

Inside :

EDITORIAL:

Democracy and the Law on Sedition can't co-exist - Prabhakar Sinha (1)

ARTICLES, REPORTS & DOCUMENTS :

Delhi police's shame: A Terrorist Short? Let's Catch Aamir - Danish Raza (4); Editor's comment on Aamir's case (6); Depressing message from UP: Criminal background not a minus point! - Rajindar Sachar (6); UP PUCI: Activities of the PUCI Bareilly (10); Gujarat PUCI: Human Rights, law & order situation in Gujarat worsens (10); 1.2 Million Children in Karnataka malnourished Sonal Matharu (12); J.P. Memorial Lecture-2011 - Ravi Kiran Jain (13).

PRESS STATEMENTS, LETTERS AND NEWS : GS Letter regarding Amendment to the RTI Act (3); Press Statement: Condemning Violence against Kudankulam Nuclear Power Plant Protestors (7); 2. Joint Statement on Brutal Corporate Attack on Peaceful Protesters in Odisha (7); Press Statement Regrets Cancellation of Salman Rushdie's Programme at Jaipur Literary Festival (8); Public Statement by Amnesty International: Release Protesters against Vedanta's land acquisition (9); Aruna Roy Slams Govt. for Challenging HC Ruling on Minimum Wages (13).

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Democracy and the Law on Sedition can't Co-exist Prabhakar Sinha

PUCI has decided to launch a nationwide campaign for the repeal of the law on sedition (S 124A of I.P.C.) not merely because of its flagrant misuse to suppress dissent but primarily because it should have no place in a democracy. It is incompatible with a democratic system and strikes at its very root. S124A* makes saying or doing anything under the sun to create hatred, contempt or disaffection for the government of India an act of sedition punishable with imprisonment for life. An authoritarian government of any variety –absolute monarchy, family rule, military dictatorship etc. - criminalises any act which might undermine its authority or threaten its existence because it does not recognize the right of the people to have any say in the formation and running of the government. Thus, when S124A was enacted by an imperial government, which subjugated us for looting our resources, its act was consistent with its character. However, its continuation in democratic India is an anachronism and also an anathema. Now, the people have the right to make or unmake a government. The periodic elections are the means made available to them to make their choice. Election campaigns offer the opportunity to the people to create love or hatred, respect or contempt or affection or disaffection for the government and the politicians in power. Making this right a crime at any point of time, as the present law on sedition does, is actually itself a crime against democracy. The people of India have already shown their abhorrence for robbing them of their right to free speech and expression by throwing Indira Gandhi out of power at the 1977 election when she tried it to save her throne by imposing the emergency on the country and taking away all the fundamental rights.

But we must remember that S124A is not the only draconian law in the country. In fact, the rulers of democratic India have enacted repressive laws exceeding both in number and ferocity in 62 years than what the British government had done in 90 years (1857-1947). Compared with the Preventive Detention Act, 1950, MISA (the Maintenance of Internal Security Act) 1971, the National Security Act, 1980, TADA (the Prevention of Terrorist and Disruptive Activities Act) 1984, POTA (Prevention of Terrorism Act) 2001, Unlawful (Prevention of) Activities Act, 1967 and UAPA [the Unlawful Activities (Prevention of) Act, 1967], the notorious Rowlett Act, whose opposition led to the Jallianwala Bag massacre of 1919, appears a liberal piece of legislation. The Rowlett Act was enacted to curb revolutionary movement in the country. However, it provided that the local (i.e., Provincial) government would write to the Chief Justice of the High Court regarding its

intention to prosecute certain persons under it. The Chief Justice was required to constitute a bench of three High Court judges to hear the case. However, the accused had no right to engage a lawyer and no right to appeal against the judgment. Additionally, the hearing had to take place in camera. The Act was found outrageous by the people due to these draconian provisions. At the same time, hearing by a bench of three High Court judges shows that even the Imperial government realised the grave injustice inherent in the law and accorded more value to the personal liberty of its subjects than the rulers of democratic India do to their citizens. Under the Rowlett Act, thousands could not have been detained in one go as was done under MISA, or the other draconian laws enacted by the democratic governments in India. It is a matter of shame that instead of divesting its arsenal of black laws inherited from the Imperial government, the rulers of democratic India have been acquiring more and more of them over the time. Within a month of declaring India a Republic on 26 January 1950, the Preventive Detention Act was passed which continued till a far more draconian MISA was enacted. When the victims of MISA (i.e. the Janata Party) came to power, it was repealed only to be replaced by the National Security Act, 1980 by Indira Gandhi, who returned to power in 1980. It was followed by notorious TADA (1984), POTA (2001), CLA (the Criminal Law Amendment) and scores of other black laws enacted by the Union and State governments. There is complete unanimity in the political class in the country on enacting and misusing anti-democratic laws. The 'hunters' and the 'hunted' of the Emergency have now joined hands to hunt together anyone who opposes their scheme of things. Thus, when 17000 (seventeen thousand) innocent persons were detained under TADA in Gujarat in 1980s where there was

not even a whisper of terrorism, it did not outrage the conscience of the political class. Similarly, when Vaiko, a Tamil Nadu M.P. (and part of the NDA) and Raja Bhaiya, a U.P. M.L.A., were detained under POTA by their respective Chief Ministers, though they had nothing to do with terrorism, no effort was made to amend the law as to eliminate the possibility of victimization of innocent persons. It seems that the members of the political class ruling the roost take such occasional injustice to themselves as an act of sacrifice they must make for the cause they are committed to serve.

The political class of the country is unanimous on acquiring more and more unbridled power of repression under one pretext or the other as their goal is not to serve the common man but a handful of the rich. Serving a microscopic minority at the cost of the common man is itself a subversion of democracy. Only a government, which is 'for the people', can pass the test of being truly democratic. If it fails this test, it is not democratic even if it has been elected by the people. The political class is fully conscious that the betrayal of the people cannot go on unchallenged forever, and there is bound to be opposition to their anti-people and pro-rich policies. To meet this exigency more and more power to repress is needed. Hence, the insatiable desire for unbridled power. We are conscious that the repeal of S124A alone is not going to make our personal liberty secure and have reiterated our resolve to campaign for the repeal of other draconian laws. However, we have not addressed one crucial question. Why is it that despite our (i.e., the Rights' organizations) active existence for 30 to 40 years and opposition to the black laws we have failed to deter the government from enacting and misusing black laws in a series? To me, it appears that our concentrating on only extraordinary laws and their victims (though justified) has resulted in a distorted view of human rights

itself and the indifference of the common man to our movement. There is a widespread perception in the middle class that the rights organizations are concerned only with the victims of extraordinary laws like terrorists, Maoists and the others engaged in an armed struggle against the State. The Union and the State governments have successfully exploited the situation by a sustained disinformation campaign that we are only concerned with the human rights of these groups, and not of their other victims. There is a mischievous insinuation and sometimes a direct but false accusation that we support them.

This selective approach to focus only on the extraordinary laws and their victims are justified in a country where the ordinary laws and their operation are just and fair, but not in a country like ours where every police station is a source of exploitation and repression of the common man. The police continue to function with an imperial mindset and prides itself at striking terror in the minds of the common man. The victims of the misuse of the ordinary laws of the land by far outnumber the victims of the misuse of extraordinary laws. In such a situation, indifference to the fate of the common man groaning under the repression by the police with an imperial mindset is absolutely unjust. It has also hurt the cause of human rights by alienating the overwhelming majority of 120 millions of our people. Our experience should make it abundantly clear that unless the common man identifies himself with human rights and fights for it, no one's rights and liberties can be protected. We must do what we have neglected to do so far: taking up the cudgels for the protection of the rights and liberties of the multitude under the ordinary laws of the land and make the movement relevant and useful for all rather than only a few. Only with the multitude fighting for the (human) rights can everyone be safe.

* "124-A-Sedition- Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise brings

or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the Government established by law in India shall be punished with

imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added or with fine." □

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I, Pushkar Raj, hereby declare that the particulars given above are true to the best of my knowledge and belief.
March 1, 2012.

Pushkar Raj, Publisher □

Letter: February 14, 2012

The Chairperson
Department Related Parliamentary
Standing Committee on Science,
Technology, Environment and
Forests

Rajya Sabha Secretariat.

**Subject: Regarding Amendment to
the RTI Act through the Nuclear
Safety Regulatory Authority Bill**

Sir,

PUCL is seriously concerned on the proposed amendment to the Right to Information Act, 2005 through The Nuclear Safety Regulatory Authority Bill, 2011. We understand that there are adequate protection available under Section 8(1) of the RTI Act and no more exceptions are required as is being proposed through the Nuclear Safety Regulatory Authority Bill which is under consideration of your committee.

Sir, providing exception for the Nuclear Regulatory Authorities referred to in clause 25 of the mentioned bill is unacceptable primarily due to the fact that none of the scientific research so far conclusively has proved that nuclear energy production anywhere in the world is foolproof against any natural calamities such as floods, lightning, earth quake, tsunami etc. Nuclear

energy safety is a contentious issue all over the world and new facts are emerging. It may be mentioned here that Japan has ordered a comprehensive review of its nuclear energy policy in the wake of Fukushima Dai-ichi nuclear plant disaster with all its 54 nuclear power plants under scrutiny and the new Prime Minister is on record as having said, "as I have experienced the March 11 accident, I came to realise the risk of nuclear energy is too intense, it involves technology that cannot be controlled by our conventional concept of safety." Thus it is amply clear that any denial of information regarding such a vital issue as nuclear energy production is unacceptable as it compromises with the safety of the lives of the people.

The Supreme Court of India has time and again broadened the ambit of right to life. To know how safe a nuclear reactor is citizens' fundamental right to know because their life would be at stake in the eventuality of any radiation leakage under any circumstances. By that implication the proposed amendments in the RTI Act go

against the spirit of the constitution that respects and protects fundamental right of life of its citizens.

Sir, the regulatory bodies under Clause 25 of the bill will become exempt as soon as they are established by the Central Government. This is done through putting them into a special security category that already exists. By their very nature and functioning these organisations cannot be labeled as intelligence or security organisations. More over to protect bodies that have not yet been established from the purview of seeking information is beyond comprehension and a clear misuse of Section 24 of the RTI Act.

