

Inside :

EDITORIAL:

Letter to the PUCL Members – Prabhakar Sinha (1)

ARTICLES, REPORTS & DOCUMENTS :

Report on All India Convention against Sedition and Other Repressive Laws (4); Repeal the Law of Sedition - Rajindar Sachar (12); The End of the Nuclear Illusion - Praful Bidwai (14); Gujarat PUCL: Public Convention of PUCL in Rajkot (18); J.P. Memorial Lecture-2011 - Ravi Kiran Jain (19).

PRESS STATEMENTS, LETTERS AND NEWS : Press Statement: On Abduction of Sukma Collector (13); Press release: Anti-democratic Conduct of West Bengal Government (14); Press Statement: PUCL West Bengal condemns undemocratic move of State Govt. (14); Press Statement: In Solidarity with Anti-NKPP Struggle (16); PUCL TN & Puducherry: Condemning unprovoked arrests of Anti-KKNPP Activists (16); PUCL Gujarat: Open Letter to the Prime Minister reg. Kundankulam Nuclear Plant (17); Press release: Sri Ravi Shankar's views about government-run schools (19).

Annual Subscription : PUCL BULLETIN

w.e.f. March 1, 2010	INDIA
PUCL Members	Rs. 100
Non-Members	Rs. 120
Libraries-Institutions	Rs. 150
	OVERSEAS
PUCL Members	US \$50
Non-Members	US \$100
Libraries, Institutions	US \$120

PUCL MEMBERSHIP

	INDIA
Patron	Rs. 2000
Life	Rs. 1000
Annual	Rs. 50
	FOREIGN
Annual	Indian Rs equivalent of US \$15

President's Letter to the PUCL Members

An Appeal to the Esteemed Members

Dear colleague,

PUCL is probably the only human rights organization in the country of its kind, but it can achieve its objective only with your active involvement. It is true that everyone cannot be involved in its day to day working, but a far more important and constructive involvement is not only possible but is urgently needed. To be vigilant and to critically examine whether the organization at different levels follows the letter and spirit of its constitution or not, and to strive for course correction, if any deviation is noticed, can be your most valuable contribution.

It is also your duty. So far we have not been able to involve you and seek your cooperation, but it is never too late to do what is right.

What makes PUCL unique, the only organization of its kind, is its criteria for membership. As a general rule, organizations enroll only like-minded persons as their members. It is quite logical and there is nothing wrong in it. However, the extraordinary context in which PUCL was formed and the extraordinary experience it went through resulted in the formation of this extraordinary organization in its present form (1980; with the present constitution. PUCLDR (People's Union for Civil Liberties and Democratic Rights; was formed during the emergency (1976; when Indira Gandhi had imposed her authoritarian rule by declaring internal emergency and destroying democracy. The victims of the emergency were not only her political opponents but millions of innocent citizens. In anger and desperation, many political leaders felt that it was justified to use violence to fight a dictator. Some effort was made in this direction, which is known as Baroda Dynamite case. *However, those who founded PUCL (then named People's Union for Civil Liberties and Democratic Rights or PUCLDR; believed that permanent democracy could be restored only with the support of the millions of common man using only peaceful means.* This belief further deepened when at 1977 election, the common man who had been trampled under the authoritarian boot of Indira Gandhi threw her out of power. The impact of this experience can be seen in some of the salient features of our constitution the most important of them being its aim to bring together 'all those who are committed to the defence and promotion of civil liberties in India' regardless of their political belief and membership of political parties. An organization consisting of members having not only different but also antagonistic ideological commitment is both novel and unique. But it was envisaged that just as the people fought together against dictatorship regardless of their political differences, the members of the PUCL would honestly and sincerely fight together for achieving the Aims & Objects of the organization (section 2; The second important feature is

its commitment to 'uphold and promote **'democratic way of life ' 'by peaceful means [section 2(a)]**. Another very important and basic feature of the constitution is complete negation of **authoritarianism and the High Command Syndrome in its functioning**.

