings, with state level coordination being undertaken in different states. All those organisations who were unable to attend the 16<sup>th</sup> December, 2011 meetings would be invited to be part of the Steering Committee. Gautam Navalakha of PUDR and Asish Gupta of CDRO undertook to contact other human rights organisations with the invitation to participate. On behalf of PUCL, the 4 national Secretaries Kavita, Mahi Pal Singh, Chittaranjan Singh and V. Suresh would coordinate with PUCL state units to participate in this effort. Similarly individuals would also be invited to be part of the campaign.
3. The first meeting of the national level steering group will take place at Gandhi Peace Foundation on 19<sup>th</sup> December, 2011 to chart out the strategy and plan the January 30<sup>th</sup>, 2012 All India launch.
4. To launch an All India documentation study of the use and abuse of sedition laws on the following parameters:
  - (i) State wise/District wide/Police Station specific list of Cases (FIRs) in which sedition charges u/s 124A IPC and sec. 2(o)(iii) Unlawful Activities

Prevention Act (UAPA), 1967 were invoked along with other criminal law sections in the last 10 years;

- (ii) Description of status of each of the cases listed above in terms of (a) still pending investigation; (b) whether Charge sheet filed, if so charges; (c) status of trial, and number of years pending; (iv) if trial concluded, whether convicted for offence u/s 124A IPC and UAPA, and other charges with details of sentence; (v) whether appeal filed and pending or decided.
- (iii) Even if it is not possible to get details of all cases described in (ii) above, attempt should be made to collect details in as many cases as possible.
- (iv) To sub-categories the list of cases in (i), (ii) and (iii) above in terms of the following categories of cases where sedition charges were invoked: (a) workers strikes, (b) farmers' agitations, (c) Dalit struggles, (iv) tribal rights groups, (v) minority rights issues, (vi) students agitations (vii) Rights Defenders, (viii) women's movements, (ix) protests against development projects/displacement (x) others.
- (v) List out the background of the accused in all cases involving sedition charges.
- (vi) Prepare case studies of major cases involving sedition charges highlighting the details of (a) glaring absurdity of the case, (b) human interest, (c) political vendetta, (d) impact on families, (e) length of arrest and difficulties in bail,

**V. Suresh**, National Secretary, PUCL □

## PUCL Condemns the Arrest of PUCL Executive Member Kailash Meena

PUCL condemns the arrest of PUCL executive member Kailash Meena, the leading anti mining and anti displacement activist from Neem Ka Thana, Sikar District. He was arrested on 20th Dec 2011 by the Police of Patan Police Station at around 1 pm. He was later produced before a magistrate and sent into judicial custody.

He has been booked under four false cases while the Dabla movement

against stone crushers was on. Three cases have just been made out in Patan Thana and one in Neem Ka Thana. Patan Thana FIRs are as follows. FIR number 108 dated 4/5/2011 u/s 147/332/353/336. This FIR was filed when Kailash Meena was not even present in Dabla village. FIR number 250 dated 24/04/2011 u/s 452/323 and 3-1-10 of the SC and ST Act, was also made out falsely by the mining lobby people led by MLA Ramesh Khandelwal when the

movement was at its peak and similarly, FIR No 124, dated 14/06/2011 u/s 452, 323, 143 of the IPC, is totally false. Because of the success of the movement stone crushing and mining had stopped in Dabla, Sikar.

PUCL will go to NHRC and also carry out a national campaign for the release of Kailash Meena.

**Kavita Srivastava**, General Secretary, PUCL Rajasthan □

**PUCL Rajasthan Press Note: Conviction of Dr. Khalil Chishty upheld:**

### PUCL Rajasthan expresses shock at the Rajasthan High Court's Judgement upholding Conviction of Dr. Khalil Chishty in a 302 case

*Governor to grant a full pardon at any time even during the pendency of the case in this Court in exercise of Dr. Chishty will move appeal in the Supreme Court Mercy Petition with Governor and President Will Be Pursued Which Is Independent of Judicial Remedy*

PUCL Rajasthan is shocked at the judgement delivered by Justice RS Rathore of the Rajasthan High Court, Jaipur Bench upholding the conviction under section 302 IPC against renowned Pakistani virologist Dr. Khalil Chishty. While detailed commentary on the judgement will be presented after the copy is made public by the court, it is clear that the right to another appeal in the Supreme Court exists with Dr. Chishty. As soon as the Supreme Court opens we will file the appeal of Dr. Khalil Chishty and hopefully there will be justice.

We are glad that the suspense of the judgment is finally over and delivered before the end of the year, as the arguments of the appeal which was taken out of turn had finished in July – early August itself, however, the order kept pending for

more than four months.

**It should be known that there is no impediment to Dr. Chisty pursuing 'judicial' and 'pardon' remedies at the same time.** Thus the mercy petition is independent of the judgement in this case. This was settled in the Nanavati's case (1961) 1 SCR 497 where it is observed at p. 529: *"There can be no doubt that it is open to the what is ordinarily called 'mercy jurisdiction'. Such a pardon after the accused person has been convicted by the Court has the effect of completely absolving him from all punishment or disqualification attaching to a conviction for a criminal offence. That power is essentially vested in the head of the Executive, because the judiciary has no such 'mercy jurisdiction'."*

Similarly it was said in the Narayan Dutt (2011) case 4 SCC 353 pr. 34 pp. 362-3: *"A Governor's power of granting pardon under Article 161 being an exercise of executive function, is independent of the court's power to pronounce on the innocence or guilt of the accused. The powers of a court of law in a criminal trial and subsequent appeal right up to this Court and that of the President/Governor under Article 72/161 operate in totally different arenas and the nature of these two powers are also totally different from each other. One should not trench upon the other."*

So the mercy petition will continue to be pursued.

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

**Election of National Council Members:**

**General Secretary's Letter to the Presidents/General Secretaries of State Branches Regarding Election of National Council Members**

December 7, 2011  
Dear colleague,  
As per clause 7 of the PUCL Constitution the National Council of PUCL is to be elected. For the said purpose you are requested to elect members of the National Council on the basis of one member for every 50 members and one member for an

additional number of 25 members or above.  
You are requested to send the list of elected National Council members to the National office within nine weeks (10 February 2012) from the date of issue of this letter.  
The General Secretary of the State branch is an ex-officio member of the National Council.

Total number of membership from your State as per record in the National office and the number of National Council Members you are expected to elect is given in the table below.  
With thanks,  
Sd./-  
**Pushkar Raj**, General Secretary, PUCL

**PUCL updated List (MB & M only) (2010-2011)**

S.No	State	M	L/P	MB	LB/PB	Total	NC Members to be elected
1	Andhra Pradesh	292	47	05	20	366	7
2	Bihar	896	51	19	15	981	20
3	Chhattisgarh	01	09	04	02	16	0
4	Delhi	237	103	55	68	463	9
5	Goa	00	01	00	01	02	–
6	Gujarat	00	11	07	06	24	0
7	Haryana	27	00	05	10	42	N
8	Himachal Pradesh	00	00	00	02	02	N
9	Jammu & Kashmir	01	00	00	02	03	N
10	Jharkhand	152	29	11	23	215	–
11	Karnataka	29	101	12	41	163	3
12	Kerala	83	41	09	13	146	3
13	Madhya Pradesh	00	15	01	00	16	N
14	Maharashtra	02	125	05	18	150	N
15	Mumbai	00	53	03	35	91	N
16	Orissa	00	03	17	04	24	N
17	Puducherry	00	00	06	01	07	–
18	Punjab & Chandigarh	10	04	02	13	29	1
19	Rajasthan	151	66	00	11	228	5
21	Tamil Nadu	01	18	13	07	39	1
22	Uttar Pradesh	95	67	32	33	227	5
23	Uttarakhand	03	01	13	03	20	0
24	West Bengal	41	15	28	06	90	N
25	North-East	0	18	01	04	23	0
	<b>Total:</b>	2021	778	248	338	<b>3367</b>	

**M** – Annual Member; **MB** – Member & Bul. Subscriber; **L/P** – Life/Patron Member; **LB/PB** – Life/Patron Member & Bul. Subscriber. □

## No Walmart Please Rajindar Sachar

If the combined opposition had sat down for weeks so as to find an issue to embarrass the UPA Government and make it a laughing stock before the whole country, they could not have thought of a better issue than the free gift presented to it initially by the UPA Government by insisting that it had decided irrevocably to allow the entry of multi brand retail leader super stores like Walmart, USA and then within a few days, with a whimper withdrawing the proposal.

As it is, even initially this decision defied logic in view of the Punjab and UP elections and further known strong views against it of the BJP/ left and many states who had all the time opposed the entry of Walmart which would affect the lives of millions in the country.