Sir, PUCL believes that the proposed amendments will go against the general interest of the people of India and therefore I request you to recommend deletion of all clauses that seek to amend the RTI Act. By doing so you will honour the voice of the civil society and our constitution.

Sincerely,

Sd./-

Pushkar Raj, General Secretary,
PUCL □

Delhi police's shame: A Terrorist Short? Let's Catch Aamir

Danish Raza

New Delhi: - 27 Jan

Mohammad Aamir Khan's story should qualify as a case study for someone doing research on 'How terror cases are probed in India'.

In the winter of 1998, the Delhi police named Aamir in more than two dozen bomb blast cases - 17 in Delhi, the twin blasts in Haryana's Rohtak district and the 1996 Frontier Mail blast in Ghaziabad. Twenty in all.

In the years to come 13 years, 11 months and 20 days, to be precise 1 he was acquitted in 18 of these cases as the prosecution failed to produce evidence connecting him to any of these blasts.

In what appears to be a perfect ploy to handpick a young lad and produce him as a terrorist before the judiciary and the press, the investigating agencies made sure that Aamir continued playing the terrorist for as long as possible.

The absurdity of Aamir's case can be gauged from the fact that at one point in time, a court declared him a proclaimed offender when he was actually in jail. This is just one of the many anomalies which marked Aamir's case from start to end.

On the night of 20 February 1998, Aamir left his home in Mohalla Kishanganj in Old Delhi's Bara Hindu Rao area, to say ishaa prayers and buy some medicine.

He was at Bahadurgarh Road, around a kilometre from his home, when two men whisked him in a white Gypsy. Aamir was blind-folded and his hands tied behind the back. "They drove me for around 30-and-odd minutes."

In the preceding year, 1997, a record 22 blasts had rocked the national capital. There was a pattern to them: Almost all were low-intensity blasts; they were carried out to create panic rather than taking maximum lives; none of the explosions happened at a religious place.

That was the time when the Indian Mujahideen and home-grown terror modules were nowhere in the

picture.

The blasts were a dent in the city's security apparatus. The Delhi police was under immense pressure to catch the masterminds.

Over the next one year, the police arrested many Pakistani nationals and Indian citizens who had some links to Pakistan. Aamir became another number in this database.

The database was skewed. On record, the police mentioned 27 February as his date of arrest - a week after he was actually picked up. What happened during those seven days is a different story.

In court, the police claimed that during interrogation, Aamir had admitted to planting a bomb in Karol Bagh area. The police produced pistols and 10 live cartridges which were allegedly recovered from him. "That was the first time I saw a pistol in my life," says Aamir.

A sessions court convicted Aamir under sections 302, 307 and 436 of IPC and section 3 of the Explosive Substances Act.

The maximum punishment on these charges is life imprisonment.

In the days to come, more than a dozen blast cases were slapped on him. After four months of Aamir being in Delhi's Tihar jail, he was named a co-accused in the Frontier Mail bomb blast case. The 1996 blast in Ghaziabad, Uttar Pradesh, had killed two people.

However, even after nearly 10 years of the police naming Aamir in this case, there was no sign of a trial. In 2006, his lawyer filed a petition in the Allahabad High Court urging speedy trial.

The court accepted the petition and directed the Chief Judicial Magistrate (CJM) to oversee the case. "It shall be indicated in the report (submitted by the CJM) as to why the petitioner was not summoned from jail even once during this period of 9-10 years," ruled the court in February 2007.

Two months later, he was shifted to

Ghaziabad's Dasna jail for the trial. That was where Aamir met Mohammad Shakeel, prime accused in the Frontier Mail bomb blast case (Shakeel was named Aamir's co-accused in at least eight cases, including the Frontier Mail blast case).

"He came across as a depressed person. He had given up on the system," said Aamir.

On 19 June 2009, there was a commotion near barrack number five in which Shakeel was lodged. He was found hanging from the ceiling in his cell, inmates told Aamir.

Shakeel's family moved the National Human Rights Commission demanding a probe, alleging that he was murdered. The NHRC directed the district magistrate and the jail superintendent to submit the viscera report. The report found that Shakeel was poisoned. In October 2010, a Ghaziabad court booked former Dasna jail superintendent VK Singh, and four others, for Shakeel's murder. Shakeel's was the sixth death in Dasna prison between 2008 and 2010.

In 2009, Dasna jail was in the news for the mysterious death of Ashutosh Asthana, an undertrial in the Uttar Pradesh Provident Fund (PF) case. From the time of his arrest, Aamir's father, Mohammed Hashim found it a daunting task to arrange a lawyer for his son. He never had enough money and no lawyer would readily agree to defend a terror accused without charging a hefty amount.

It became worse when Aamir was in Dasna prison. A Hindi newspaper published a story saying that he was a Pakistani national. "No lawyer was ready to pursue my case after this," said Aamir.

That was when ND Pancholi, lawyer and founder member of the People's Union for Civil Liberties (PUCL), took his case.

After a four-year-long trial in which the public prosecutor could not produce any evidence whatsoever to

connect Aamir with the train blast, he was released in this case, too.

While in Tihar, Aamir was also named as the main accused in Rohtak twin blasts of January 1997. There was no casualty in these blasts.

Trials in Delhi and Rohtak cases could have continued simultaneously. But for the jail authorities, Aamir was as good as dead. They never bothered to produce Aamir before the Rohtak court. In 2005, while Aamir was in Tihar jail, a Rohtak court declared him a proclaimed offender.

"They issued warrants against him, published his pictures in the newspapers and even after this, when he did not turn up for the hearing, they declared him a POor proclaimed offender. All this when he was actually lodged in a jail in Delhi called Tihar. I have never encountered something as bizarre as this," said Rajesh Sharma, the lawyer who handled his Rohtak cases.

His trial in the Rohtak cases began in April 2010. He was arrested in this case in July 1998. The judge said that he would release Aamir the moment he confessed because he had already spent enough time in jail - more than the time he would have spent if actually convicted. Says Aamir: "I said why should I confess to something which I have not done?"

On 9 January 2012, the court acquitted Aamir. "...it is clear that the prosecution has miserably failed to prove its case against the accused beyond reasonable doubt," ruled the court.

In April 2003, a Delhi sessions court had sentenced him to life imprisonment for the Karol Bagh blast that killed one person. As many as 62 witnesses were examined in this case.

In August 2006, the Delhi High Court quashed this order as the police could not provide any material to connect Aamir with the blast at Roshan Di Kulfi in Karol Bagh. "In the absence of any material to connect the accused with the blast at Roshan Di Kulfi, his mere

presence would not be sufficient to bring home the guilt," ruled the court. On the evening of 1 October 1997, a procession was going through Sadar Bazar - one of the most crowded markets in Delhi - to mark Maharaja Ugrasen Jayanti. Around 5.15 pm, two low-intensity explosions took place near the crowd.

Aamir was named co-accused with Shakeel in this case. However, the police failed to provide any proof against Aamir in court. They were banking on the testimony of one of the 43 eye-witnesses who had said that Aamir resembled a person who handed a black polythene bag to an artist on the tableau. The court found the theory too weak to convict Aamir. "There is absolutely no record to link the accused with the commission of the crime and the prosecution has failed to prove that it was the accused Aamir Khan who had planted the bomb in the tableau that exploded," ruled the additional sessions judge, absolving Aamir of all the charges.

It was the same story, judgment after judgment. Trial would begin after at least five or six years of his arrest; the prosecution would produce witnesses, but none of them could identify Aamir; the court would then release him.

One day in July 2001, Aamir's lawyer told him that his father was critically ill. Aamir visited his father at Bara Hindu Rao Hospital. He was to undergo surgery as one of his kidneys had stopped functioning. That was the only time Aamir said he could see the outside world in those years. His father died three days later. "Had I been out, I would not have let him die," said a straight-faced Aamir.

After that, Aamir's cousin brother, Inaam, pursued the case. "If I were in a position to afford a renowned lawyer, I believe he would have walked within days," said he.

Surprisingly, none of the family members were present in the Rohtak courtroom on 9 January when the judge acquitted Aamir and he was to walk free. "That night, I saw the stars after 14 years," said he.

Aamir hardly steps out of his home today. Not even for prayers. His mind is in turmoil, wondering how he can pick up the threads of his life. Cracks have developed on three of the four walls of his one-room house in the by-lanes of the walled city. It must get repaired before it collapses. "Let me live for some days," says Aamir, sporting a nonchalant smile. He spends most of his time with his paralytic mother. She suffered brain haemorrhage in 2008. She just grins in between while hearing our conversation. With a lot of effort, she manages to speak a word or two.

Aamir's elder sister is spending quality time with the brother she could not see growing up. Aamir asks her to go out every time he talks about the torture meted out to him in prison. Her kids cannot get enough of maamu.

So far, the sessions court has convicted Aamir in three cases. The Delhi High Court quashed the judgment in one of these cases. His appeal in the rest of the two cases is pending with court. "I want them to declare that I am not guilty in these cases too," said he.

So, did Aamir have a Pakistan connection?

In December 1997, Aamir went to Pakistan to visit his eldest sister, Sumaiya Chaman, who is married and lives in Karachi. During partition, says Aamir, some of his uncles opted for Pakistan. After around two months, on 13 February 1998, Aamir returned to India via Samjhauta Express. That is the only occasion he has been to Pakistan and Chaman and her family are his only connections to that nation.

On the eighth day of his return from Pakistan, he was picked up by police at Bahadurgarh road.

"Police nabbed Aamir as he had all the right qualities: he was young, had a Pakistani connection and came from a poor family," said Pancholi. Aamir's case serves as a strong indictment of the country's criminal justice system which preys on the weak and helpless to declare phony victories. ■

Editor's Comment on Aamir's Case

Such bizarre incidents happen because there is no provision of accountability of the policemen who fix innocent people in cases they may not be remotely connected with although it results in spoiling the whole life of innocent people, defaming not only the families of the

charged persons but also the whole communities they belong to. The victims should not only be compensated adequately, the police officials concerned should also be held accountable and given exemplary punishment so that others learn not to indulge in such false and

forged cases. And this cannot be a lone case. Thousands of innocent people must still be languishing in jails on false charges. Such cases need to be found out, investigated in an unbiased manner and charges against the innocent ones need to be dropped and their honour restored. **Mahipal Singh** □

Depressing Message from UP: Criminal Background not a Minus Point!