As regards its objective, the aim of PUCL is to protect the life, liberties of all rather than only the victims of special laws. *The life and liberties of all can be protected only by ensuring the rule of law*. It is only by securing the rule of law that the rights and dignity of the common man, which are daily trampled under the boot of not only the police but the pettiest of public servant, can be protected. **So, our Aims and Objects include securing the rule of law**. Having been victims or witness to the repression under draconian laws, the framers of our constitution have also vowed to work for repeal of repressive laws, end police excesses and use of third degree method, prison reform, reform of judicial system, independence of the judiciary, freedom of the press and independence of the mass media. Its aims and object also include opposing communalism, casteism and similar social evils. It has been specifically mentioned that the organization will work to defend the civil liberties of the weaker section of the society, women and children. To encourage freedom of thought and defend the right of public dissent is one of most important objectives of the organisation.

A look at the Aims and Objects of our constitution makes it clear that we have to fight for the rights of *all the people* of the country and to achieve this end we have to work for creating the condition necessary for protecting their rights. It is with this in view that our Aims and Objects are so inclusive and also so specific. A very special feature of the constitution is its brevity (shortness). Only the criteria for membership and the Aims and Objects have been

dealt with in detail. Very little has been said about the power and function of the office bearers. *It has been assumed that those who join PUCL would be selfless persons committed to the spirit of its constitution and the great cause it aims to serve* and would act in conformity with the spirit of the organization where no provision has been made in the constitution.

The letter vs the spirit of a constitution: The constitution of India is probably the lengthiest in the world with almost 400 article dealing with even the service condition of public servants, which should have been the subject matter of ordinary statutes; but despite the effort to take care of all problems, all of our institutions are in a shambles. Who is responsible for this degeneration? On the occasion of the 50th anniversary of our Republic, Prime Minister A.B. Bajpayee blamed the constitution for many problems and said that 'the Constitution has failed us'. President K.R. Narayanan countered by saying that 'it is not the Constitution which has failed us, but it is we who have failed the Constitution.' He was absolutely right.

The constitution of PUCL is so short and silent on the functioning of the organization that any deviation from its spirit is bound to destroy it. For example, there is no Article dealing with the power and function of the office bearers.

It does not even say that the President will preside over the meetings or that the General Secretary will convene meetings. However, the General Secretary has been entrusted with the responsibility of day-to-day work of the organization. Since the people like V.M. Tarkunde, H.M. Seervai and Annada Shankar Ray were envisaged to head the organization, the President was not saddled with the burden of the day to day working, which was left to be done by the General Secretary with the advice of the President. Since everybody acted

in conformity with the spirit of the constitution, there has not been any problem at the national level, and there would not be any in the future if the spirit of the constitution is respected.

Some of the basic features of our constitution are mentioned below:

1. **The spirit of PUCL is to be inclusive**. It aims at bringing in all who are committed to promote and defend civil liberties and are willing to sign the declaration that they subscribe to the Aims and Objects of the organization and agree to abide by its constitution. Even the members of political parties are eligible to join it in their individual capacity (however, they are not eligible to be an office bearer). The inclusiveness is aimed at reaching out to all sections of the society through the members coming from different sections. *It also ensures that the organization will not be hijacked by any group to misuse it for partisan purposes*. When there are members with different views and loyalties, they would not permit the organisation to deviate from its path of impartiality and rectitude.

The principle of inclusiveness is the very soul of PUCL, and it was considered so sacrosanct that it has been specifically provided that the criteria of membership cannot be amended.

2. **It is anti-authoritarian:** The 'High Command' syndrome prevalent in the political parties has been destructive of their democratic functioning. Organisations which function undemocratically cannot run a government democratically. Wary of the prevalent practice of interfering with the functioning of the organization at the lower levels in various organizations, our constitution enjoins the National Executive 'to promote the formation of branches of the organization in every State in India' but does not vest it with the power to interfere. Our approach has been to persuade the State units or district units to find the solution themselves according to the

constitution and healthy common practice and precedent where the constitution is silent. So far, there has been no intervention. It is only when a body becomes defunct (i.e., ceases to function; either due to infighting or some other reason), that National PUCL has advised the State to find a replacement according to democratic norms and in conformity with our constitution. During the last thirty years, there has been only two occasions (in my knowledge; when the national PUCL was constrained to ask the State units to find a replacement democratically and in accordance with the spirit of our constitution.