Retail business in India is estimated to be of 400 billion dollars but the share of the corporate sector is only 5%. There are 50 million retailers in India including hawkers and pavement sellers. This comes to one retailer serving 8 Indians. In China it is 1 for 100 Chinese. Food is 63% of the retail trade, according to the information given out even by FICCI.

The claim by the Government that Walmart intrusion will not result in the closure of small retailers is a deliberate mis-statement. IOWA State University study in USA has shown that in the first decade after Walmart arrived in IOWA the state lost 555 grocery stores, 298 hardware stores, 293 building supply stores, 161 variety stores, 158 women apparels stores and 153 shoe stores, 116 drug stores and 111 men and boys apparels stores. Why would it be different in India with lesser capacity for resilience by the small traders.

The fact is that during the 15 years of Walmart entering the market, 31 super market chains sought bankruptcy. Of the 1.6 million

employees of Walmart only 1.2% makes a living above the poverty level. The Bureau of Labour Statistics, USA is on record with its conclusion that Walmart's prices are not lower than anyone else when compared to a typical families' weekly purchases.

In Thailand supermarkets led to 14% reduction in the share of 'mom and pop' stores within four years of FDI permission. In India, 33-60 percent of the traditional fruit and vegetable retailers reported 15-30 percent decline in footfalls, 10-30 percent decline in sales and 20-30 percent decline in incomes across cities of Bangalore, Ahmedabad and Chandigarh, the largest impact being in Bangalore, which is one of the most supermarket-penetrated cities in India.

The average size of the Walmart stores in the United States is about 10,800 sq. feet employing only 225 people. In that view is not the Government's claim of increase in employment a canard?

Government's attempt to soften the blow by emphasizing that Walmart is being allowed only 51% in investment, meaning upto US\$ 100 million. Prima facie the argument may seem attractive. But is Walmart management so stupid that when its present turn over of retails is 400 Billion Dollars it would settle for such small gain. No, obviously, Walmart is proceeding on a maxim of the camel being allowed to put its head inside a tent and the occupant finding thereafter that he is being driven out of it by the camel occupying the whole of the tent space. One may substitute Walmart to the camel in order to understand the danger to our millions of retailers. The tongue in the cheek arguments by the Government that allowing Walmart to set up its business in India would lead to fall in prices and increase in employment is unproven. A 2004 Report of a Committee of

the US House of Representatives concluded that "Walmart's success has meant downward pressures on wages and benefits, rampant violations of basic workers' rights and threats to the standard of living in communities across the country." By what logic does the Government say that in India the effect will be the opposite. The only explanation could be that it is a deliberate mis-statement to help the multinationals. Similar anti consumer effects have happened by the working of another Super Market enterprise namely Tesco of Britain.

A study carried out by Sunday Times shows that Tesco has almost total control of the food market of 108 of Britain's coastal areas i.e. 7.4% of the country. The Super Markets like Walmart and Tesco have a compulsion to move from the territory from England and USA because their markets are saturated and they are looking for countries with larger population and low super market presence according to David Hagues, Professor of Agri Business at the Centre for Food Chain Research at Imperial Collage, London, because they have got nowhere else to go and their home markets are already full. Similarly a Professor of Michigan State University has pointed out that retail revolution causes serious risks for developing country farmers who traditionally supply to the local street market.

In Thailand, Tesco the foreign owned super market, controls more than half the Thai market. Though Tesco, when it moved into Thailand, promised to employ local people but it is openly being accused of unfair trading practices and conflict with local businesses. As for the claim that these super market dealers will buy local products is belied because in a case filed against Tesco in July 2002 the Court found them charging slotting fees to carry manufacturers'

products, charging entry fee of suppliers. In Bangkok, Grocery Stores' sales declined by more than half since Tesco opened a store only four years earlier.

In Malaysia seeing the damage done by the super market Tesco since January 2004 a freeze on the building of any new super markets

was imposed in three major cities and this when Tesco had only gone to Malaysia in 2002.

It is worth noting that 92% of everything Walmart sells comes from the Chinese owned companies. Indian market is already flooded with Chinese goods which are capturing the Indian market with cheap goods

and traders are already crying foul because of the deplorable labour practices adopted by China. Can in all fairness, Indian Government still persist in keeping retail market open to foreign enterprises thus endangering the earnings and occupation of millions of our countrymen and women. □

**Press Statement:** 9 December 2011

## **Soni Sori Case: Our Freedoms are at Risk because People's Concerns Receive a Short Shrift at the Hands of the Judiciary**

Peoples Union for Democratic Rights is distressed at the hiatus between the sharp observations of the Supreme Court judges and their timid operative orders and judgments. If there was any doubt over this it has been laid to rest by the recent orders of the apex court hearing the case of Soni Sori and the clarification offered by a bench of the Supreme Court in the much touted judgment on the issue of SPOs.

After her arrest in Delhi, Soni Sori had pleaded before three judges of the Saket District Court when her transit remand was being heard, that were she to be handed over to the Chhattisgarh police, she would definitely be tortured. Indeed she had pointed to the judge at the Saket district court that one member of the police team, which had come to take her in their remand and escort her to Chhattisgarh had tortured her on a previous occasion. Her pleas fell on deaf ears.

When her complaint of torture including sexual violence inflicted on her was submitted before the Supreme Court, the judges chose not to intervene. And now when the medical check-up ordered by the court by a Kolkata hospital has established that stones were recovered from her private parts, the veracity of her charge stands corroborated. Instead of taking cognition of this and immediately moving her to safety of a jail outside Chhattisgarh, the apex court on 2nd December 2011 gave the state

authorities 45 days to respond to the medical report and meanwhile merely shifted her to Raipur jail from Jagdalpur jail in the same state.

Thus the very same delinquent police force, its personnel and associated authorities have got permission to incarcerate her for an inordinately long period, a period sufficient for the state government to threaten, brow-beat and destroy Soni Sori before its prepares its response. It appears that custodial rape and torture of a woman, adivasi at that, does not enjoy any premium as there is greater concern for the prestige of the state authorities engaged in the valiant game of prosecuting a war against its own people in the tribal belt of India. The order of the Supreme Court has also risked Soni Sori's safety further by shifting her to Raipur jail as her travel to the Dantewada court now entails a journey of 22 hours. It threatens her already frail health, puts her in prolonged police custody during transit and provides the government an easy alibi to deny her access to the court altogether.

In the SPO case the apex court bench watered down, if not trivialized, its original order issued on 5 July 2011 which had directed the Central government to desist from providing any funds for supporting directly or indirectly recruitment of SPOs and engaging them in counter-insurgency activities and had declared that the appointment of SPOs as part of regular police as unconstitutional.

Thus the deployment of SPOs anywhere including in J&K, North East, Bihar, Jharkhand and West Bengal became illegal. By agreeing to remove reference to central government and by confining the judgment to Chhattisgarh alone and by maintaining scrupulous silence over how the Chhattisgarh state got around the restriction by raising a new force, the Supreme Court restored everything it had declared to be unconstitutional and thereby trivialised its own judgment and observations.

The only rationale for the issuing of such orders is that once 'national security' is invoked, the Courts, even the apex Court, fall in line behind the Executive. The most recent order on the deployment of SPOs and that regarding Soni Sori's custodial torture show the Supreme Court in poor light and even more regrettably show it to be sacrificing people's fundamental rights at the altar of "national security".

For those of us who perceive the judiciary, at least its higher levels, as a protector of people's interests there is salutary message: our freedoms are at risk because people's concerns receive a short shrift at the hands of the judiciary as and when the executive invokes national security. Thus, radical observations and timid, if not trivial, operative orders must be condemned.

**Harish Dhawan, Paramjeet Singh**  
(Secretaries) □

**Press Release: Appeal for Release of Abhay Sahoo, Bhubhaneshwar/ Delhi, 5th December, 2011:**

**Appeal to the Odisha Government to withdraw the frivolous cases and  
RELEASE ABHAY SAHOO NOW!!**

**Withdraw All the Criminal Cases Lodged Against the Anti POSCO Activists and put a  
stop to repressive measures**

**PUCL APPEALS TO OTHER ORGANISATIONS TO COME TOGETHER AND INITIATE A  
NATIONAL CAMPAIGN FOR THE RELEASE OF ABHAY SAHOO AND IN SUPPORT OF  
THE POSCO PRATIRODH SANGRAM SAMITI**

The *People's Union for Civil Liberties*, represented by its National Secretary Kavita Srivastava and Odisha Convenor, Pramodini Pradhan visited the area in and around Dhinkia Panchayat in Jagatsinghpur district on 1st December, 2011, where the struggle against the proposed POSCO steel plant is taking place for the last seven years. We also went to Choudwar Jail in Cuttack District on 2nd December 2011 to meet Mr. Abhay Sahoo the leader of the POSCO Pratirodh Sangharsh Samiti, who has been arrested against FIRs motivated by the administration under sections causing sexual assault, wrongfully confining somebody and causing atrocities under the SC & ST Act.