Justice Rajindar Sachar

With the elections in Punjab, UP, Uttarakhand, Manipur and Goa coming soon after the farcical debate on corruption in the context of Parliament's fiasco on the Lokpal Bill, some people expected greater pressure on political parties to avoid selecting candidates against whom there was a suspicion of having a criminal background and lack of integrity and honesty in public life. But, alas, this consideration is totally absent. On the contrary, the justification for selecting tainted candidates is being emphasised by the parties concerned. While the BJP, not being in a position to defend the induction of Mr Kushwaha, a former BSP minister of UP, against whom charges of corruption were levelled, sought to justify its action by saying that he was from a very backward caste, without realising that this was no defence. Rather it was an abuse which suggested that criminality was the usual trait of this caste.

Cynically, a similar explanation was given by Mr Mohan Singh, a former spokesperson of Mr Mulayam Singh Yadav's party, for having sponsored the case of Mr D.P. Yadav, known for his criminal background. He sought to justify the SP's decision by saying that his being a history-sheeter has added to his capacity to get votes, and that though such leaders get caught, their communities rally behind them more strongly.

It is unfortunate that these small caste leaders, instead of using caste as a tool for social change in a radical manner to undo the injustice done to them, (as advocated strongly by Dr Ram Manohar Lohia, the late socialist leader), are using it perversely for their own small selfish gains, unmindful of the damage they are doing to the revolutionary fight for the eradication of this evil of casteism. No, I am not against the affirmative action for giving their dues to the Dalits and the other deprived castes; rather I am more for it because one has to atone for the injustices done in the past. As Dr Lohia explained, "Nepotism, jobbery, opportunism, flattery, non-adherence to truth and a tendency to twist doctrines to suit particular motives are some of the traits of Dvija leadership.

"These traits will remain with the Dvijas unless they make a conscious effort to bridge the gulf between themselves and the Dalits. The Dalit, too, has his shortcomings. He has an even narrower sectarian outlook. Once in office, the Dalit tries to perpetuate himself by having recourse to dirty sectarian methods."

How prophetically this description applies to Ms Mayawati's method of building her own statues and getting herself on her birthday weighed in lakhs of currency notes, more in the image of a small chieftain during the British Raj. Why does it not occur to her that her dismissal of about a

dozen ministers charged with corruption and incompetence inevitably reflects on her leadership? It also reflects her collusion in all these deals. Would people be wrong to say that either she is so incompetent that she did not know of their corruption, or that she was a party to all these dealings and is now trying to keep a distance as an election strategy?

It is true that we in India are too liberal in finding excuses for the misdeeds of respective caste leaders. We need to break this iron ring of caste. In this context, all political parties need to do self-introspection and heed the warning given by Dr Ambedkar thus, "The second thing we must do is to observe the caution which John Stuart Mill has given to all who are interested in the maintenance of democracy, namely, not 'to lay their liberties at the feet of even a great man, or to trust him with powers which enable him to subvert their institutions'. There is nothing wrong in being grateful to great men who have rendered lifelong services to the country. But there are limits to gratefulness.

"As has been well said by the Irish patriot, Daniel O'Connell, no man can be grateful at the cost of his honour, no woman can be grateful at the cost of her chastity and no nation can be grateful at the cost of its liberty. This caution is far more necessary in the case of India than in the case of any other country. For,

in India, Bhakti, or what may be called the path of devotion or hero-worship, plays a part in its politics unlike any other country in the world. Bhakti in religion may be a road to the salvation of the soul. But, in politics, Bhakti or hero-worship is a sure road to degradation and to eventual dictatorship."

Parties still continue to ignore the warning regarding criminal elements in our legislatures given by the Vice-President of India at an all-India whips' conference, "Exactly 23 per cent of MPs elected in 2004 had criminal cases registered against them — over half of these cases

could lead to the imprisonment for five years or more. The situation is worse in the case of MLAs."

Notwithstanding this, the lists announced by various parties show an agreement among them that the criminal background of a candidate is considered a plus point.

Irrespective of the results of the UP elections, one may regretfully accept that the population of the state is going to remain a victim of the evil of criminalisation and a corruption-ridden government. This is a sad situation for Indian democracy, but without public outrage, things will not improve in the near future.

Lest the bureaucracy draws smug satisfaction from the dirty face of the political class, it may be well advised to critically self-examine the reported reality that the higher bureaucracy in the Finance Ministry is so concerned with the plight of the poor that it has sacrificed its weekend to study this problem at a five-star resort, equipped with facilities of massaging, etc. If true (I have not seen any contradiction) I can only cry out in pain for my country with the Shakespearean refrain in Hamlet's words, "There is something rotten in the state of Denmark (substitute India)." □

Press statement: February 1, 2012

Condemning Violence against Kudankulam Nuclear Power Plant Protestors

People's Union for Civil Liberties is shocked at the incidence of brutal violence, on 31-1-2012, at Tirunelveli, against people's representatives of PMANE (People's Movement Against Nuclear Energy), including twenty women, opposing the Koodankulam Nuclear Power Plant (KKNPP), by democratic and peaceful means, to preserve their right to life, livelihood and safe environment. The attack was reportedly carried out by local thugs, members of Hindu Munnani and the local Congress. It occurred just prior to a scheduled fourth meeting between representatives of PMANE and members of the Central

Government Expert Panel on KKNPP.

What makes this attack particularly vile and reprehensible, is that it occurred in the premises of Tirunelveli Collectorate, while the collector was present in his chambers, and in presence of police force, thereby making both effectively complicit to this attack. PUCL condemns all forms of violence, in particular, violence which scuttles democratic processes by the State, in a variety of ways, especially by the use of violence – direct, sponsored or tacitly supported.

PUCL demands strictest action to be taken against all individuals and

groups charged with direct violence. Disciplinary action must also be taken against all police officers present, who, in a dereliction of duty, did not sufficiently safeguard PMANE members from physical harm against hooliganism on government premises. District Collector, R Selvaraj, as the Chief Executive of the District Administration, must accept final responsibility for this grievous incidence, occurring within his jurisdiction and in his office premises.

Pushkar Raj, National General Secretary, PUCL □

Press statement:

Joint Statement on Brutal Corporate Attack on Peaceful Protesters in Odisha

We are extremely shocked and distressed over the barbaric inhuman violence on peaceful protesters especially woman by the security guards and hired goons of Jindal steel plant in Angul, Odisha. There has been series of attacks on unarmed peaceful protesters against forcibly land grab all over Odisha. On 25th January 2012 when the entire Nation was gearing up for the

Republic day celebrations and the Indian ruling classes, the big business and the corporate media was busy trumpeting the arrival of India major economical power house these recurring brutal violence by the corporate goons on mass movements in ODISHA exposes the hollowness of our rulers claim of India being the world largest democracy. On 25th January 2012 around four

thousand men and women went to Jindal Steel Plant, Angul to demand a justified compensation for the land forcibly grabbed from them and also to demand jobs which was promise to them both by the Company and Odisha Government. When the procession arrived in the factory security guard of the Jindal Steel Company and hired goons brutally attacked men and women especially

women who were in the front against the struggle. The barbaric scene is difficult to explain to in words. In front of a large posse of police the hired goons in the security guards of Company attached them with iron rods and stick. Fatally injuring more than two hundred men and women, many of them are now admitted in SCB Medical College, Cuttack and different hospitals in Angul. Women were beaten ruthlessly with iron rods their cloths were torn, they were bleeding profusely, the bestiality of the goons reached most shocking and appalling limits when some of them inserted iron rods into the private parts of the women. There is nothing much to say after this about the great proclamation of Odisha Chief Minister about the so called great peaceful industrialization of Odisha. When an FIR was lodged the local police station, none of the

senior executive of the company including the CEO was arrested except the token arrest of the security officer. This incident is a horrifying indicator of the growing state and corporate attacks on peaceful mass movement of Odisha. In November 2011, the hired goons of POSCO in front of a large contingent of police men attacked the peaceful protesters of the Anti-POSCO struggle in Jagatsinghpuru District Odisha, with bombs killing one an injuring many.

We strongly condemn this dastardly attack on peace protesters against Jindal Steel Company in Odisha, we demand immediate arrest of the CEO and other senior executive of Jindal Steel Plant registering criminal case against them for brutally attacking people injuring men and women. We demand the dismissal and trial of all the policemen, who was present

during this inhuman shameful incident including SP of the district. We appeal to all the progressive, democratic, Human Rights and Women's Organizations to condemn the incidents and demand action against the culprits.

Prafulla Samantara, NAPM / Lok Shakti Abhiyan; **Sudhir Patnaik**, Editor, Samadrusti; **Ajit Jha**, Samajwadi Jan Parishad; **Kiran Saheen**, Media Action Group, Delhi; **Sehenaz Malek**, Arman Mahila Sangathan, Ahmedabad; **Mamata Das**, FFPW / POSCO Pratirodh Solidarity, Delhi; **Subrat Kumar Sahu**, POSCO Pratirodh Solidarity, Delhi; **Asit Das**, POSCO Pratirodh Solidarity, Delhi; **Bhanumati Gochhait**, POSCO Pratirodh Solidarity, Delhi; **Rita Kumari**, Pravasi Nagarik Manch, Delhi; **Ranjeet Thakur**, Journalist, Uttarakhand; **P.K. Sunderam**, Research Scholar, JNU; **Anivar Aravind**, Moving Republic, Bangalore. □

PUCL Rajasthan: 20.01.2012

PUCL Rajasthan Expresses Regret at the Cancellation of Salman Rushdie's Programme of Visiting the Jaipur Literary Festival

Some Muslim organizations had expressed their intention to organize violent protests in the event of Salman Rushdie's coming to Jaipur to participate in the Jaipur Literary Festival 2012. We in PUCL Rajasthan immediately articulated our opposition to such proposals and also contacted eminent citizens and had detailed discussions with them on this matter. These discussions were positive, and our point of view was understood by these eminent citizens and they voiced their disagreement with any plan to organize violent protests. However, while expressing their opposition to Salman Rushdie's planned visit to Jaipur, they (the eminent citizens) wanted the right to protest peacefully against Rushdie's presence in Jaipur also to be safeguarded. We feel that there need not be any opposition to such a demand, and discussions in this spirit were continuing to deliberate on what can be the legitimate and acceptable limits of

such protests.