3. Using only peaceful means: PUCL is committed to the use of only peaceful means to achieve its objective. By the same token, it does not support use of violence even for laudable causes and cannot acquiesce in the use of force or any other anti-democratic means in the organization.

4. The rule of law and the double standard: There is no room for discrimination in the rule of law. We hold that from the Prime Minister to the man on the lowest rung of the social ladder should be equal before the law and must be treated on the same footing. The State swears by this principle but has been willfully acting against it. Our fight is to compel it to adhere to it; therefore, we cannot advocate that anyone should be treated as being above the law on the ground that those in power manage to subvert the rule of law and get away with their crimes.

Sometimes, we are asked about our attitude to a terrorist or a Maoist. Our answer is that if someone is accused of being a terrorist or Maoist who is alleged to have committed a crime, he should be given the treatment which was given to Nathuram Godse (who confessed to have killed Mahatma Gandhi; and which is being given to Ajmal Kasab, a Pakistani citizen accused of terrorist acts committed in Mumbai. Action should

be taken against all accused, but according to the law of the land. There should be no killing in fake encounters or in the custody of the security forces because the state has no evidence to get a conviction. It is plain murder and a slur on the face of India.

5. Association with other organizations: The question of organization's association with other organizations had also come up years ago. It was decided that organizational relation with organizations not subscribing to our Aims and Objects would be unprincipled, and hence unacceptable. The constitution provides that voluntary groups and institutions (but not political parties or groups affiliated to them; may join PUCL as Institutional members (Art.3A). The constitution does not provide for any other kind of relationship with other organizations. There are also certain practices which have been followed by the National PUCL, which have the sanctity of a precedent. A few are recorded below:

1. It has been a cardinal principle to avoid working as a High Command by directly intervening to settle disputes of state/district unit. Our approach has been to insist that the units concerned must find a solution according to the letter and/or spirit of the constitution (if there is no provision pertaining to the issue concerned).

2. If a State has not been able to hold election in time, our approach has been to persuade it to do so as soon as possible. Direct intervention has been avoided. The National PUCL also does not involve itself in any negotiation to settle disputes among the contestants at the State/District level. The issue is left to be decided by the units concerned.

3. It has been the policy of the National PUCL not to enroll large number of members at the national office. When the organization was formed in 1980, and there was no State unit, the National office directly

enrolled members, but the practice was discontinued when State units were formed. The policy has been adopted to eliminate the possibility of the National Executive destabilizing a state unit by enrolling a large number of members from the state.

The national office sometimes enrolls a member at the instance of the President/General Secretary as an exception. However, it is not common to do so.

4. If there is a dispute regarding membership of a person/persons, the policy is to go by the record at the national office. Only those persons are accepted as members whose names had been forwarded by the State along with the one third of their membership subscription. They are recognized as members with effect from the date on which their names were received from the authorized person of the state concerned as per our record. However, no objection is raised by the national office if they are allowed to exercise rights as members by the State unit if their names have been duly recorded in the list of members in the office of the state unit.

5. If there is a complaint that either the President or the General Secretary has acted unilaterally, our approach has been to advise the complainant member/members to demand that the matter must be placed before the State Executive Committee, whose decision shall be final. Such members are informed that PUCL is a democratic organization and seeks resolution of conflicts democratically giving due respect to the autonomy of the State/District units.

6. In the event of the President and/or the General Secretary of a State not convening the meeting of the Executive Committee, they are advised by the General Secretary to do so.

7. In the event of the President and/or General Secretary evading convening a meeting of the General Body, Executive Committee or the

State Council, the members concerned are advised to ask for a Requisition Meeting. If the President and/or General Secretary refuse to convene the meeting, a Requisition Meeting may be held without them. However, if a Requisition Meeting is going to be held without a notice being issued by the General Secretary or the President, the National General Secretary should be informed in advance so that he may send someone as observer, who may facilitate conducting the meeting, if necessary.