**The situation in Dhinkia**

We met several of the anti displacement activists whose spirits were high despite the arrest of Abhay Sahoo, their leader. They were very clear that no way would they leave their homeland and their livelihoods in exchange of some money or the promise of jobs. The repression of the people by the Odisha Administration and police machinery was apparent and was paramount in the dialogue with them. It was shocking to learn that almost everybody we had met feared being arrested by the police as there were more than 40 to 50 cases that had been lodged against them. They alleged that most of the FIRs had no names mentioned and therefore anybody could be picked up by the police. Due to this fear, the people were not even going to the hospital close by, when there were several women and children who needed

immediate medical attention.

With the arrest of their leader Abhay Sahoo they feared greater repression and efforts by the Administration to break their struggle along with attacks by the goons of POSCO as happened in the past. Their fears pertained to the possibility of renewed efforts by the Government to acquire their land forcibly; this time round it could become a bloody battle. People's faith in non-violent democratic ways of struggle is evident as more than five hundred villagers continue holding a dharna on a daily basis peacefully resisting the project. Despite this on the 2nd there was a flag march of a large number of policemen who came on motorbikes and unleashed a lot of aggression which had unsettled the people.

**The Arrest of Abhay Sahoo and the laundry list of cases motivated by the police against him**

It was shocking to learn that Sh. Abhay Sahoo had been booked under 50 cases by the Odisha police in various police stations including Kujanga in Jagatsinghpur District in the last few years of the struggle. He had spent fourteen months in jail in 2008-2009. His lawyer Mr. Bichtrananda Sena informed us that he had managed to get anticipatory and post arrest bail in more than 46 of the cases. However, the desperation and bankruptcy of the Odisha State Government was shown in the way they had filed cases against Abhay Sahoo in 2011. Of the four cases filed in Kujanga police station against him, two consisted of committing atrocities against Dalits, against which he has been arrested and sent to judicial

remand since the 25th of November, 2011, one relating to dowry, murder and destruction of evidence and one relating to destruction of a JCB machine. **It is very clear that when the intention is to put a person in jail, even a petty case is enough under the Indian Law. The description below is testimony to the fact that the police actions are vindictive, motivated and an attempt to victimize Sh. Sahoo and the people's movement.**

**In the FIR number 301/2011** filed on 9th November, 2011 u/s 147, 148, 452, 294, 323, 354, 506, 109, 149 IPC and Sec 3 SC & ST filed by Bansidhar Dalai of Gobindpur, Abhay Sahoo has been charged of having intimidated and insulted and humiliated them as dalits in public view, had committed acts of sexual assault and obscenity against Dalit women, directed the co-accused to commit robbery of Rs.33, 000 in one case, apart from beating them up causing trespass and wrongfully restraining them. Abhay Sahoo and all the villagers also vouched that he was not there that day in the village; still the police dragged his name in this case. Abhay Sahoo's bail application in this case is pending in front of the Additional District Judge, since the last two hearings the police has not brought the case dairy to court and now the case is slated for the 8th of December, 2011. This delay by the police is a form of frustrating legal remedies that Mr. Sahoo has access too, which we condemn.

**In the 2nd case** filed against him by one Ranjan Mallick of Dhinkia FIR no.: 309/2011; u/s 147, 148, 341, 294, 323, 364, 506, 397 and 149 IPC, SC

& ST act, 1/11/2011. It has been alleged that they were attacked by Abhay Sahoo and his gang of men because they refused to go to an Anti POSCO meeting so they were abducted and intimidated and Abhay Sahoo caused rioting with deadly arms and insulted them because of their caste.

In the cases where arrest is awaited, **the third case on him**, they have tried to show Abhay Sahoo's involvement in the case of a dowry murder for which FIR number: 264/2011; has been lodged in Kujango Police station on the 13th September, 201; u/s 498 (A), 302, 304 (B) and 342, 201, 34 IPC; sec-4 Dowry Prohibition Act was lodged. It has been alleged that Malay Bardhan had allegedly murdered his wife and under the direction of Mr. Abhay Sahoo the husband had destroyed the evidence of murder, by cremating the girl. Abhay Sahoo's role was central in furthering the intention of murder.

**Lastly the fourth case** against him was filed on 3rd November, by the

Sub Inspector of Police K Murmu of Kujonga police station, FIR 312/2011, GR 742/2011; u/s 147, 148, 309, 427, 149 IPC and Sec 3 of Explosive Substance Act. It is alleged that he and others blasted a JCB machine of the company which was making the coastal road.

Abhay Sahoo has not yet been arrested in the above two cases, When we met Mr. Abhay Sahoo in Choudwar Jail, he said that that POSCO was a case study of how you can repress a democratic movement and the expression of the democratic rights of the people. He added that the way the Odisha police was booking him in cases; very soon they would run out of sections of the IPC. Any common person could also see how the cases had been fabricated.

He said that in jail there was no problem in jail custody and that his diabetes was under control and that he was well looked after, however, he was worried about the future onslaught of the police on the people. He strongly feared that the

administration with the help of the police would try making the coastal road, which the people were clear they did not want, as it would then pave the way for POSCO.

### **PUCL Demands with the Government of Odisha and Appeal to the other national networks**

The PUCL demands the release of Abhay Sahoo, stopping all repression in that area and the withdrawal of all criminal cases against Abhay Sahoo and other struggling people. It also urges the Government to restore normalcy so that people could get on with their daily life and address their everyday. The PUCL calls upon all organisations at the State and National level, to come together and carry out a sustained campaign for the release of Abhay Sahoo, dropping of all fabricated cases and stopping all repression by the Odisha Government on the people of DHINKIA-CHARIDESH.

**Kavita Srivastava**, National Secretary, PUCL; **Pramodini Pradhan**, Convenor, PUCL Odisha □

### **Jeetan Marandi case: Report by Stan Swami**

## **Jeetan Marandi acquitted by Jharkhand HC**

Jeetan Marandi has been set free by the Jharkhand HC. A lok kalakar and human rights defender Jeetan Marandi has been cleared of the false case of murder foisted on him by the police basing on which the Giridih district court had awarded death sentence to Jeetan and three others. The Jharkhand High Court took serious exception to the way the police could cook up evidence against innocent persons. However,

it may take a few days more before Jeetan walks out of jail as the police have foisted another case of giving a "provocative speech" during a meeting in October 2007 demanding rights guaranteed in the jail manual to political prisoners.

Jeetan Marandi is not the only innocent person unjustly implicated as an 'extremist' and a 'murderer' but there are thousands of other innocent Jeetans who are languishing in the

various prisons of the country and many human rights groups had come together to demand an independent committee to review the cases of all those arrested under the labels of "suspected Maoists/naxals", "helpers of Maoists" etc. and to release all the innocent falsely implicated in various cases. In Jharkhand alone about 4400 young men & women have been arrested under these labels during the past ten years. □

### **West Bengal PUCL:**

## **PUCL Observes Human Rights Day**

The PUCL (West Bengal) unit observed the International Human Rights Day on 10th December 2011 at Raja Subodh Mullick Square (Wellington Square), Kolkata -13 in front of the statue of Netaji Subhas Ch Bose at 4.30 p.m. Veteran Journalists Mr. Nirranjan Halder and

Dr. Sajal Basu, Senior Advocate of Calcutta High Court Mr. Ajay Datta, Social activists Mr. Samarjit Banerjee, Mr. Amlan Bhattacharya, Mr. Mahboob Ali Khan, Advocate and State convener of PUCL (W.B.) Mr. Ananda Mukherjee delivered their speeches. Mr. Nirranjan Halder

elaborately discussed about the different conventions and covenants of Human Rights. He also reminded that Mr. Yusuf Meherally was the first person who gave a call for "right to recall" when he was the Mayor of Bombay. Dr. Sajal Basu said that, to campaign for the release of political

prisoners is not the only aim of Human Rights movement. There is a vast area of economic exploitation and inequality in our country which results in malnutrition and hunger deaths against which PUCL has been fighting for a long time. "Right to food, Right to potable water, Right to sanitation, Right to better medical treatment," are the basic human

rights for which we should fight, Basu said. State convener Mr. Ananda Mukherjee said that corruption is a hurdle in achieving the basic human and fundamental rights. To combat corruption, "right to recall" and "right to reject" have to be implemented in our society immediately. He also said that the Maoists and the government should stop murder

politics immediately and urged both the parties to sit for a peaceful dialogue without imposing any condition, to save the lives of the innocent civilians of the Jungle Mahal area of West Bengal. The programme was presided over by Mr. Niranjana Halder.