While this process of discussion and deliberation was on, representatives of the government expressed an apprehension that the law and order situation could get gravely disturbed in the event of Salman Rushdie's visit, and therefore, the government is contemplating measures to prevent his presence in Jaipur. PUCL Rajasthan condemned this move on the government's part in the strongest of terms, and even organized a public demonstration expressing its point of view. There were extensive discussions following from this and many assurances to the effect that there would be no disturbance of peace and that all protests would be lawful were received. It appears that concerned government agencies at the state and the centre did not take kindly to this process. This is evident from the email sent out by Salman Rushdie earlier today in which he says that he is cancelling his visit to Jaipur

because sources within the government of Rajasthan have told him that they believe that extremist elements from outside the state of Rajasthan have made plans to assassinate him at the Festival. Salman Rushdie has himself expressed doubts on the veracity of this suggestion, but he has maintained, at the same time, that this is the reason for his decision to cancel his visit to Jaipur.

This course of events suggests that the government itself wanted these threats of violent protests to be made, so that if could then be seen to be intervening to cancel the programme of Rushdie's participation on the JLF, in order to earn the gratitude of sections of the Muslim community. No doubt there is an expectation on the part of the ruling party that this 'gratitude' will translate into 'electoral support' in the forthcoming election. In our perception, the truth is that there was no serious danger, and if there was,

we would like to know what the entire machinery of the police and security agencies is for, if not to prevent such threats from being actualized.

We would like to clarify here that our concern lies not so much in the hypothetical matter of Salman Rushdie's presence in Jaipur as an individual or in whether or not he participates at the Literature Festival per-se. Rather, our concern was with the more fundamental matter of the

violation of the basic human right to the freedom of expression. This is why we acted in this matter with urgency, and this is why we find it unfortunate that matters came to such a pass that Salman Rushdie had to cancel his visit to Jaipur and to the JLF.

We regret that the organizers of the Jaipur Literature Festival, and indeed Salman Rushdie himself, did not find it possible to meet our expectations

of a firm and committed stand against the violation of right to freedom of expression and allied assaults on the values of liberty. However, it is also true that in the course of campaign, we have found a great deal of general support for the right to freedom of expression.

Prem Krishna Sharma, President;
Ms. Kavita Srivastava, General Secretary, PUCL Rajasthan □

Drop False Charges against those Protesting against Vedanta's Land Acquisition in Orissa and release them

Amnesty International urges authorities in the eastern Indian state of Orissa to immediately release 47 villagers of Rengopalli who were arrested on 21 January for peacefully protesting the pollution of their ancestral land by Vedanta Aluminium's Lanjigarh bauxite refinery, and to drop the charges against them.

The villagers were trying to stop Vedanta from taking over one of the two access roads to their village. The road is the most direct route to the village, as well as to the Vedanta refinery's 60 hectare red mud pond, the second such repository for toxic waste from the refinery's operations. The first red mud pond, which had leaked twice during the monsoon season last year, is already full with toxic wastes. Research by Amnesty International has showed that the refinery and its red mud pond, which have been in operation for four years, do not meet national or international standards in relation to its environmental, social and human rights impact.

Amnesty International urges the state authorities to comply with their obligations under Indian and international law by immediately consulting with the affected

communities at Rengopalli about the potential impact of the red mud ponds.

Vedanta Aluminium is a fully owned subsidiary of UK-based Vedanta Resources. Residents of Rengopalli, one of the 12 villages surrounding the refinery, have been campaigning against the take over of their access road claiming the second red mud pond will further pollute their lands and water. They have also alleged that the local authorities had failed to duly consult with elected village councils in the area as required by law before deciding to take over the 0.5 hectare land on which the access road was located.

The arrested, including 38 Adivasis (Indigenous people) and 9 Dalits, face several charges including rioting and attempting to murder police officials who aided the company's security guards and contractors. Bulldozers and other heavy equipment were used to take over the land; five Adivasi women sustained injuries in the police baton-charge during the protests.

The residents informed Amnesty International that, earlier, a local court, before which the company had filed a petition seeking police protection to take over the land under

dispute, had sought further details on its status. But Rengopalli residents allege that the local authorities and the police swung into action, proclaimed prohibitory orders at the red mud pond site, charged 37 of the villagers with violating these orders and made them appear before the authorities on 20 January in an attempt to persuade them to renounce their resistance to the project.

Amnesty International believes that the local authorities, instead of protecting the rights of the Adivasis to their traditional lands and habitats as required by Indian and international law, acted in a manner which facilitated the takeover of their land for the company. Video footage of the confrontation shows local security forces cooperating closely with company officials and private security as they approached the peaceful protest.

After the Orissa High Court last week dismissed the Vedanta Aluminium's plea for a six-fold expansion of the refinery, Amnesty International reiterated its demand that the Indian authorities order its immediate clean-up, including of the first red mud pond which is full.

25 January 2012 □

PLEASE NOTE

In case of:

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

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

Please do not send **Postal Order**.

(3) Normally, send the Membership Form to the **State/local branch**.

- **General Secretary, PUCL**

UP PUCL:

A Concise Report on the Activities of the PUCL Bareilly district unit, U.P. from February 2011 to December 2011

The activities performed by the adhoc committee with J. A. Wajid, Vice President, State Unit, as the organizer:-

1. A seminar was organized on the subject "Corruption Price Rise and Curtailment of Human Rights" on 24-02-2011 in the auditorium of Islamia Girls Inter College, where in some local voluntary organizations also participated.
2. A team led by J. A. Wajid met the C.M.O. of Bareilly on 05-04-2011 to apprise him of the extra charging by the Hospital cycle stand owner.
3. Participation in a dharna from 5 PM. To 7 PM. At the Gandhi Statue organised by different organizations on 05-04-2011 to express solidarity with Anna Hazare's movement against corruption.
4. Participated in the formation of Human Chain on 08-04-2011 to highlight Anna Hazare's called.
5. The adhoc committee of PUCL organized a one day seminar on 10-04-2011 on the subject of the problem of corruption.
6. A public meeting was organised by the unit on 16-04-2011 to pay homage to the martyrs of Jalian Wala Bagh as also the subject of prevalent corruption was also discussed, the vindication by the Hon'ble Supreme Court of Dr. Binayak Sen, National Vice President, PUCL was also celebrated by distributing sweets. The meeting was also attended by other social organizations.
7. The adhoc committee also submitted a memorandum to the district administration on 18-04-2011 demanding an enquiry into the alleged corruption in the recruitment of Home Guards
8. A seminar was held on 29-05-2011 at the Islamia Girls Inter College on the subject "Aggression on the state on the life and property of its people". Mr Ajay Prakash, a journalist and moderator of the website JAN Jwar and Mr. Jagdish Chand, a journalist and convener of Revolutionary Democratic Front of India were the main speakers.
9. A formal unit of PUCL Bareilly district was formed through election on 17-07-2011 where in Mr. Chitranjan Singh; President State PUCL was the observer.
10. The following members were elected as the office bearers of PUCL Bareilly.
(i) **President:** Mr. Yash Pal; (ii) **Vice President:** Mr. T.D. Bhaskar; (iii) **General Secretary:** Dr. Yogendra Kumar; (iv) **Treasurer:** Mr. Neeraj Kumar; (v) **Members Executive Committee:** (a) Mrs. Kamla Malik, (b) Mr. J. A. Wajid, (c) Mr. Raghvendra Singh, (d) Mr. Intikhab Husain, and (e) Mr. Asim Khan.
11. A signature campaign was launched for the abolition of the sedition Act (Sec 124-A). A meeting was held at the Chanakya Tutorials on 31-07-2011 to explain to the members of PUCL the implications of the above said Act 124.A.
12. A meeting was held on 3-10-2011 to condemn the desecration of the Holy Books in Rudrapur of Uttarakhand. A memorandum was submitted to the Uttarakhand Government.
13. The "Sanjhi Virasat Yatra" from Avodhya to Hazrat Nizamuddin, New Delhi to promote communal harmony was accorded a warm reception on 14-10-2011 at the Rotary Bhawan.
14. Different teams were formed by the PUCL Bareilly to investigate into the three incidents of civil rights violation in Bareilly. The reports submitted by the teams are attached herewith.
15. Considering the inactivity and slackness among the members of the PUCL Bareilly it was resolved by the executive committee in its meeting on 15-12-2011 to dissolve the present executive Mr. T.D. Bhasker was asked to act as co-coordinator till the election of a new executive.

T.D. Bhaskar, Convenor, PUCL Bareilly □

Gujarat PUCL:

Human Rights, Law & Order Situation Worsens in Gujarat Gautam Thaker

Deteriorating public life, overall law and order situation and realistic / actual well being of common man in Gujarat clearly tells upon the lack of responsibility on the part of the ruling party. At some place, there is a problem of unemployment or of drinking water, or about security and

respect of the women or lack of security in day-to-day life. On one hand, farmers' land as precious as gold, is being forcibly acquired in the name of industrialization, and on the other hand, the Government is not bothered to revive the sick factories. On one hand, there is a talk of

strengthening of Gram Sabha and on the other hand, process of snatching away grazing land with the connivance of the State Government is continuing unabated by hook or crook. Prices of essential commodities are rising and ration shops are empty or out of stock and

all this is going on in the midst of clamor and glamour of golden and affluent Gujarat. In the State, attacks are waged on the education, right from primary to the higher studies, and instead of finding a solution; the Govt. has thrown open doors of commercialization. This is a stark reality of life of a common man of Gujarat during the year 2011.

Tall claims of development are made in Gujarat but the common man has remained where he was, or he is not getting full benefits of Central Government's schemes and hence this class has suffered a lot. There is no sanctity of any development until the benefits of livelihood and other development reach to the common man. With the affluence of the State, living standard of the poor should also improve, but this is visible nowhere.