Such observer will not involve himself in the decision making which is the prerogative of the State/ District Body.

8. Whenever, there is a credible complaint from the States against the State unit, our policy has been to draw the attention of the State unit concerned, ascertain facts from them and offer them advice if necessary, but firmly refraining from intervention. The intervention may be the last choice where the constitution is being willfully violated, and no attention is being paid to the advice to act within the framework of the constitution.

9. The National President and General Secretary receive complaints in hordes but it has been the policy of the organization never to form or express an opinion without hearing the person/unit against whom the complaint is made (i.e., if taking cognizance is considered necessary).

Forming and expressing an adverse opinion against and any person without hearing him or forming and expressing an opinion on any issue without ascertaining facts from the people concerned are universally accepted to be wrong and unacceptable. PUCL is totally committed to the principle of natural justice.

10. Though very rare, there has been complaint against some State functionaries of misusing their position for personal gains. The complainants demand an enquiry. Our policy has been to refrain from such enquiries, as it might result in a spate of malicious and false complaints. We advise the complainants to vigorously oppose any move by the person concerned to prevent him/her from misusing his/

her office and not to support any person of doubtful character in the future.

What can the members do?

I have drawn your attention to the letter and spirit of our constitution and also to some of our policies and the past practice. You may examine whether our membership is according to our constitution or not. If it is not, you may request your unit to move in that direction. You may help the organization in taking a stand or making a decision according to the letter and spirit of the constitution. You must judge us and draw attention to any wrong doing by us. By doing so, you would be rendering a great service to the organisation and making an invaluable contribution.

Prabhakar Sinha, President, PUCL National

P.S. I also appeal to all the state/district units to organize meetings to familiarise our members with our constitution and its spirit. It should be appreciated that all of us cannot appreciate the letter and spirit of any constitution on our own. It would be very useful if the appeal is translated into the language of the state and given to every member. □

Report on All India Convention against Sedition and Other Repressive Laws

Session one: Inaugural Session Opening speech by Pushkar Raj,

General Secretary, PUCL National: He welcomed all human rights organizations, lawyers, media persons, students and individuals from all across the country.

He elaborated on the background of the idea of a convention on the law of sedition. He said that a law's purpose is to make life easier for individuals. It has a social relevance. A law should create a social framework for individual freedoms to be realised. The State is only an institution through which law flows; it cannot use law to perpetuate itself. The law on sedition serves the state and not the community. It has

become the slave of the State turning against society and therefore it poses serious problems for the functioning of democracy in our country. History is witness that some of the very prominent people have been victims of this law. Socrates, Voltaire, Mandela, Gandhi have all been victimized under it. The purpose of persecution under the said law is that one should be silent and not ask questions even though injustice is rampant. In the context of India, as a society we have never been given a chance to flourish as promised in the Constitution. Of late, things have become worse. It is our fundamental right to feel, think and express, under the Constitution, but citizens are

being punished for painting a picture or writing a book or an article. Asish Nandi was booked under sedition for writing an article. Quoting the PUDR report, he referred to cases from Uttarakhand where nine people were charged with sedition and spent one to six years in jail after being denied bail. Out of these eight were landless dalit labourers. In Haryana five successive Presidents of BKU (Bhartiya Kissan Union; struggling for '*Bijli, Sadak, Beej aur Vikas*') were booked under the law. The system uses sedition laws to bend citizens who act and think differently from the State.

He concluded by saying that the convention is about challenging the

law of sedition and other such draconian laws. The need of the hour is to take the campaign to people. He appealed for unity amongst all the components of the civil society which is our strength, and combine efforts with which these laws can be repealed.

Second speaker: V. Suresh, Secretary, PUCL National

Suresh introduced himself as a practising lawyer in the Madras High court. So far we have poor statistics to challenge sedition laws. National and state Crime Bureau Records have been looked at but no data on the number of sedition cases have been found. RTIs have also been filed but almost no information is available. He explained the format, decided upon by the campaign committee, to collect the information. This includes

- Name,
- Religion,
- FIR number,
- Sections under which charged,
- Complain Number,
- Total Members arrested,
- Time spent in jail, and,
- After how much they time got out on bail.