**Ananda Mukherjee**, Convener, PUCL (W.B) □

### Some FAQs about Koodankulam and Nuclear Power:

## Nityanand Jayaraman and G. Sundar Rajan

*(Nityanand Jayaraman and G. Sundar Rajan of the Chennai Solidarity Group for Koodankulam Struggle developed the fact-sheet below in response to real questions that they encountered during the course of street and college campaigns. They say, "The questions were sincere, so we felt a sincere response was warranted.")*

**Introduction:** Since August 2011, Tamilnadu has witnessed renewed protests against the commissioning of the first of two 1000 MW power plants as part of the Koodankulam Nuclear Power Project (KKNPP). While protests have been ongoing against the project since the proposal was mooted in 1988, the impending commissioning of the reactors in light of the devastating and uncontrollable nuclear meltdown in Fukushima, Japan, has rightly triggered a wave of concern among thinking people in India.

The protests against nuclear power plants are not isolated to Koodankulam. Even as we speak, fisher folk and farmers in Jaitapur, Maharashtra and farmers and residents of Gorakhpur, Haryana, are saying a loud "No" to nuclear power plants in their area. Haripur, West Bengal, which was to be a site of Russian reactors, will no longer be on the nuclear map, as the State Government bowed to local sentiments and declared West Bengal a nuclear-free State.

Wise people do learn from others' mistakes. Germany, Switzerland, Italy, Belgium and Japan have all announced that they will move away from the nuclear option, and explore clean and sustainable forms of

electricity generation. But India's chest-thumping "nucleocracy" wants to play the death game with peasants and fisher folk as the pawns in the gamble.

The staunch and united protests by Farmers, Traders and fisher folks of Tirunelveli, Kanyakumari and Thoothukudi have scared the nuclear establishment. Faced with the real prospect of having to abandon the project, the Congress-led UPA Government is doing what it does best — Divide and Rule; communalise the issue, and allege that foreign hands are at play. At different times, the nuclear establishment and Dr. Manmohan Singh have said different things — that Tamilnadu's industrialisation will falter without the project; that India cannot do without nuclear energy; that our nuclear plants are 100 percent safe; that abandoning the project at this stage can prove to be dangerous. When it comes to explaining the consequences of a major disaster, Indian scientists, including Dr. Kalam, have behaved more like astrologers than rationalists. How can anyone predict that no major earthquake will hit this area or that this human-made technology cannot fail?

The fears of Fukushima and the fears about continued electricity shortage have raised a number of conflicting emotions and doubts in people's minds. This booklet aims to quell some of the misconceptions about the safety of nuclear energy, and answer some frequently arising questions.

**1. India is a developing country. We need electricity to develop. If**

**we rule out the nuclear option, won't our development be hampered?**

Nuclear power is not the only option for generating electricity. There are a number of conventional and non-conventional sources of energy that can be explored for generating electricity. It is a fact that in more than 60 years of post-independence industrialisation and modernisation, the contribution of nuclear energy to the total electricity generation is less than 3 percent. Renewable energy sources already contribute more than 10 percent of India's electricity and Large Hydro projects deliver about 22 percent. Large dams, though, have exacted a devastating toll on the environment and lives of adivasi communities.

For India to emerge as a true leader, we have to be careful not to destroy our natural capital — our waters, lands, air and people. By saying "No" to dangerous, risky and expensive technologies like nuclear, we create opportunities to develop cleaner, safer and less dangerous forms of electricity generation.

Increasing the available electricity can also be achieved by conservation and demand-side management strategies. For every 100 MW of electricity generated in India, more than 40 MW is lost because of inefficient transmission and distribution (T&D). Industrialised countries like Sweden have a T&D loss of less than 7 percent. In other words, of the total 180,000 megawatts of electricity generated in India, 72,000 megawatts (40 percent) is lost, wasted. That is equivalent to shutting off all power

plants in the States of Maharashtra, Gujarat, Tamilnadu, Andhra Pradesh, and Karnataka.

If efficiency were to be increased to, say 90 percent, the savings would be the equivalent of setting up a 60,000 MW power plant – or about 60 plants the size of the Koodankulam plant that is currently at the heart of a controversy – with a fraction of the investment and none of the risks. Increasing energy efficiency of electrical appliances is another way to save electricity. In Tamilnadu alone, if incandescent lamps are converted to LED bulbs, we can save about 2,000MW.

Add to all this, the benefits of cutting on wasteful consumption. Shopping malls and IT companies burn electricity throughout the day. Night or day, lights and AC are running, even while households and small commercial establishments have to suffer power outages. There must be a rationalisation of the use of electricity. The fact that villages surrounding Kalpakkam where a nuclear plant is situated are reeling under major power shortages is itself proof of “inequitable distribution” of electricity.

## **2. Is renewable energy technologically viable? Will it be able to meet our energy needs?**

Meeting India’s energy needs requires more than just renewable energy, especially since electricity is merely one form of energy. In India, electricity meets only 12 percent of total energy needs. People make do without electric lighting or cooling. But even the most indigent family needs fuel for cooking. Biomass (firewood or cow dung patties) is by far the most important source of energy for the nation.

India’s energy security depends on the robustness of our paradigm of harnessing and deploying energy in various forms, and in forms meaningful to the millions of under-served Indians. The current paradigm promotes inefficient energy generation and transmission, inequitable distribution and consumption wherein rural areas and small commercial establishments suffer even while elite users enjoy

uninterrupted access to electricity and other forms of energy. With the current wasteful and unjust modes of production and consumption, neither conventional nor renewable forms of electricity generation will suffice. Why is that villages that are reeling under the effects of pollution from the thermal plants in Singrauli, UP – once hailed as the energy capital of India – have neither electricity nor clean water? While challenging coal and nuclear, we also need to question a development model that incessantly calls for sacrifices by adivasis, dalits, farmers and fisher folk so that others may prosper.

On the topic of renewable forms of energy for electricity generation, though, the fact remains that we have barely scratched the surface in terms of harnessing the potential. According to the Government of India, India’s potential in renewables is as follows: wind energy – 48,500 MW (65,000MW, according to Indian Wind Energy Association <http://www.inwea.org/>); small hydropower – 15,000 MW; biomass Energy – 21,000 MW; and at least 4,00,000 MW from Solar Energy. The monumental amounts of money being sunk into nuclear technology can be gainfully diverted to increase research in renewables, and electrical energy efficiency. Already, advances in solar and wind technologies are reducing per MW costs. The capacity of existing wind mills can be increased six to eight-fold by replacing older, lower-capacity turbines, with newer, higher capacity turbines, or by installing new and more efficient turbines amidst existing windmills. In the last 15 years, India has added about 17,000MW of power using renewable sources; China has added the same amount in just one year. So, where is the need to put all our eggs in just the “Nuclear Basket”?

Secondly, many of the applications of electricity can be met by smart design. Tinted glass buildings in a city like Chennai require the burning of electricity for lighting throughout the day, even when the sun is shining brightly outside. Our city’s malls and

the IT companies in the Knowledge Corridor are examples of such “stupid” design.

In Germany’s Black Forest region, an ordinary woman named Ursula Sladek, mobilised people to pay for the take over of the electricity company after the Chernobyl disaster. Today, the people-owned company supplies electricity generated from small, decentralised renewable sources to more than 100,000 customers. After the Fukushima disaster, an average of 400 new customers are subscribing to the company requesting clean electricity. It is clear that electricity from renewable energy is not just environmentally sustainable but also commercially viable.

## **3. Can we, as Dr. Abdul Kalam says, let one disaster (in Fukushima) derail our dreams of becoming an economically developed nation?**

Besides the better-known disasters at Kyshtym, in erstwhile USSR (1957), Three Mile Island (1979) and Chernobyl (1986), at least 76 nuclear accidents totalling \$19.1 billion in damages have occurred between 1947 and 2008. Most of these accidents – 56 to be precise – happened after the Chernobyl disaster. This translates to one serious nuclear incident every year causing \$332 million in damages annually. Between 2005 and 2055, at least four serious nuclear accidents are likely to occur, according to calculations by an interdisciplinary study titled “The Future of Nuclear Power” conducted by Massachusetts Institute of Technology in 2003. The 2011 Fukushima disaster is the first of MIT’s prophetic estimates.

And it is not just disasters that we are concerned about. Even nuclear reactors that “operate perfectly” are associated with higher risks of cancer and unexplained deaths. In the US, where 104 reactors are operating at 65 sites, elevated rates of leukemia and brain cancers are reported from communities near nuclear power plants.