In Gujarat, with the rise in the number of institutes and strength of students, a lot of problems in the educational front, in the nature of academic, scholastic, administrative, financial, human relations and law and order have arisen. Gujarat's academic world is distressed since a long time. It appears that the education system has become unsteady. Administration is taking temporary decisions, which does not help in resolving the problems. In the changed contexts, a situation has arisen where it is necessary to reorient the education policy, laws and rules. Center's pre-metric scholarship for minority has been implemented in all the States in the country, except in Gujarat. About 70,000 students of the minority community in Gujarat have been deprived of scholarships. Students have been waiting to get the same. Academic field is badly hit by the semester system. Students have remained perturbed in the controversies and conflicts arising out of difficulties such as hike in admission fees, mistakes in the process, in the smart cards, hike in examination fees, compulsory fees for degree certificate, city bus concession pass etc.

Narmada Project is a dream scheme of western India. But a lot of deficiencies and defects have recently come to light, in the planning and implementation due to

widespread breaches and cracks in the Narmada project. Full potential of the irrigation scheme of Narmada project was expected to be materialized by 2009 but the State could not achieve even 27 % of its potential capacity. To state in a nutshell, this is indeed a sad and sorrowful state.

In Gujarat, as on 31st March 2011, 4,55,885 applications for electrical connections for agricultural purpose were pending. Farmers' applications for electrical connections in 26 districts, numbering 3,48,997 in non-tribal area, 56,464 in tribal area and 49,424 in dark zone area are lying uncleared and we are boasting that more energy than what is required is being generated in Gujarat !!

Deteriorating condition of the law and order, lethargy on the part of the Gujarat Government to shoulder its constitutional responsibility and indirect encouragement provided by the State Government to the communal forces is a major issue facing Gujarat today. Attempts to crush and refute fundamental rights and civil liberty in the State are going on. Situation of law and order and human rights has become difficult and serious. Whenever any citizen or activist concerned about restoration of lawful administration raises his voice, then he is labelled as "anti-Gujarat" or "anti-development".

Such an atmosphere is created in the State that very few people dare to talk anything not in favour of the State and if one does so, then he has to pass through one or the other difficulty. In Gujarat, an R.T.I. activist is also not safe and the best examples of this are those of Amit Jethawa, Jabbardan Gadhavi, Nadim Saiyed etc. In fact, a kind of serious situation has been created about the rights and self-respect of workers, marginal farmers, advisasis, dalits, minority and the women and it has become a daily routine of this Govt. to turn down their reasonable demands and to strangle their rights. By one way or the other, fundamental rights of the citizens have been curtailed and globalisation and liberalisation have accentuated the situation further. Due to this, a regular sequel of public lands, lakes, rivers, forests and minerals going under the control of the MNCs has been set in motion. The time is ripe for the people

of Gujarat, those attempting to raise their voice, non-party activists and the concerned citizens to wake up. In the issues facing the displaced, economic front, environmental issues and the issues of education, health and administration, serious inefficiencies have become conspicuous.

Although, apparently there is no naxalite activity reported in the State, dozens of persons in our State have been sent behind the bars by pursuing Central Government's green hunt line. This is an attempt to entrust additional powers to the police and the administration by creating an atmosphere of scare or terror and to divert attention away from the actual problems.

Development vs. Human Rights

Some examples of this are really the eye-openers.

As per the Human Development Index published for the year 2011, in the matter of income, Gujarat ranks at No. 5, in the Human Development at No. 7, on the Education front at No. 9, on the Health front at No. 10 and in the starvation index it ranks at No. 13. The rate of urbanization in the State as per the statistical census is as high as 41 % whereas the per capita income of the State is half that of the urban income. Per capita debt in Gujarat is more than that in U.P. and Bihar. In the matter of expenditure on the social front, Gujarat trails at No. 19. 10 years ago, Gujarat's debt was Rs. 18,000 crores and today it has reached to Rs. 1.48 lac crores. The debt on Gujaratis, in spite of paying lots of taxes for the development of Gujarat, has risen to Rs. 24,000 per head.

In the year 2010, some 20,000 complaints were lodged with the Vigilance Commissioner for corruption and irregularities. In the 24 departments of the Govt., such as Revenue, Panchayat, Rural Development, Education, Home, Urban Development etc. and 34 boards / corporations, corruption has become rampant and widespread. An Inquiry Commission under Justice M. B. Shah has been instituted to enquire into the corruption cases in which many eye-opening facts will come to light and hence it will not be proper to write anything more in this matter at present.

As per the report submitted to the National Human Rights Commission in India, between 2001 and 2010 a total No. of 14,231 people, i.e., on an average 4 persons per day, died while in custody. Of these, 1,504 died in police custody, whereas 12,727 died in judicial custody. In the matter of deaths in police custody, Gujarat ranks at No. 3, when 134 persons died during the period of 2001-10 whereas 458 deaths occurred in judicial custody. In Gujarat, which is famous for prohibition, some 120 persons died in hooch tragedy during July 2010. The Home Minister of the State is in jail facing charges of fake encounter. Constant attacks are made on the R.T.I. activists. Some of them have even died. Perhaps it will be hard to believe that in the Govt. hospital in Gujarat, No. of beds is only 58 against 1 lac

patients. No beds are available for pregnant and newly born infants. From this, the fate of public health can be inferred if some epidemic breaks out. Moreover, as we all know, incidents of doctors' negligence have increased during the last two months. Everybody knows about the Gujarat Government's anti-minority mentality and hence it is needless to repeat that story.

Exploitation of workers for benefiting the industrial houses in Gujarat

Recently, the Chief Minister of Gujarat paid a visit to China and offered invitation to the industries there. The biggest attraction for setting up industries in Gujarat is that today nowhere, either in power looms or diamond markets of Surat or Ahmedabad, chemical units in

Ankaleshwar or Akik industry of Khambhat, the laws regarding workers' safety, working hours, wage rate etc. are in force. At many places, neither water nor elementary amenities of humanitarian nature are provided. Workers' disputes in the last five years have increased by 600 %. Labour courts are quite inactive. No new workers or employees are recruited. Gujarat ranks at No. 30 in the matter of wages paid to the private petty labour jobs. It has become the habit of the employers to exploit, not to pay full wages, not to sanction any leave, to extract work for 12 hours, misappropriation in accounts, to control the labour officers through corrupt practices and to indulge in hoarding for more profits.

This is the reality of the so-called Vibrant Gujarat. □

1.2 Million Children in Karnataka are malnourished: Civil Rights Groups Blame Packaged Food Supplied to Anganwadis

Sonal Matharu

Close on the heels of the damning hunger and malnutrition (HUNGaMA) report, which found 42 per cent children below age five across India underweight and 59 per cent children stunted, comes another report on the state of nutrition among children in Karnataka State.

Over 1.2 million children in the state in the age group of 0-6 years are malnourished and underweight, says a government report submitted to the Karnataka High Court on January 19. The report was filed in response to a public interest petition being heard by the court.

Civil society groups in Karnataka blame packaged food supplied to many anganwadis under the Integrated Child Development Services (ICDS) Scheme for the poor nutritional status of Karnataka's children. The Naandi Foundation which surveyed 112 rural districts to prepare the HUNGaMA report, incidentally, promotes packaged food like biscuits for children.

Since November 2010, NGOs in Karnataka have been campaigning for replacing packaged food given to pre-school children at anganwadi

centres across the state with locally prepared hot-cooked meals.

Packaged food makes children sick

Instead of using the community self-help groups for providing hot cooked meals at anganwadis, in May 2007 the government of Karnataka entered a contract with a Tamil Nadu-based private company, Christy Friedgram Industry for supplying packaged food. Since then, children attending anganwadis are being given packets of dry food mixture to which hot water is added before consumption.

NGOs working with anganwadis say children detest this food. At many of the anganwadis, children complained of stomach pain, diarrhoea, nausea, vomiting and headache after consuming the food. "People there are digging pits and throwing food into it because there was so much supply and the children would not eat it. The anganwadis cannot refuse to take the food from the suppliers," says Kavita Ratna, director of Concerned for Working Children, a non-profit organisation. She adds that mothers take their children home

before the anganwadis serve the meals because they are spending more money on the children's health later on.

NGOs associated with the Right to Food Campaign wrote letters to the Karnataka High Court in 2011, highlighting the state of malnourished children in the state and the court took notice of that and the petition was filed in the court on October 2011.

Malnourishment highest in Raichur district

While the court case continues, a report was filed on December 2011 in the Supreme Court by advocate Clifton D Rozario, advisor to Commissioners of the Supreme Court in the People's Union for Civil Liberties (PUCL) v Union of India case, after visiting Raichur district in October 2011. The district has the maximum number of malnourished children in the state. Most of the children suffering from severe malnutrition belong to the Scheduled Caste community of Madiga sub-caste and the incidence of malnourishment is even higher among the girls. □

News:

Aruna Roy Slams Govt. for Challenging HC Ruling on Minimum Wages

New Delhi: National Advisory Council (NAC) member Aruna Roy has slammed the government's decision to oppose pegging rural employment guarantee wages lower than minimum wages as "shocking and grossly insensitive".

In a letter to Prime Minister Manmohan Singh, Roy said the move is unmindful of the concerns of the country's poor.

Roy, a prominent member of the Sonia Gandhi-led Council and one of the brains behind the Act, has protested against the UPA's decision to challenge in the Supreme Court the Karnataka HC order that said that no MNREGA worker could be paid less than the minimum wage, and ordered that the workers be paid the state minimum wages. She urged

the PM to immediately withdraw the Special Leave Petition in the apex court.

The decision to challenge the HC order was taken after the rural development minister Jairam Ramesh sought to defend the decision, but was overruled.

"The GOI has in fact chosen to ignore the interim orders of both the High Courts, and been in contempt of the interim order of the AP High Court for over two years. It is an irony that the poorest and most disadvantaged workers in this country are not provided the most basic protection that must be provided to every worker in the country," Roy has written.

"I am deeply distressed, dismayed, and shocked ... This decision reflects

the gross insensitivity of the Central government towards the rights of the country's poor," she added.