He gave the example of the protest against the Koondankulam nuclear plant in Tamil Nadu where 30 of the protesters have been booked under sedition. While only 30 names have been mentioned, 2500 others have been implicated without being named under the same offence.

Under this campaign it has been decided to collect and present one million signatures along with the data on the misuse of sedition to the parliamentary petition committee.

Third speaker: Rajindar Sachar, Former Chief Justice, Delhi and Sikkim High Court

He started the address by acknowledging the gross misuse of 124A and appreciated all human rights organizations' coming under one banner. The campaign is an effort to expose the real face of the government behind the garb of

democracy. The role of judiciary since Independence has been understood as progressive and one that would lead to greater democratization. It was hoped that the Supreme Court would undermine the sedition law but nothing has happened. Sedition implies disaffection and contempt of the government. So a statement like 'this government is *nikammi*...' can also be penalized under this law. The fact that one does not have affection towards a government becomes a crime under 124A. However, according to the Constitution, laws which obstruct freedom of expression should not exist.

He recalled the time of Punjab militancy when he visited Punjab and had conversations with militants. He exclaimed that he could have been arrested on the charges of sedition for having talked to the militants. He said if one condemns the government and exhorted it to change, he or she could easily be charged with sedition.

Talking about the history of sedition he stated that it was the old colonial law introduced by the British to suppress the freedom struggle in 1870. Sedition, according to the legal definition, is:

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.

The 'father of the nation' was also charged under this and Gandhi commented that Section 124A under which he was happily charged is perhaps the prince among the political sections of the IPC designed to suppress the liberty of the citizen.

Affection cannot be manufactured or regulated by the law. If one has no affection for a person, one should be free to give the fullest expression to his/her disaffection, so long as s/he does not contemplate, promote or incite violence.

He further said that during the Constituent Assembly debates, sedition was highly deliberated upon. Members like K.M. Munshi and Krishna Sahi were against this law. Nehru himself found the law offensive and said Section 124 (A) of the IPC is highly objectionable and obnoxious and it should have no place both for practical and historical reasons, in any body of laws that one might pass; the sooner we get rid of it the better. Still the law was not taken out of the statute books largely because the government wants to retain a weapon in its hands against any form of opposition. England, the country which introduced the law of sedition has repealed it in its own country on the grounds that

- Sedition is defined in uncertain terms.
- It was in a particular historical context that no longer holds.
- The law is archaic in nature.
- Certain views even if critical and unpopular cannot be criminalized.
- It has a chilling effect on free speech.

India, however, still retains the law. He mentioned that sedition is like war against people. India has had a history of draconian laws. Such laws have been made and withdrawn not because government understands democratic values but because the government cannot sustain draconian provisions for long. So it keeps changing their formal appearance. TADA which has been withdrawn had a conviction rate of 0.1 per cent. TADA was replaced by POTA. It was equally dangerous and was also withdrawn. Now we have UAPA 1967 which has been amended to include the provisions

of POTA. Such misuse of laws shows how the state is at war against its own people.

He concluded asserting his faith in the convention. The convention is not just a verbal deliberation but will also present a petition to the parliament. If the law is repealed it will be the biggest victory of civil liberties.

Fourth speaker: Prashant Rahi, Uttarakhand

Prashant Rahi made his presentation as a victim of sedition law in the convention. He said the current situation demands that we challenge this law. It is time to question the kind of democracy prevalent in India. Democracy comes from the French Revolution which reflected upon the art of making a Constitution. It had successive Constitutions in 1789, 1791 and 1795 but most important was the Constitution of 1792. It contained the right to resist against the government as a fundamental right of the citizens. Resistance is natural in the course of history; sedition makes it unnatural.