Studies conducted by Dr. V. Pugazhenth, a physician and

researcher, who provides medical service in the nuclear town of Kalpakkam, Tamilnadu, have revealed elevated incidences of congenital deformities like polydactyly (webbed fingers), thyroid problems and various kinds of cancers among the residents living around the nuclear facility.

**4. Dr. Abdul Kalam says coal-fired power plants are dirty because they cause pollution and emit tons and tons of climate-changing carbon. He points out to the devastating impacts of coal mining on the environment and the lives of communities in the vicinity.**

Dr. Kalam is right about coal-fired power plants. Coal plants are dirty and polluting. Coalmines are hells on earth. But we should not be forced to choose between two evils – nuclear or coal. Would you like to be tortured or killed? My answer is “Neither.”

Dr. Kalam does not talk of the effects of uranium mining on the environment and health of communities. In Jadugoda, Jharkhand, where the Uranium Corporation of India Ltd mines India's uranium, the effects of radiation among the local adivasi population are horrendous. Indian Doctors for Peace and Development, a national chapter of the Nobel-winning International Physicians for Prevention of Nuclear War, recently published a health study on Jadugoda. The study found that:

- Primary sterility is more common in the people residing near uranium mining operations.
- More children with congenital deformities are being born to mothers living near uranium mining operations.
- Congenital defects as a cause of death of children are higher among mothers living near uranium mines.
- Cancer as a cause of death is more common in villages surrounding uranium operations.
- Life expectancy of people living near uranium mining

operations is lower than Jharkhand's state average and lower than in villages far removed from the mines.

- All these indicators of poor health and increased vulnerability is despite the fact that the affected villages have better economic and literacy status than reference villages.

The path to a sustainable and socially just future lies in moving away from environmentally destructive technologies such as coal and nuclear. Nuclear energy will not help us combat climate change. Per unit of power, nuclear energy emits four to five times more Carbon dioxide (CO<sub>2</sub>) than renewable energy. If the entire nuclear fuel cycle is considered, the emissions are even higher.

**5. Why are people protesting only now? Couldn't they have told the Government that they don't want the project when it was first proposed?**

The project was first proposed in 1988. Within months, protests built up against the nuclear plant. People and students mobilised 1 million signatures against the nuclear plant to hand over to Mikhail Gorbachev, the then Premier of USSR, when he visited India in 1989. Black flag protests, youth mobilisation, rallies in Chennai and other urban centres. Koodankulam has been a controversial issue from Day One. On May 1, 1989, fisher folk and other residents from around the project site organised a massive rally in Kanyakumari town. The peaceful rally was disrupted by the police, and one youngster – Ignatius – was shot in the police firing that ensued. Between 1991 and 2001, the protests died down, because USSR – the technology provider – splintered into several smaller nations. But this history is glossed over by the propagandists, and repeated without verification by a lazy and irresponsible media.

Like the Rajiv Gandhi Government at that time, the Sonia Gandhi Government now has refused to acknowledge the protests or heed the aspirations of local people.

That is evident from the manner in which the Central Government is hell-bent on pushing the Jaitapur nuclear project in the face of stiff opposition by local farmers and fisher folk. Protests in Gorakhpur, Haryana, and Jaitapur are not just being ignored, but violently repressed.

It is true that the imminent commissioning of the Koodankulam plant, and the threat of expansion of the complex to accommodate 6,000 MW of capacity has re-awakened the fears of the local people. The 2004 tsunami gave the coastal people first hand experience of the raw fury of nature. The television images of the devastation caused by the triple disaster in Fukushima, and the subsequent tragedy of lakhs of Japanese were prevented from returning to their homes or to their normal lives are still fresh in the minds of people. People would be stupid not to be fearful.

**6. Crores of rupees have already been spent on constructing the plant. Isn't it too late to abandon the project now?**

It is never too late to do the right thing. It is better to write off a bad investment, than to continue investing in spite of knowing the certainty of routine nuclear pollution and the risks of a disaster.

Consider the costs of a disaster. Belarus, a state in the erstwhile USSR, suffered the maximum damage as a result of the 1986 Chernobyl nuclear disaster. According to a report by the International Atomic Energy Agency, between 1991 and 2003, Belarus spent \$13 billion on disaster-related expenses. It has estimated its losses over 30 years at \$235 billion. In Ukraine, the country where Chernobyl was located, still allocates 6-7 percent of total Government spending on disaster rehabilitation programs. Radiation fallout from the disaster has contaminated more than 200,000 square kilometers, mostly in Russia, Belarus and Ukraine. That is about twice the size of Tamilnadu.

In Fukushima, just closing down and safely dismantling the Dai-Ichi

nuclear plant will take 30 years and cost between \$12 billion and \$19 billion. This does not include the costs of health monitoring, evacuation and social security, remediation of contaminated environment, the economic losses arising from loss of agriculture and fisheries income, or the foreign trade lost due fear of radiation contamination.

If a decision to opt out of nuclear power is taken, there is still time to convert the Koodankulam plant to a less risky and less polluting technology such as a gas thermal plant. The Shoreham nuclear plant in Long Island, New York, was converted to work on natural gas after the Three Mile Island accident took place. The William H Zimmer nuclear plant in Ohio, and the Midland Cogeneration Facility in Michigan were similarly converted to run on fossil fuel.

### **7. Indian nuclear plants are safe. So many of India's nuclear plants have run for decades without mishaps. So what's the problem?**

The claim that Indian nuclear plants are safe is contrary to facts. Safety breaches in India's nuclear establishment seldom come to light because of the shroud of secrecy surrounding the institutions. But what little we know gives serious cause for concern. Just take the case of Kalpakkam. The following violations have come to light, including some that were acknowledged more than 6 months after the incident.

- 1987: A refueling accident ruptured the reactor core.
- 1991: Workers were exposed to radioactive heavy water
- 1999: 42 workers were exposed to radiation
- 2002: 100 kg of radioactive sodium was released into the environment
- 2003: 6 workers were exposed to high levels of radiation

Other very serious incidents have happened in other reactors. In 1991, a contractor working in the RAPS reactor complex used radioactive heavy water to mix paint, and wash the brush, face and hands.

In November 2009, more than 55 workers in Kaiga nuclear plant, Karnataka, were exposed to excessive levels of radiation when they drank water laced with radioactive tritium.

Addition of safety systems has often been an afterthought. A November 1986 report titled "Safety of the Indian Pressurised Heavy Water Reactors" by the Department of Atomic Energy's Reactor Safety Analysis Group states that "In India, tsunamis and seiches do not occur. Hence cyclones alone have been singled out for detailed study." This analysis was for Pressurised Heavy Water Reactors (PHWR) of the kind that is installed in Kalpakkam. The 2004 tsunami flooded the entire township and reactor complex. The Kalpakkam reactor survived the 2004 tsunami not by design but by chance.

Even today, the Kalpakkam reactor is not designed to survive a major earthquake or tsunami despite the fact that an International Atomic Energy Agency publication of 2011 identifies one active submarine volcano near the coast of India, and that is off the coast of Pondicherry, 60 km from Kalpakkam.

### **8. All safety systems are in place in Koodankulam. Dr. Kalam says the plant is 100 percent safe, and that there is no threat of a tsunami since the plant is located 1300 km from the seismic centre point. He has urged people to have faith in the Government, and to believe Governmental experts and engineers. Shouldn't people do that instead of questioning the experts?**

First, any good scientist or engineer will tell you that there is no such thing as 100 percent safe. Such a declaration is 100 percent false. Rather than educating people on the true nature of the risks, and the magnitude of effects in the event of a disaster, Dr. Kalam seems intent on lulling them into complacency. Complacency is the worst thing that can happen for disaster preparedness. It is outright irresponsible to lie to people about the true nature of dangerous technologies.

Second, despite the 2004 tsunami, which belied the Department of Atomic Energy's declaration that "In India, tsunamis . . . do not occur," we have Dr. Kalam repeating this false statement. Dr. Kalam's statement that a tsunami will not occur belongs in the realm of astrology and not science.

Dr. Kalam would have us believe that safety and emergency response are merely matters of technology. That is not true. Robust safety and emergency response systems have to do with planning, the setting up and maintenance of escape routes, an informed citizenry that is trained to react appropriately, an open and transparent administration that is capable of acknowledging and correcting mistakes, engineers and technologists that respect nature's power, and builders and contractors that are honest.

Good science and technology requires an unwavering commitment to truth, a trait that is in short supply in this country. With scams tainting every aspect of Indian life, people who heed Dr. Kalam's advice to trust the Government and its engineers would be acting unwisely.

In 2010, a pedestrian bridge constructed for the much-hyped Commonwealth Games collapsed a week before the launch of the Games. The use of sub-standard material and poor construction methods is not restricted to relatively lower risk structures like the ill-fated pedestrian bridge.