Many have pointed out that enforcement of wage rates under the employment programme sets a benchmark for the labour market in hinterland, and prevents exploitative low rates.

Roy, too, backed the argument, saying, "When the GOI as an employer asserts that it is not obliged to pay minimum wages on government works, it loses its moral authority to enforce the minimum wages Act, and gives a message to all exploitative industry, big landlords, and private sector employers that minimum wages can be violated with impunity".

Jan 22, 2012. *(From the net)* □

J.P. Memorial Lecture-2011 organised by JP Foundation, JNU:

People's Participation and Human Development: Challenges of Reconstructing Indian Polity for a Better Tomorrow

Ravi Kiran Jain

(Continued from the previous issue.....)

It is crystal clear by this report that now it is under the World Bank's dictates that the issues of basic education, health, agriculture, industry, infrastructure, etc., are taken up. This report says that it was discussed with the Government of India on August 10, 1999. It runs into 260 pages and is very elaborate. It is not possible to believe that such a bulky document containing so many aspects could have been discussed only in a day. It is not mentioned in the so-called report as to who was representing the Government of India in this discussion. May be that it was only some bureaucrat. It is not merely a report, but a long-term agenda claiming to give guidelines for the governance of "We, the people of India", and guidelines as how to reduce our poverty, improve our

health, impart education to the poor, how to develop infrastructure. Now the "governance" is being done in accordance with the "guidelines" of the World Bank, and not on the Directive Principles, contained in Part IV, which according to the Constitution, are fundamental in 'governance' of the country. The striking characteristics of these "guidelines" is that issues that were hitherto in the domain of political system (either at the central or state level), including core governance, public sector management, transparency, accountability and so on moved to the domain of the World Bank agenda and thereby surrendering our political and economical sovereignty in the hands of the World Bank.

We often come across in news reports that some World Bank team is coming to meet the Chief Minister of some state or the other, and that

team would present "Development Challenges' faced by some state governments or the other so that they seek financial assistance (read, loan) from the World Bank in the areas of power, roads, water supply, sanitation, waste resource management, livelihood project and so on, and the assistance offered is of hundreds of millions in one go.

Soon after Dr. Manmohan Singh became the Prime Minister, the World Bank President, James D. Wolfenshon made a visit to India (Nov. 17-18, 2004) and had the audacity to claim that "When I think of India, I also see a very critical role for this country in a very much more immediate fight – the global fight against poverty. The simple fact is that the world cannot win this fight if India does not win it." He further observed, "that is not all, India's huge number of illiterate people, children out of school, people

suffering from communicable diseases, infant and maternal deaths, all amount to massive proportions of the problems, its antiquated infrastructure, the lack of livelihood opportunities in rural areas, improving health and education outcomes, and ensuring public services, like electricity, water, sanitation and others are efficiently delivered, especially to poor people.”

Now with a nexus between the political leadership and the bureaucracy in the country, the World Bank-IMF-WTO are killing the livelihood and traditional methods of production and cottage industry as well as environment itself. This process is creating unemployment, recession, scarcity of raw materials and haphazard industrial growth, which is making the country economically bankrupt. It is bringing new opportunities to expand the market and expand the technology “through management expertise from above” which is bringing undesired results and also making skilled and unskilled workers jobless.

All this is also giving rise to a nexus between criminals, unscrupulous politicians and bureaucrats. With bureaucrats implementing the development plans suggested by the World Bank and corruption eating away a big part of development funds, thousands of crores of rupees have gone to private hands. While corruption and criminalization sapped the soul out of the ideal of people-oriented democratic governance, centralization of political authority lead to an unaccountable bureaucratization of governance. The result is that the common man is wholly marginalized.

Prime Minister Narasimha Rao announces “Members of Parliament Local Area Development Scheme” and Corruption institutionalized

Constitution 73rd Amendment Act came into force on 24.4.1993 and the 74th Amendment Act on 1.6.1993. In the same year the then Prime Minister P.V. Narsimha Rao announced a scheme on December 23rd, 1993, which is known as

Members of Parliament Local Area Development Scheme (M.P.L.A.D.S.). The scheme enables MP’s to identify works based on “locally felt needs in their constituencies”. For this task the M.P’s can suggest to District Collectors to allocate funds to the tune of Rs. 2 crores per year (initial amount of Rs. 5 lacs was raised to Rs. 1 crore in 1994 and to Rs. 2 crores in December, 1998) for various projects. The introduction of this scheme has exposed the M.Ps to various temptations. It has the potentialities to breed corruption and make it institutionalized. It has created a vested interest in the political class to undermine the constitutional scheme contained in Part-IX and IX-A. The proposal of the then Prime Minister P.V. Narsimha Rao came wrapped in troubles with Somnath Chatterjee, the then leader of the C.P.M. in the Lok Sabha, rejecting it out-rightly saying, “In principle we do not accept the proposal. We have the District Planning Commission in which M.P.s, M.L.A.s and panchayats are represented. The planning and priorities are decided there. This (the proposal) will only mean disturbing the priority which is decided by the District Planning Board.”

Besides encouraging the Institution of Corruption in allocating an amount of Rs. 2 Crores each at a flat rate to every Member of Parliament whether he is elected from a posh urban area or a backward rural area, it causes a lot of confusion in the minds of the people about their role in the development through the Local Self Government. In fact this amount should be sent by Union of India straight to the Panchayats without any bureaucratic interference. The budget allocations to the Ministry of Rural Development are next only to those made to Defence. The ministry implements program annually for poverty alleviation and development of infrastructure, habitats and land resources in the rural areas to the tune of more than Rs.20, 000 crores.

Rise of Political Corruption

In order to appreciate the rise of political corruption in independent

India, the period may be divided into three parts:

(1) From 1947 to 1971, a period of balanced Constitutional Governance, (2) From 1971 to 1991, a period of centralisation of power within the executive branch in New Delhi, and (3) From 1991 to 2011, a period of liberalisation and globalisation during which political corruption rose sky high along with criminalisation of politics.

First period of balanced Constitutional Governance, from 1947 to 1971

Corruption started in India immediately after independence. The first scandal was the Jeep scandal in 1948, when a transaction concerning purchase of jeeps for the army needed for Kashmir operation was entered into by V.K. Krishna Menon, the then High Commissioner for India in London with a foreign firm without observing normal procedure. The then Government, after a nationwide debate for a few years, announced on September 30, 1955 “that as far as the Government was concerned it had made up its mind to close the matter. If the opposition was not satisfied they could make it an election issue.” Soon after on February 3, 1956 Krishna Menon was inducted into the Nehru cabinet as minister without portfolio.

After this scandal corruption charges in cases like Mudgal case (1951), Mundra deals (1957-58), Malaviya-Sirajuddin scandal (1963), Biju Patnaik case (1963) and Pratap Singh Kairon case (1963) were levelled against the Congress ministers and Chief Ministers during the primeministership of Nehru.

The case of H.G. Mudgal, the Congress MP who was forced to resign from the Provisional Parliament on September 24, 1951 for tabling questions for a remuneration obtained from an association of business persons was the first “cash for questions” scam in the parliamentary history of India. Mudgal was almost expelled from Parliament after he was found guilty by a Parliament Committee chaired by T.T. Krishnamachari. The committee was constituted on June

8, 1951 following a motion adopted by Parliament after a debate in which Mudgal had participated. Mudgal resigned prior to the voting on the motion seeking his removal from the House, but the House resolved that he deserved expulsion and that the terms of his resignation constituted contempt of the House, aggravating his offence.

The Mundhra scandal and the enquiry that followed shook the Nehru ministry. It was a sensational event which remained at the center of the political stage between December 1957 and February 1958 and it led to the resignation of the Finance Minister, T.T. Krishnamachary. On 16th Dec. 1957, Feroze Gandhi, a leading Member of Parliament made a powerful attack on the manner in which the funds of the L.I.C. had been dealt with in the matter of investments in Mundhra Shares of the value of Rs.1, 26, 86,100. Feroze Gandhi represented the Rai Bareilly seat in Parliament. Jawahar Lal Nehru was the Prime Minister at the time and Feroze was married to his daughter Indira Gandhi. Feroze Gandhi was the primary force behind the anti-corruption movement that in 1956 resulted in imprisonment of one of India's wealthiest men Ram Krishan Dalmia for defrauding his life insurance company. Subsequently, the Parliament passed the Life Insurance Corporation Act on June 1956 under which 245 firms were nationalised and consolidated under the Life Insurance Corporation. Hence he looked upon the LIC as a 'Child of Parliament'. He would have no soft paddling on the matter, and took the case directly to Parliament. Standing from the treasury benches

on the floor of the Parliament he asked the government whether the newly formed L.I.C. had used the premium of 5,5 million life insurance policy holders to buy up shares at above market prices controlled by notorious stock speculator named Hari Das Mundhra.

Malviya Sirajuddin Scam

The Minister of Mines and Fuel K.D. Malviya in Nehru's Cabinet was charged for his dubious involvement in 1956 in Sirajuddin Oil Scam of 1956.

Chief minister Pratap Singh Kairon and his family members were accused of corruption. A judicial inquiry into the charges against Kairon was held after an indictment was handed out by the Supreme Court in a case filed by a Punjab Civil Surgeon. It was the first judicial inquiry into charges of corruption, set up against a Chief Minister, in office, by the Government of India during Nehru's period. During this period Chief Minister Biju Patnaik was indicted for awarding govt. contracts to his privately held companies.

Nehru died in May 1964. For a brief period of about 19 months Lal Bahadur Shastri became the Prime Minister. During this period Punjab and Orissa Congress Chief Ministers Pratap Singh Kairon and Biju Patnaik were forced to resign.

While Nehru's tolerance of corruption among his ministers legitimized this malady, his daughter Indira Gandhi, after the 1971 elections institutionalized it by holding both the posts of the Prime Minister and the party president. By doing so she was herself controlling the party funds, which gave birth to the money power in politics.