Accusing ministers, he said people sitting at the top retain such laws to maintain the status quo. Even Nehru and Gandhi maintained the law after Independence. Though Nehru ruled the nation for more than a decade, he did nothing to repeal this law. More than discussing behind closed doors we need to take the campaign to people. We need to move beyond deliberations to make the campaign a success.

Fifth speaker: Gautam Navlakha, PUJDR

Freedom of expression, assembly and association is part of our fundamental right guaranteed by the Constitution since 1950. But we have seen throughout the course of history that these rights have been attacked widely. Sedition had been taken out of article 19(2); from the section on 'reasonable restriction' on freedom of expression. It goes on to prove the centrality of this right.

That very freedom is at stake today

and the movements that come out of the exercising of right to freedom are being implicated. The convention is a good beginning to challenge sedition and other such laws.

Sixth speaker: Arjun Singh, PDFI
In the name of democracy, the rule of few in power is maintained through the use of laws like sedition and other such repressive laws. He said invocation of 124A often comes with invocation of 121A which can even lead to death sentence, because 121A is used for someone accused of waging war against the country. In India, this is being used against all those who question the government.

The use of 124A against people leaves us with no room to question a government that exploits the manpower and natural reserves of the country. Citing the example of Seema Azad, he said that she was booked under sedition for carrying certain books that she had bought from Delhi book fair the previous day in the name of being a Maoist supporter. People in Chhattisgarh who have participated in struggles for change have been prosecuted under repressive laws. More than 60 organizations have been banned in AP and other states and are not allowed to assemble. Gross misuse of the sedition law and UAPA against Muslims is evident. Targeted use of these laws underscores the sad state of the country. In the end he cited several examples of suffering people in Kashmir and Manipur due to application of AFSPA.

Seventh speaker: Prabhakar Sinha, President, PUJCL National
He said 124A and the campaign against it is only a beginning and the struggle needs to be waged against many such laws, adding that every law in the country is misused. What is unique about sedition is that not just in its execution but in its constitution also, the law is undemocratic. This law is very good for in authoritarian regimes but has no place in a democracy. We have

the right to change the government and in doing so we may point out the weaknesses of the government to the general public. It is very important that we, as human rights organizations, carry forward the message to the general public and explain to them the misuse of the law. Sedition law presently is crueller in nature and application than in the British period.

India has a history of repression. When MISA came into force, thousands of people were arrested in one night under it. Laws such as Preventive Detention (1950; are obnoxious that penalize people not for doing anything but just because the government apprehends that you might do something. The police can arrest someone on mere suspicion. Later on if he or she is proven innocent, there is no compensation given, nor is there any such provision whereby the innocent can file a case against the one who charged him with false accusations. The National Security Act of 1980 was equally repressive. Talking about TADA he mentioned that 19,000 people have been booked under it who were labelled as terrorists in Gujarat. Similarly Vaiko, a Tamil Nadu leader who had voted in the parliament for bringing in POTA, was also charged under the same law (POTA; for showing sympathy to the Tamils in Sri Lanka. Raja Bhaiya, a leader from UP, has been charged with POTA. He has a criminal background but that's not the same as being a terrorist.

The Constitution had a goal of minimizing social and economic equality but in real practice just the opposite has happened. The government has been using such laws to suppress people's movements. Pointing out the weakness of the human rights movement he said we always take up the case of special laws or extraordinary laws. To involve the participation of people, we need to focus on ordinary laws as well, and

the repression committed under such laws.

Session Two

Presidium: Munishar (Manipur), Bengal (Tapas C), Bihar (Ramashray Singh),

Moderator: Paramjeet Singh

First speaker: Riyazuddin, PUCL Andhra Pradesh

Riyazuddin recalled the recently held *dharna* at Indira Park of Hyderabad against sedition. He stated that the *dharna* was successful as many people had attended it. Giving an account from history he said that the British used the law of sedition against freedom fighters and we condemned it. But when the British left, Indians adopted the same law to use it to suppress the voices of people who are against the government. It is imperative for state power to exercise such laws in order to maintain their rule. This also holds true in the case of other draconian laws. Targeted repression is being practised through the use of such laws. Many Muslims in particular suffered under POTA and TADA in AP. The media also takes a communal stand.