In May 1994, the inner containment dome of a nuclear reactor under construction in Kaiga, Karnataka, collapsed sending 120 tonnes of concrete crashing down. The dome is meant to contain radiation in the event of an accident. A. Gopalakrishnan, Atomic Energy Regulatory Board's former head, writes "Senior NPC civil engineers and the private firms which provide civil engineering designs. . .to the DAE have had a close relationship. In this atmosphere of comradeship, the NPC engineers did not carry out the necessary quality checks on the designs they received." If the dome

had collapsed when the plant was in operation, we would have had a Level 7 meltdown on our hands.

In July 2011, even as the disastrous events in Fukushima were unfolding, the Leningrad-2 nuclear reactor under construction in Russia experienced a serious mishap. Shortly after concrete was poured for the construction of the outer protective shell of a reactor unit, the structure began to deform, with the reinforcement bars bending and dangling about 26 feet above ground. The reactor under construction is of the VVER 1200 type, a generation ahead of the VVER 1000 reactors currently installed in Koodankulam. Experts have speculated that corruption and use of substandard material may have been behind the mishap. In Koodankulam, we are witnessing the setting up of a high-risk technology by two nations – India and Russia – which compete with each other in the realm of corruption.

### **9. Aren't you being anti-science and emotional in protesting against nuclear power?**

The argument against Koodankulam is not an argument against science and experimentation. 10,000 MW as in Jaitapur and Koodankulam are not experiments. These are not 100-kilowatt reactions in a lab condition. They are massive investments in power generation technology putting more than just the lives of experimenters at risk. Unwilling people cannot be asked to sacrifice their lives in the interest of Kalam's science. It is true that many experimenters have sacrificed their lives at the altar of science, and we need to acknowledge them with gratitude. The Nazis experimenting with poisonous chemicals on unsuspecting and unwilling captive Jews, or the pharmaceutical companies currently testing their dangerous medicines on indigent and choiceless people may be contributing to the advancement of science. But their methods are plain criminal. The people supporting the Koodankulam struggle are not "Can't Doers;" They are "Won't Doers." Dr.

Kalam is not talking about risking his life for the advancement of science; he is blaming the Koodankulam people for refusing to risk their lives. Good engineers and scientists require humility, integrity and an ability to accept mistakes and move ahead with the learnings. India's nucleocracy lacks all these.

It is not the villagers that need convincing. Insurance companies are not convinced that nuclear plants are risk free. On the contrary, they believe that the risks of a nuclear blowout are uninsurable. If the Koodankulam plant is completely safe as Dr. Kalam puts it, it would be useful to see Dr. Kalam convincing the insurance companies to provide blanket cover to nuclear power plants, and convincing the nuclear equipment suppliers to abandon their insistence on a nuclear liability protocol that exempts them from compensating in the event of a disaster, even if it is caused by a willful fault on their part.

Building a nuclear plant merely on the basis of a belief – as if in God – that a tsunami or major earthquake will not occur is what is anti-science. People who are agitated and afraid of the consequences of the nuclear technology being set up in India are scientific because their fears are based on the empirical evidence of regular disasters and acknowledge of the socio-economic and environmental fallouts of such disasters. The fear is further fuelled by the lack of transparency that shrouds nuclear establishments in India and elsewhere. Apprehension over the likelihood of a disaster given the numerous things that could go wrong technically or due to corruption or malpractices is not unscientific, especially given what is unfolding in terms of 2G scams. What is being asked is for scientists and engineers to devote their skills in less destructive and risky means of generating electricity.

**10. Every technology has its risks. Cars, ships and trains routinely have accidents. You don't see us abandoning cars and ships. Then**

### **why should we abandon nuclear power?**

Car accidents or even plane accidents do not leave behind a 20 km exclusion zone in which human life cannot return to normal for decades. A person driving in a car or travelling by plane accepts certain risks voluntarily. A car or a plane accident does not affect the next generation and the unborn. The unborn cannot even be consulted on whether the risk that we are taking is acceptable to them. Imposing such a risk on generations to come is patently unjust. Car accidents do not necessitate the evacuation of people living in a 75 km circle.

Until a technology's risks are proven to be manageable – and we have seen the unmanageability of the nuclear technology on occasion after occasion – wisdom advises that it be kept in the realm of experimentation. It certainly cannot be unleashed on an unsuspecting community.

### **11. Dr. Kalam has offered a Rs. 200 crore development package including clean water, jobs, schools, hospitals and motorboats and cold storage facilities to the people in the villages surrounding Koodankulam. Will that not make this development more inclusive?**

This offer of Rs. 200 crore is perverse. "If you can't convince them, bribe them" seems to be the line taken by Dr. Kalam. How different is this from the spate of freebies offered by politicians before elections? Does this mean that if people don't consent to the nuclear power plant, they will be denied hospitals, schools and clean water? What about other communities where no nuclear power plant is proposed to be built? Will they have to wait for one to be constructed in their backyard so that their rights to water and education can piggyback on that project?

The people are looking for answers to serious questions. Dr. Kalam should answer them respectfully, or restrain himself from speaking. □

## Press Note: Reject Land Acquisition Bill 2011

# Joint Statement Calls for Rejecting 2011 Land Acquisition Bill

*The 2011 Land Acquisition, Resettlement and Rehabilitation Bill is a dangerous exercise in doublespeak that will worsen the injustice and devastation caused by the present law. Below is a joint statement on this legislation from a number of organisations and individuals, calling for the rejection of the new Bill and raising the basic issues that need to be addressed by any legal framework.*

The statement points out that:

- Despite making gestures and pious statements, the Bill contains so many loopholes that all its provisions for public accountability and consultation

will be meaningless in practice. Bureaucrats will remain extremely powerful. In particular, most projects (private or public) will be able to escape without either taking the consent of the affected people or responding to their objections.

- The “integration” between acquisition and rehabilitation that the law’s title implies simply is not provided for in its actual clauses. Instead, those affected will face innumerable obstacles in obtaining even the little that the law promises them.
- The law will facilitate continued profiteering and land grabbing by private parties, even after the

spate of recent scams that have been exposed. Resource grabbing, which is impoverishing the oppressed classes while failing to produce “development” in any sense, will be encouraged by this law.

- The law grossly violates the Constitutional and legal scheme for tribals and forest dwellers.
- The law provides no effective way for affected people to enforce their rights, and instead bars any court from granting a stay, thereby basically providing a license for abuse and illegality.

Today, people are protesting against illegal and unjust land grabbing across the country, and it is clear

### JOINT STATEMENT:

## Reject Land Acquisition and Resettlement and Rehabilitation Bill 2011: Not a Just, Democratic and Effective Framework

for all to see that the process of land acquisition is unjust and driven by private interests. At this time, the UPA government is introducing a Bill that will supposedly address these issues. The government claims that the main problem is ensuring “fair” compensation for land losers, though, ironically, its Bill will not even achieve this. However, the problem is far deeper, and affects far more people than landowners alone.

### The Heart of the Problem

At the heart of the problem lies the extraordinary power in the hands of the bureaucracy over all types of land and land use, encompassing private land, common and forest land, water bodies, underground minerals, etc. The state supposedly holds these resources “in trust for the public”, to be used for the “public interest”; but the people have no role in taking these decisions. Even where people’s right to control these resources has been wrested after prolonged struggles, as in Fifth and Sixth Schedule Areas or in forest areas, the bureaucracy rides roughshod over the law itself in order to maintain its power. This undemocratic system is geared to serve private interests, which are

dressed up as “development”, be it in NOIDA or Jashpur or POSCO or Adarsh.

The devastation caused by this mechanism is not limited to forcible acquisition of land. Large scale private purchase of lands, diversion of forest land, arbitrary clearance for mega projects and resulting land use change, surreptitious transfer of government lands, sale of land owned by public sector companies at throwaway prices, and so on all have the same effect. Many lose their lands, livelihoods, resources and homes as a result.

The reality is that land is a social resource, not merely either private property or state property. In both urban and rural areas control over land is central to the whole of social and economic relations. It cannot be dealt with at the whims of the executive, with all the consequences for displaced people, the environment and surrounding communities deemed “externalities” which can be dealt with later.

The mass destitution and environmental devastation caused by this model of “development” is often

met with resistance from the masses, who are crushed with the full might of the police and paramilitary forces. The profits generated by this kind of resource grabbing in turn feed corruption and distort the country’s economy. This is one of the central problems confronting India today. The country needs a system of democratic control over land and land use if this cycle is to be broken.

This statement sets out a critique of the current situation and the Bill below, followed by a set of principles that should form the basis of any solution to this issue.