Second period of centralization of power within the executive in New Delhi

Nagarwala financial scam of 1971

- Capt Nagarwala, a close confidant of Indira Gandhi, the then Prime Minister, withdrew lakhs of rupees from the secret chests of the State Bank of India, Parliament Street, New Delhi, the account being numberless. The Chief Cashier of the branch Mr. Malhotra readily gave the cash to Nagarwala allegedly on instructions of Indira Ji. The story thus goes that he imitated the voice of the PM to tell Malhotra to pay Nagarwala Rs. 9 lakhs. Soon there was a hot chase and Nagarwala was nabbed, cash recovered and 'restored' to the rightful owner. In the process Malhotra was fired from Bank service for gross violation of 'rules'.

Indira Gandhi's name came up in the first Maruti scandal, where her son Sanjay Gandhi was favoured with a licence to make passenger cars. Prime Minister Indira Gandhi's Cabinet proposed the production of a "People's car"—an efficient indigenous automobile that the middle-class Indians could afford. While Sanjay had no experience, design proposals or tie-ins with any corporation, he was awarded the contract and the exclusive production license. The Maruti Udyog, today India's premier automobile manufacturing corporation, was founded by Sanjay Gandhi, but the company did not produce any vehicles during his lifetime. A test model put out as a showpiece of progress was

Organisational Queries

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the **Life** members and **Patron** members as compared to **Annual** members. The three types of membership, *i.e.*, **Yearly**, **Life**, and **Patron**, do not represent a hierarchy of membership. All members are equal. Life membership and Patron membership simply afford an opportunity to those who desire to contribute some extra money to the PUCL to strengthen its financial position. No membership carries any privilege. All members shoulder the burden of fulfilling the aims and objects of the PUCL. The PUCL does not issue any identity cards to its members as they are not supposed to take initiative independently.

Pushkar Raj, General Secretary □

criticized. Public perception turned against Sanjay Gandhi, and many began to speculate of growing corruption. Although he had not been elected and held no office, Sanjay began exercising his new-found influence with Cabinet ministers, high-level government officers and police officers. While many Cabinet ministers and officials resigned in protest, Sanjay reportedly appointed their successors.

In one famous example, Inder Kumar Gujral, the future Prime Minister, resigned from the Ministry of Information and Broadcasting when Sanjay attempted to direct the affairs of his ministry and give him orders. Gujral is reported to have angrily rebuked Sanjay and refused to take orders from an unelected person. He was replaced by Vidya Charan Shukla, a Sanjay Gandhi acolyte. In another incident, after popular Bollywood singer Kishore Kumar refused to attend a function of the Indian Youth Congress, due to disagreements over his fees, his songs were banned on the All India Radio upon Gandhi's insistence. The criticism that followed this decision was mostly directed at Indira, but the 1971 Bangladesh Liberation War and the victory over Pakistan drowned out the issue.

Kuo Oil deal scam, 1976

The Indian Oil Corporation signed a Rs 2.2-crore oil contract with a non-existent firm in Hong Kong and a kickback was given. The petroleum and chemicals minister was directed to make the purchase.

1980s brought a spate of cases; the major ones were: Antulay Trust scandal (1981), Lakhubhai Pathak cheating scandal (1983) Bofors Pay-Off (1986), HDW Commissions (1987), and St Kitts Forgery (1989).

Third period from 1991 to 2011, a period of liberalisation and globalisation during which political corruption rose sky high along with criminalisation of politics

The situation as it emerged in 1991 on Narasimha Rao becoming the Prime Minister has very aptly been described by Justice V.R. Krishna lyer in an article '*Decadance of Our*

Democracy (With None to Protest)' wherein he says:

"From Nehru to Narasimha Rao is a saga of dubious advance, ideological imbroglios, vicissitudinous reversal of our Constitutional value inscribed in the Preamble and mendicant invitation, with xenophilic inclination, to Big Business to recolonise the country in the guise of double-speak globalisation, liberalisation, privatisation.Narsimha Congress reversed the country's fundamental policy and installed the Fund-Bank controllerate. Corruption for purchase of parliamentarians is pending against the Prime Minister. Babri Masjid was demolished and the 'Secular' and the power did what? Sonia Congress has the misfortune of the Bofors cases and the purpose of State Power may be obliteration of the litigation. Those who sing the Sonia Congress song are helping the MNC cause and Bofors cover-up game. Is the Left covertly abetting this game-plan? Anti-socialism and MNC access, with no holds barred, is the quintessence of the Sonia Congress philosophy. Who participated in the shila-nyas of the BJP? Rajiv. Who placated Muslim fundamentalists by legislative reversal of *Shah Bano* case *vis-à-vis* Muslim Women? Rajiv. Many more communal skeletons and pro-GATT disaster are recent history."

Things became very different in this period of globalisation, liberalisation, and privatisation in which Solanki Exposé (1992); Securities Scam (1992); Indian Bank Rip-off (1992); Hawala scandal (1993), Sugar Import (1994); JMM Bribes (1995); Lakhubhai Pathak Paper Pulp Contract Bribery (1996); Telcom Scam (1996); Urea Deal (1996); and Coffingate (1999) scams took place. The Fodder Scam was a corruption scandal which broke open only in 1996, although the theft had been in progress and increasing in size for over two decades. Besides its magnitude and duration for which it was said to have existed, the scam was covered in the Indian media due to the extensive nexus between tenured bureaucrats, elected politicians and business people that

it revealed and is an example of the mafia-raj that had penetrated several state-run economic sectors in the country.

N.N. Vohra, Union Home Secretary in his report (1995) on the issue of criminalisation of politics has observed: "A network of mafias is virtually running a parallel Government pushing the state apparatus into irrelevance." Quoting some 'DIB' sources, he added, ".... there has been a rapid spread and growth of criminal gangs, armed senas, drug mafias, smuggling gangs and economic lobbies in the country, which have over the years developed an intensive network of contacts with bureaucrats, government functionaries at local level, politicians, media persons and strategically located individuals in non-state sector. Some of these syndicates have also international linkages including the foreign agencies."

The notable cases during the first decade of the new millennium included: Tehelka Sting (2001); Stock Market Scam (2001); Home Trade Scam (2002); Stamp Paper Scam (2003); Oil-for-Food Scandal (2005); Cash for Query (2005); MPLADS Scam (2005) Human Trafficking Forged Passport Scam (2007); Cash for Votes Scam (2008) and Satyam Computers (2008). Now the recent political scams in which the Cabinet Ministers of the central govt. and some of the Chief Ministers have been found to have misappropriated thousands of crores of rupees have created resentment in the public mind.

Now what?

Anna Hazare along with his team has suggested enactment of Jan Lokpal Bill to remove corruption, which got a spontaneous support of the people.

Those who express too much resentment against corruption and consider 'corruption' to be the central issue, ignore the "Real Issues of Governance"; as if corruption can be removed in this centralized system where bureaucrats have vast powers, and as if by the removal of corruption all the problems of the

people will be solved. Corruption is the use of one's position for illegitimate private gains. It is a serious problem, not easy to combat so long as this system is not changed by participatory democracy. In our country, as shown above, corruption started soon after independence and was found even during the time of Nehru. But after Indira Gandhi advanced the Parliamentary Elections in 1971, which otherwise were due in 1972, and dumped money in favour of her party candidates and thereafter securing thumping majority made the executive branch of the govt. supreme, and corruption increased in leaps and bounds. Then, after the 1991 'reforms', the rules and lines of authority became unclear. There were made fewer constraints by legal principles. Openness in the conduct of public business can help minimize corruption. This requires other things, open tendering of contracts and keeping registers of business officials. Together with an educated electorate and a free press, this approach can remove the easier opportunities and raise the deterrent of detection. But the most unfortunate part, so far as our country is concerned, the two factors: "educated electorate" and "a free press" are ineffective to work as a deterrent. The reason is that there is a law of diminishing marginal interest operating in India. There was a time when exposures of even minor cases of corruption used to be the topics of debate in Parliament, the media and other public forums. V.P. Singh became the Prime Minister by making corruption an issue. But after 1991, issues like corruption and misconduct of politicians and public servants largely went out of public debates. In the 1950s and through the 1960s and right upto the 1980s society and the media were perhaps more alert to public misconduct, judging from the coverage that cases like Kairon, Nagarwala and Bofors scandals received. But now, of late, the role of the media in systemic corruption cannot be undermined as it shows its involvement through paid news

and sometimes unethical support to the corrupt.

The stage came when there was a corresponding change in the attitude of the corrupt or those facing charges of corruption. It was embarrassment, defensiveness or even a readiness to quit office when faced with charges of corruption or misconduct up to 1988-89 when V.P. Singh raised the issue, but there came a brazen nonchalance and some times even aggressiveness with a "so-what"? posture after that. This perceived change in the attitude of corruption almost coincides with the country's period of economic liberalisation.

It appears that there was apathy for sometime because corruption became a normal fact of public life and there was a feeling that an exposure did not help improve the situation at all. But then this apathy turned into a suppressed anger, which ultimately erupted with the fast of Anna Hazare and his demand for an enactment of Jan Lokpal bill to punish the corrupt.

If those who are in power are corrupt, the governance at their hands will be chaotic. Corruption in govt. increases poverty in many ways. Most directly, it diverts resources to the rich people, who can afford to pay bribes, and away from the poor people, who cannot. Corruption also weakens the govt. and lessens their ability to fight poverty. It reduces tax revenues, and thus resources available for public services. And if administrations are assumed to be corrupt, honest people tend to avoid public service, so the quality of personnel suffers. More generally, corruption eats away the fabric of public life leading to increase in lawlessness and undermining social and political stability.