Soon after the Mecca Masjid bomb blast many Muslim young boys were arrested and labelled as terrorists having links with IM and HUIJ. They all spent up to four years in jail, suffered police torture and finally when they came out of jail having been proven innocent, all were compensated with two lakhs to sixty thousand rupees. Four years spent in jail can never be equated with a couple of lakhs of rupees. This is for the first time that those who were accused under sedition were given character certificates by the chief minister of Andhra Pradesh, Kiran Kumar Reddy. He pointed out that people like Suresh Kalmadi should be charged with 124A because such people are the real culprits of the nation. There is little awareness among the public about 124A and the message has to spread among masses. Giving an account of the

misuse of 124A he said the sedition law is being used against the Telangana separation activists, Naxalites, etc.

Second speaker: Rajeev Yadav, PUCL, U.P

He analysed the situation in UP by giving an account of two persons killed in an encounter after having accused of planning an attack on Mayawati in December 2007. There were other such cases forged to create an atmosphere of terror to bring in a law like UPCOCA. While it did not materialise, it becomes evident how the State uses laws for its own purpose. He narrated an incidence where some drunk CRPF men fought among themselves and this resulted in the killing of a few CRPF personnel in the cross firing. The entire episode was given a different colour by calling it a terrorist attack and eight unconnected people were arrested who are still in jail. 27 people were arrested from Azamgadh after the Batla House case. Black laws have been used in UP against minorities frequently and the State is working towards organized violence against minorities. Most instances of violence are traced back to Indian Mujahidin which is said to be operating under SIMI when in fact no one knows about the true existence of IM. After 9/11, things have become worse. It is a political conspiracy to kill young boys in the name of counter terrorism.

He also offered to organise similar conventions in U.P to sensitise people.

Third speaker: Chitranjan Singh, President PUCL U.P

CPI (Maoists; in U.P do not have a strong hold but still two people from Gorakhpur and two from Bihar were arrested on 6 February 2010 on the grounds of a Maoist attack on the state. Seema Azad, member of PUCL, was arrested along with her husband while returning from a 'Kavi Sammelan' on 7 Feb 2010. Eight people were arrested again on 8 Feb

2010 under 124A and UAPA. People protesting against state projects such as Ganga Expressway have been charged with sedition. In spite of such atrocities 124 A has still not become a people's issue. The situation is similar in other states. Most recently elections happened in Manipur but none of the leaders took up AFSPA as a core issue. To elicit people's response, we need to focus on ordinary laws.

Fourth speaker: Shivakant Gorakhpuri, General Secretary PUCL Delhi

He started the address by stating the misuse of 124A and other such laws as a serious problem where people who question are put behind bars, citing the case of Maulana Hafiz Kamal in 2007 who was tortured so severely that he died in custody. However, the police denied the allegation and termed the death as lynching by mob. PUCL had investigated this case. Today common people are facing all sorts of problems. Even for making a simple ration card in Delhi people face harassment. We all must gather together to fight such laws and our issues should be linked with those of the common people of the country.

Fifth speaker: Mayur Suresh, a Delhi based lawyer dealing with SIMI cases

Muslims in the country have been given the label of terrorists. In a tribunal of cases in 2008, the police had registered 374 cases against SIMI members, mainly on accusation of giving hate speeches. Referring to the case of Yaseen Patel who was accused of putting up a poster with a message 'Destroy National and establish Khalifa' and hands with closed fists were shown in the poster. Justice Dhingra charged him under 124A. After SIMI was banned in 2001, SIMI members have been identified and arrested under charges of simply reading SIMI literature aloud and possessing a booklet once published by SIMI. SIMI might be banned but how can

literature be banned that was once published by it, questioned Mayur. Some years back some Vishva Hindu Parishad members burnt copies of the Quran. SIMI organized a protest against the incident but the protestors were arrested and labelled as members of SIMI, a terrorist organization.