### The 2011 Bill - Accepts the Problems, Avoids any Solutions

The 2011 Bill indulges in doublespeak. It acknowledges the key demands and then proceeds to negate every single one. Contrary to government claims, this Bill in fact promotes further unregulated land takeover by corporates, while assuring them government assistance in dealing with recalcitrant landowners. The bureaucracy also continues to wield enormous discretionary powers.

### No Attention to Land Use Plan-

## **ning and Minimizing Displacement**

**Current Practice:** All decisions are taken by the bureaucracy in an ad hoc manner. There is no prioritization or planning of land use in accordance with food and livelihood security, extent of displacement or environmental protection.

**2011 Bill:** (1) Does nothing at all to plan or regulate land use. Instead, it gives an arbitrary license to acquire up to 5% of multi crop irrigated land without assessing projects in terms of their impact on food security. (2) The earlier draft required that projects be the “least displacing” option; this has also been removed. (3) The Constitutional powers of municipalities and *panchayats* over planning are simply ignored.

## **Bureaucratic Diktat without Public Scrutiny of Public Purpose for Acquisition**

**Current Practice:** Whether land acquisition serves a public purpose or not is exclusively decided by the bureaucracy; courts have widened their powers further.

**2011 Bill:** A “state level committee” consisting almost entirely of bureaucrats makes all decisions. A “social impact assessment” is to be done, but who will do it, and how, is unclear. In fact, the SIA is a mirror image of the discredited environment impact assessment process, which Shri Jairam Ramesh himself described as a farce. The SIA will neither consider the rehabilitation plan, nor whether the project is the “least displacing” alternative, nor the question of public purpose – yet the State level committee is supposed to decide all this based on its report. Various public hearings and *gram sabha* consultations are suggested, but these are a mere formality; the views raised in them are not given any importance subsequently.

Moreover, the Bill has a series of loopholes that allow the government and companies to bypass whatever “safeguards” are provided. One of these is “partial” acquisition for private companies, which will not require consent of 80% of the people (see next point). Another is in section 76,

whereby land that is “temporarily” occupied for some “temporary” use can then be acquired if “permanently damaged.” This would then bypass the entire procedure of social impact assessment, public consultation, consent, etc.

## **Farcical Prior Informed Consent – The Bill Does Not Require Consultation with People**

**Current Practice:** Consent or even consultation with those affected is not required, even where the law requires it (as in Fifth Schedule and forest areas).

**2011 Bill:** The Bill says that “consent of 80% of the affected families” will be required for some types of acquisition. But it provides no procedure for taking this consent, for determining if it is given freely, for deciding what happens if consent cannot be obtained, and for deciding *whose* consent is to be taken. The Bill provides no sound way for deciding who is affected and who is not; indeed no listing of affected people is even made until much later. Asking for consent in this manner is an open invitation for forgery and manipulation. And when will consent be sought? Besides, those being asked for their consent cannot be told about rehabilitation, as the package is not even drafted till much later.

Besides, to get around this, all that private companies need to do is purchase a little land and ask the government to engage in “partial acquisition” for the rest, which could even be 99% of the total area (clause 8 proviso read with clause 2(2)).

## **Definition of Public Purpose**

**Current Practice:** Public purpose is defined very broadly, allowing for all kinds of projects to be included.

**2011 Bill:** In the 2011 Bill, the definition of public purpose has been widened even further. All types of real estate are deemed a public purpose and are exempt from 80% consent (Cl. 3(za)(iv)).

Besides, projects that are in “public interest” (which is not defined) or that “produce goods or services for the public” become public purpose (Cl. 3(za)(vi) and (vii)). Is there any

economic activity which does not satisfy these requirements? Thus land acquisition for practically any project, private or public, will be possible, only subject sometimes to the dubious “80% consent” requirement. Instead of making the process more rational, the Bill is opening acquisition to a free for all, giving private companies access to the state machinery for purposes identified by them. The Bill contradicts itself by first declaring that no change of purpose will be permitted (Cl. 93); and then reverting unutilised land to the government “land bank” (Cl. 95). What is this if not a change of purpose? This is an incentive to acquire large tracts of land on plausible grounds and hold them for later use.

## **Regulation of Private Purchase And Projects**

**Current Practice:** There is no regulation over private projects where land is purchased. Acquisition is held as a threat over the heads of landowners to force them to sell “voluntarily.” The Act at present, despite its weaknesses, puts the onus of establishing public interest and purpose on the requiring body under Part VII where it deals with land acquisition for private companies.

**2011 Bill:** Lack of regulation will continue unabated. Private purchase of more than 50 acres in urban areas and 100 acres in rural areas - which is far above the land ceiling, and therefore illegal - will supposedly require R&R. Clause 42 which covers this permits land use change for such projects without any regulation at all and without even setting a minimum floor price! How can there be a “voluntary negotiation” and a “market price” for those selling, when they will basically be told to sell at whatever price is being offered or face forcible acquisition? In any case, any project can be broken into smaller blocks to get around this.

Furthermore, with no comparable provisions, the private companies no longer have to establish public purpose and public interest when land acquisition is done for them.

## **Low Compensation to Land Losers**

**Current Practice:** Prices are decided by the procurer (the government). The system neither takes into account the cost to the land loser of purchasing similar land elsewhere, nor the increase in value on change of land use. Courts eventually directed that at least the highest recent sale, not the average price, should be taken.

**2011 Bill:** This too will worsen. Compensation is linked to average 'market' value based on recorded transactions and officially specified minimum land values. These are invariably far below real market rates. The four times' increase in rural areas is still far less than what the procurer gains from the change in land use classification (which often increases the value by more than twenty times). The owner will receive only 20% of the increase in value on any subsequent transfer, and that too only if no development is done on the land at all. There is no reference to enabling the affected person to replace what they have lost. In the case of "temporary occupation", this will be settled through a process of "negotiation" - without even any floor value specified - and then the land can be permanently acquired if it is not fit for its "original use." (s. 76(2)).

### **Temporary Occupation and Urgency**

- 1. Current Practice:** Part VI allows the temporary occupation and use of any waste or arable land for any public purpose, or for a Company, for up to three years. Under 'Urgency' (cl 17), land can be acquired lot of land has been acquired for real estate, mining and infrastructure projects using this extraordinary power.
- 2. 2011 Bill:** On the one hand the Bill says acquisition only after compensation/ rehabilitation and then it allows for "temporary acquisition" in chapter 11. Any kind of land can be "occupied" temporarily for any "public" purpose, including for private companies, without being subject to any conditions apart from the subjective satisfaction of the Collector. As noted above, section 76 also allows this to be abused

as a backdoor route to acquire land; just occupy it "temporarily", damage the land, and then say it cannot be restored to the original use and hence is being acquired. Similarly, the misuse of "urgency" will continue unabated (Cl 38) since there is no procedure by which the restrictions in this can actually be enforced. Such cases will not require SIA or allow Objections, and the constraint in the draft Bill that this be done in the rarest of rare cases has been dropped in the final Bill.

### **Ad-hoc and Discretionary Resettlement and Rehabilitation, Not Integrated with Acquisition**

**Current Practice:** R&R totally ad hoc and dependent on the administration.

**2011 Bill:** In the name of integration, what the Bill actually creates is a mishmash of unrelated processes and contradictory provisions. The most basic fact - the number of affected people - is counted in the SIA (Cl. 4(2)(a)), separately counted in a census (Cl. 17(1)(a)), and finally counted again by asking people to file claims (Cl. 21(2)). Discrepancies will be ignored. The R&R plan is drafted long after the project has been approved as a public purpose by which time people have no chance to object to the project itself. . Two separate groups - "affected people" and "interested persons" - are defined and given different rights and responsibilities; but a close reading shows that these definitions cover the same people. The annexed Schedules, especially the Third, offer the officials the option of not doing anything and writing an explanation in the fourth column. The net result of all this will be total administrative confusion and plenty of space for manipulation.

Moreover, while it claims to cover forest dwellers, hunter gatherers, fish workers, etc. the Bill says nothing about protecting those *affected by the project* - only those "affected by the acquisition", meaning those who are practicing these livelihood activities on *private* land. Those affected by transfer of government or

common property or forestland for any project will not be covered by this law and will receive no R&R. Even the 2007 R&R Bill was better than this.

The Central government can amend the Schedules at any time with just a notification. Finally, those who received R&R can also have it taken back later, if they are accused of having done so on "false information." No procedure is specified for this; there would be no need for a trial, since it is an administrative action.