In a centralized system of governance with a strong bureaucracy where discretionary powers are given to the authorities concerned some corruption is unavoidable but the corruption of the magnitude which is prevailing in our country is on account of the institutional decay, the process of which started in 1971. There were scams even during the Prime-

Ministership of Nehru. But then after 1971 it has not only been institutionalized but also the whole political structure has been hijacked by the process of criminalization of politics, giving rise to mafia-raj. Things have reached to such a pass that on the floor of the House, the Prime Minister Dr. Manmohan Singh expressed that it was the coalition compulsion on account of which he was not able to take an effective step to stop the activities of his Cabinet colleague Raja, who was involved in the 2G Spectrum Scam. It means that in order to keep him in majority a Prime Minister may ignore his unconstitutional act of his Cabinet colleague. There was a lot of hue and cry in the Parliament on this issue. But Dr. Manmohan Singh continues to be the Prime Minister of a coalition Govt. and he has set a wrong parliamentary practice by not resigning although owning collective responsibility of the Cabinet in the Parliamentary democracy. It was in this backdrop that Anna Hazare's fast drew the attention of the people of this country. Till now the demand of Anna Hazare is confined only to enactment of his Jan Lokpal Bill. In order to understand the root cause of corruption in our country we have to take stock of events starting from 1971, when Indira Gandhi started the process of weakening the institutions, and going up to 2011 when the present Prime Minister on the floor of the house shamelessly expressed his inability to check the activities of his cabinet colleague A. Raja. If we look around, we see that people are helplessly dependent almost entirely on the present political leaders in our parliamentary system knowing fully well that these political leaders are, to say the least, ignoble. Therefore, today there is a dire need to create a new generation of leadership through a plurality of truly democratic structure. The fight against corruption can be fought by a people's movement to have good governance based on the fundamental principles contained in Part IV of the Constitution. It is now clear as daylight that the centralized system of governance has failed to

govern on those principles.

The word 'governance' appears only in Part IV of our Constitution, which relates to Directive Principles of State Policy, wherein it is provided that the principles contained in that part are "**fundamental in the governance of the country.**" Part III and Part IV of the Constitution provide for Fundamental Rights and Directive Principles of State Policy respectively. The Fundamental Rights contained in Part III were said to be enforceable through the Courts. The Directive Principles of State Policy were not enforceable through the courts 'but the principles therein laid down were nevertheless **fundamental** in the governance of the country and it is the duty of the State to apply these principles in making laws.' Article 38 (1) of the Constitution provides: "The State shall strive to promote the welfare of the people by securing and protecting as effective as it may a social order in which **Justice, social, economic and political** shall inform all the institutions of the national life". Article 38 (2) provides: 'The State shall, in particular, strive to minimize the **inequalities in income**, and endeavour to **eliminate inequalities in status, facilities and opportunities**, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.' Article 39 provides: 'The State shall, in particular, direct its policy towards securing - (a) that the citizens, men and women, equally, have the right to an **adequate means of livelihood**; (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good; (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment; (d) that there is equal pay for equal work; (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and

(f) the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected.' Article 45 mandated the State to provide within a period of 10 years every child free and compulsory education till they completed the age of fourteen years. It means that by 25th January 1960 every child below the age of fourteen years in this country was supposed to be given free and compulsory education. There was a time-bound scheme of development with social justice in these directives at least regarding the first '**task of the Assembly**'. For about 61 long years, the governments of this country – Central as well as States – have been negligent and have been putting aside the Directive Principles of State Policy which has resulted in great economic and social disparity and deprivation of the basic rights like education, health, right to work etc. The so-called development, which has taken place in our country till now through the centralized system of governance, is only bringing disaster. Forest conservation, keeping rivers free from pollution, having pure air, pure water, providing primary education and other necessities of life to the people of India will remain impossible in the foreseeable future if this centralized system of governance continues and is not replaced by the Decentralized System of Governance of the people, by the people and for the people as envisaged in Part IX and IX-A of the Constitution of India. If this is not done, depletion of natural resources will eventually create a total chaos in the society. Now parts IX and IXA of the Constitution have brought, through Article 243 to 243 ZG, the Panchayats, Zilla Parishads and Municipalities as constitutional instrumentalities to elongate the socio-economic and political democracy under the rule of law. Articles 243G and 243W enjoin **preparation of plans for economic development and social justice.** The State, i.e., the Union of India,

the State Governments and the local bodies constitute an integral executive to implement the directive principles contained in Part IV through planned development under the rule of law.

Now the Constitution decentralizes the governance of the States by a four tier administration i.e. Central Government, State Government, Union territories, Municipalities and Panchayats. See Constitution for Municipalities and Panchayats: Part IX (Panchayats) and Part IX-A (Municipalities) introduced through the Constitution 73rd Amendment Act, making the people's participation in the democratic process from grass-root level a reality. Participation means that people are closely involved in the economic, social, cultural and political processes that affect their lives. People may, in some cases, have complete and direct control over these processes - in other cases, the control may be partial or indirect. The important thing is that people have constant access to decision-making and power. Participation in this sense is an essential element of human development. Participation of the people in governance of the State is *sine qua non* of functional democracy which implies people's participation not only in decision making about preparation of plans for economic development and social justice but also in execution of such plans. What should be the model of development can now be decided by the people themselves.

It may be noticed here that after the 73rd and 74th Constitution Amendment Acts Part IX and Part IX-A have been inserted after 43 years of the working of the Constitution. These parts relate to **The Panchayats and The Municipalities** respectively. It may further be noticed here that under Part XIV Chapter 1 the Services under the **Union** and the **States** and the posts in connection with the affairs of the **Union** or of any **State**, cannot be construed to mean that the Services are for the affairs of the **Panchayats** and the **Municipalities**.

Therefore, the bureaucratic structure which has been recognized under Part XIV Chapter 1 has no relation with the affairs of the Panchayats and the Municipalities. It is only for the centralized system of governance which is envisaged under the Constitution before the 73rd and 74th Constitution Amendment Acts that the services were recognized. The decentralized governance does not envisage a bureaucratic interference.

Disadvantaged sections of the people in our country have been living in rural as well as urban areas. In the past, it was always believed that urban areas would develop automatically whereas concerted efforts will have to be made to plan the development of rural areas.

Now these two Constitutional amendments show that the path to the city runs through villages. It is just not possible to create healthy cities surrounded by sick villages. If we have a look at the items in the 11th and 12th Schedules, we would find that health, culture, education, poverty alleviation programme, public distribution system, small-scale industries, rural housing, and things like that have become subject-matter of decentralized planning by people's participation without any bureaucratic interference for development of rural areas as well as urban areas.

Now under part IX of the Constitution Panchayats "shall be constituted in every state" at the village, intermediate and district levels in rural areas, and under part IX-A, Municipalities "shall be constituted for (a) transitional areas, i.e. to say an area in transition from rural area to an urban area; (b) for small urban areas, and for larger urban areas, to be known as Nagar Panchayat, Municipal Council and Municipal Corporation respectively, for urban areas. Kindly see Article 243-B and 243-Q of the Constitution. Now these panchayats for rural areas and Municipalities for urban areas are the creation of the Constitution and not a creation of an ordinary Statute. These institutions are Constitutional functionaries. These institutions can

be used to realize the rights contained in the Directive Principles of State Policy, which is evident by the perusal of the relevant provisions of the Constitution. Article 243-G gives power to the Panchayats in rural areas and Article 243-W gives power to the Municipalities in urban areas "to function as institution of Local Self Government" having powers with regard to **"the preparations of plans for economic development and social justice"** as well as the implementations of the schemes for the economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule (for rural areas) and the Twelfth Schedule of the Constitution (for urban areas).

The Eleventh and Twelfth Schedules of the Constitution of India are reproduced below:

Eleventh Schedule

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.
21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centers and dispensaries.
24. Family welfare.
25. Woman and child development.
26. Social welfare, including welfare of the handicapped and mentally

retarded. 27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes. 28. Public distribution system. 29. Maintenance of community assets.

Twelfth Schedule

1. Urban planning including town planning.
2. Regulation of land-use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and up-gradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds; and electric crematorium.
15. Cattle pounds, prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughter houses and tanneries.

We have to appreciate how wide are the powers of these institutions, which include a power of **"preparing plans for economic development and social justice"** and the execution of such plans. The development activity has been brought at the grass-root level available at the doorstep of "We the people of India" who will involve themselves in **economic development and social justice**, which means human development on the Fundamental Principles of governance, contained in Part IV. In the lists contained in the Eleventh and Twelfth Schedules of the Constitution there is hardly any item, which might be required for the

exercise of the collective Right to Human Development.

In Air India Statutory Corporation Vs. United Labour Union, 1997 S.C.645 (at 666), the Supreme Court says, "The Directive Principles in our Constitution are fore-runners of the U.N.O. Convention on Right to Development as inalienable human right and every person and all people are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all human rights, fundamental freedoms would be fully realized. It is the responsibility of the State as well as the individuals, singly and collectively, for the development taking into account the need fuller responsibility for the human rights, fundamental freedoms as well as the duties to the community which alone can ensure free and complete fulfillment of the human being. They promote and protect an appropriate social and economic order in democracy for development. The State should provide facilities and opportunities to ensure development and to eliminate all obstacles to development by appropriate economic and social reforms so as to eradicate all social injustice. These principles are imbedded, as stated earlier, as integral part of our Constitution in the Directive Principles. Therefore, the Directive Principles now stand elevated to inalienable fundamental human rights. Even they are justiciable by themselves."

The Right to Development encompasses within its ambit all human rights and fundamental freedoms, including the right of self-determination. The Right of Development is of multi-dimensional character incorporating all civil, political, economic, social and cultural rights necessary for the holistic development of the individual and the protection of his dignity. Democracy implies people's participation not only in decision-

making about preparation of plans for economic development and social justice but also in execution of such plans.

Chapter-II of Human Development Report (HDR), 1993 deals with "People's participation" wherein the report speaks: "Participation means that people are closely involved in the economic, social, cultural and political processes that affect their lives. People may, in some cases, have complete and direct control over these processes, in other cases, the control may be partial or indirect. The important thing is that people have constant access to decision-making and power. Participation in this sense is an essential element of **human development.**"

Similarly, in the Human development Report, 2003 Chapter "Mobilizing grassroots support for the Goals", the following observations have been made:

"The Millennium Development Goals are national political commitments with the potential to provide ordinary people with a powerful tool for holding their leaders accountable for results. The Goals are exciting because they articulate the dreams of ordinary people: to have a school nearby with teachers who show up for work and with books and pens for students. To have at least a hand pump that provides safe water and that women and children can walk to easily. To have a local health clinic supplied with drugs and staffed by a doctor and nurse... It is widely believed that decentralization increases popular participation in decision-making because it brings government closer to people — making it more accessible and more knowledgeable about local conditions and so more responsive to people's demands. But does evidence support this idea? More important, does decentralizing authority and resources help advance the pro-poor agenda?" (*To be continued in the next issue*)

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