### **Urban Land Rights**

**Current practice:** In urban areas, large tracts of public land are held by the Government, especially by the Defence, Railways and public sector companies and public corporations. Increasingly, this land is being sought by real estate developers and builders. Furthermore, large sections of the urban poor and working class live as "encroachers" in slums, tenements, pavements, and the like and their occupational rights as squatters are always under threat from imminent eviction. The majority of urban residents in India today exist in various states of illegality. There is absolutely no protection for the rights of the urban poor and their land and livelihoods are constantly sacrificed to benefit powerful private interests.

**2011 Bill:** The bill essentially exempts all private activity in urban areas from R&R by setting an absurd minimum limit of 50 acres (which would exclude practically every urban project in the country). Insofar as public acquisition is concerned, the Bill makes no reference to slums or urban dwellers and their rights.

### **No Route for Affected People to Enforce Their Rights if Violated**

**Current Practice:** Those affected have no recourse except to go to the High Court or Supreme Court.

**2011 Bill:** Those affected cannot approach local courts - they have to go only to a government appointed State or Central authority, thus undermining the separation of executive and judicial functions. This body can only award increased compensation, and can only be

approached through the Collector (Cl. 58); then any appeal to the High Court is permanently barred after 120 days (s. 68). Further, even if the law is violated, the acquisition will always go ahead, as Clause 57 bars any court from issuing a stay order (incidentally this clause is unconstitutional, as it seeks to bar even the jurisdiction of the High Courts and the Supreme Court). So if R&R is not provided, people will be displaced anyway, and can spend the rest of their lives chasing their rights in the Authority or courts (if they have the resources to do so).

### **Violating Rights of Scheduled Tribes and Forest Dwellers**

**Current Practice:** Legal protections for tribals and forest dwellers are completely ignored.

**2011 Bill:** After decades of struggle, PESA and the Forest Rights Act empowered tribals and forest dwellers to protect, manage and safeguard their resources. The Bill reduces these provisions for consent and consultation to formalities (when done at all), in exchange for increased compensation and advance payment.

***The last straw comes at the very end - Clause 98 and the accompanying Fourth Schedule. After grandly stating that this law will create a new, just process of acquisition, these clauses exempt a whole range of activities - SEZs, coalmines, highways, uranium mines, railways etc. - from this law entirely. This is at a time when SEZs and mines have been sites of bloody, violent conflict across the country.***

### **Our Demands**

In light of all of the above, the central feature of the system of land control in this country has to be democratic land use planning. This should take place from the village level upwards, with village plans being amalgamated and coordinated in a democratic process with approval by democratic bodies at each level (starting from the *gram sabha* in rural areas and the *basti sabha* in urban areas). This should culminate in a State level land use plan with the goal of ensuring a

high standard and quality of life for all. The priorities should be food security, livelihood security, access to common property, and a focus on production of goods of mass consumption.

**Subsequent to this, all major land use changes**, including from private purchase and transfer of government land besides land acquisition, should be in accordance with the **land use plan** and fulfill a **public purpose**. Any change of existing (not recorded) land use over an area larger than the agricultural land ceiling (in rural areas) and an appropriate small area in urban areas should be considered a major land use change. Acquisition of individual property, if any, should follow on this decision and be a part of the process of deciding on the land use change. But R&R entitlements should apply to anyone whose livelihood dependence on or occupation of land is affected.

The minimum requirements of the process for deciding on land use changes should then be:

- **In cases of land use change** for private companies, the onus for establishing public purpose should be on them.
- **Public purpose** should be defined in terms of the goals set for the land use plan and those in Part IV of the Constitution (in particular, Article 39). Change of land use should either not result in displacement or in **minimal displacement**. Government ownership and full public funding should be the preferred institutional and financial norms.
- **Public purpose** and the **R&R package** have to be **fully** elucidated to the project affected people through written materials and a series of public consultations, in clearly prescribed formats. The R&R package should be decided through a process of negotiation, subject to minimum entitlements as discussed below. No land use change or acquisition should be permitted without **prior informed consent** of the affected *gram sabhas* (or ward/*basti sabhas*) and a separate,

explicit consent to the R&R package. The final decision should be open to public scrutiny and to challenge in all courts. A decision by the executive or the bureaucracy alone should never be sufficient for a project to be deemed a public purpose.

- **All people who suffer any loss of livelihood, irrespective of their legal status**, due to loss of access to private, common or forest resources should be treated as persons interested and affected, without any cutoff date, requirement of residential status or for establishing loss of primary livelihood. The loss of common property resources should also be compensated. In urban areas, there should be explicit provisions barring any insistence on cutoff dates and legality of residence and use of land.
- **Effective, accessible and democratic institutions** should be provided from the project level upwards for enforcement of people's rights during the process of takeover of private land/transfer of government land and rehabilitation and resettlement. Violation of any right should mandatorily render the entire process null and void. The state should be responsible for timely provision of information. People's rights should not be deemed to have been waived under any circumstances.
- **Complete resettlement and rehabilitation** should precede change of land use or dispossession by at least six months.
- **Compensation and price for take over of individual lands** should be based on the future and not on present land use. It should be calculated based on the highest sale for similar lands in adjacent areas, multiplied by a factor of ten in rural areas and six in urban areas. This should be fixed as the floor price for private purchase of any area larger than the land ceiling.

- **Temporary takeover** of land should not be done without fully meeting all R&R requirements and subject to the same process of decision making as full change of land use “**Urgency**” **clauses** should be considered a form of temporary takeover – there is no need for the government to acquire ownership to land that is needed in an emergency. Such clauses should be restricted to imminent danger to life or limb and compensation should be negotiated in the form of a lease, with a floor level of land values that are four times more than those decided for non-urgent cases.
- All **land not utilised within 5 years should revert to original occupiers**, without requiring return of compensation.
- Common property in **both rural and urban areas** (including slums and common areas used by them) should be under local and democratic management systems.
- **Resettlement and rehabilitation** should ensure a higher standard of living after resettlement. This should include a minimum of five acres in rural areas for land-dependent people, irrespective of their status as landholders or landless (with full land for land for STs and forest dwellers if they have larger holdings), and improved housing in urban areas. Mandatory employment and shares in the project, in the case of revenue earning projects, should be provided over and above this. Infrastructure and basic public services must always be provided.

Until this new framework of land use planning and democratic control is in place, there should be a **moratorium on all land acquisition** (excepting small

projects serving immediate welfare requirements such as drinking water, primary schools, etc.). Further there must be a system of compensating and securing **justice for those already displaced**.

**We the undersigned therefore call for the withdrawal of the 2011 Bill and its replacement with a just, democratic and effective legislation that addresses the issues raised above.**

**Organisations:**

Adivasi Mukti Sanghatan, All India Kisan Mahasabha, All India Agricultural Labourers' Association, Campaign for Survival and Dignity, Chhattisgarh Mukti Morcha (Mazdoor Karyakarta Committee), Indian Social Action Forum (INSAF), Kashtakari Sanghatna, National Forum of Forest People and Forest Workers, Sanhati

**Individuals:**

Amit Bhaduri, Professor (retired), Jawaharlal Nehru University, New Delhi, Anurag Modi, Shramik Sanghu, Betul, Madhya Pradesh, Arundhati Dhuru, National Alliance of People's Movements and ASHA Parivar, Ashish Kothari, Kalpavriksh, Pune, C.P. Chandrasekhar, Professor, Jawaharlal Nehru University, New Delhi, Chittaropa Palit, Narmada Bachao Andolan, E. Deenadayalan, General Secretary, The Other Media, Himanshu Thakkar, SANDRP, New Delhi, Jai Sen, CACIM, Jayati Ghosh, Professor, Jawaharlal Nehru University, New Delhi, Kavita Shrivastava, PUCL, KB Saxena, Council for Social Development, New Delhi, Meena Menon, Focus on Global South, Nirmal Kumar Chandra, Professor (retired), Indian Institute of Management, Kolkata), Praveen Jha, Reader, Jawaharlal Nehru University, New Delhi, Pushkar Raj, General Secretary, PUCL, Rishu Garg, ARAVALI, Ajmer, Sandeep Pandey, National Alliance of People's Movements and ASHA Parivar, Shamim Modi, Asst. Professor, Tata Institute of Social Sciences, Mumbai, Smita Gupta, Institute for Human Development, Sudha Bharadwaj, Chhattisgarh Mukti Morcha (Mazdoor Karyakarta Committee), Sudhir Patnaik, Bhubaneshwar, Odisha, Trilochan Shastry, Professor, IIM, Bangalore □

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**Chief Editor :** Pushkar Raj  
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**Printed and Published by:**  
Pushkar Raj, General Secretary, PUCL,  
270-A, Patparganj, Opp. Anandlok  
Apartments, Mayur Vihar-I, Delhi-110091  
for *People's Union for Civil Liberties*  
**Printed at:** Dixit Printers, 108, Basement  
Patparganj Indl. Area, Delhi-110092