Sixth speaker: V. Suresh, PUCL Tamil Nadu

Suresh identified the patterns in invocation of sedition charges confirming that in Tamil Nadu, along with 124A, section 121A (waging war against the State; is also used. The laws are mainly used to ban groups or organizations protesting against state policies. When groups question the government, a law or an Act, they are banned for asking questions from the state. In most of the cases 124A is invoked for publishing a booklet or certain words spoken. Some years back *The Hindu* published an article on how Muslims are being victimised in the country. The same article was translated by the SIMI and published in 2009. Four SIMI members were arrested for that translation and it took them three and half years to come out of jail on bail. The charges of 121A and other such sections are invoked along with sedition to create a certain image of the person arrested which would deny him or her any legitimacy. Common statements issued by the police are that when they try to stop the accused, they counter attack the police. If the matter goes to the court, judges think the accused charged with terrorism must be very dangerous. Particularly if the connotation of being an Islamist is used, things become more serious and the court denies bail. Peasant organizations, students' organizations, etc., are initially threatened to suppress their voices but if threatening does not work, charges of sedition are used against them.

Talking about Koodankulam nuclear plant located in south Tamil Nadu,

he said in the protest against the plant every day 5000-10,000 people sit on a dharna. Leading the protest are people belonging to the fishing community and many belong to the Christian community. These protesters are mostly being charged under 124A, 121A and 153 which is for fostering communal or cast divisions, and sent to jail for five to six years. The nuclear power plant coming up in Koodankulam is a joint venture between the Russian and the Indian government. The accusation labelled is that the protest is hampering the relationship between the two countries; hence it is like waging war against the country. A similar situation prevails in all anti-SEZ protests in the country.

Session Three:

Presidium: Jaya (PUCL AP), Anil Chaudhary (INSAF Delhi), Babloo (Manipur), Satnam (Punjab), Kailash Meena (Rajasthan);

Moderator: Mahtab Alam

First speaker: Binayak Sen, President PUCL Chhattisgarh

He talked of the gross misuse of 124A all over the country but the misuse started from Chhattisgarh and Jharkhand and many people are still behind bars. He was a victim of the section of the IPC in question himself and was charged with 124A along with 121A, though he got acquitted in 121A. Followed by the acquittal, the state appealed to the high court to invoke the provision of 121A again on him, which highlights the vindictive nature of the state. He talked about the Chhattisgarh Special Public Security Act widely being used to suppress dissenting voices. Sen also reiterated the need to be united in this effort to challenge draconian laws.

Second speaker: Himanshu, PUCL Chhattisgarh

Himanshu's address was an apprehension that repealing 124A is not the only solution as such provisions are being invoked and misused by the State in the name of

democracy every day. Giving an account of history he said people fought against aristocracy and brought democracy but Indian democracy appears to be a fake one. He expressed discontent against this kind of fake democracy. Disaffection leads to change in the government; if this change is interpreted as a crime so be it. The government is against people fighting for their lands. Farmers and tribals, particularly in Punjab and Jharkhand, are victimized. Politicians invest in elections not to serve the public but to sell off people's lands to foreign agencies. Giving the example of Soni Sori's case he said judges are not willing to give decisions against police or state authorities to maintain the status quo. He said he does not believe in begging the government to repeal such laws but will fight for it.

Third speaker: Mamta Das, PUCL Orissa

In Orissa, according to a fact-finding report in 2011, there are about 600 political prisoners and most of these are tribals protesting against the takeover of their lands or fighting against bonded labour, etc. She talked about the atrocities of the police and the government around the Posco plant. People are fighting to protect their land from companies like Vedanta. Companies are acquiring the land to extract bauxite. Not just adults but small children aged 12 to 13 years are being charged with conspiracy against the state. She mentioned the case of three villages where almost everyone is charged under one law or the other. Approximately 500 people are charged in those villages, not just under sedition and conspiracy against the nation but also with other charges like theft and violence. Villages have been barricaded from outside.

Vedanta has got the road construction contract which is going to pass through the villages and all

those villagers who oppose it are facing police atrocities. 47 people have been jailed for protesting against the construction. Local 'gundas' are allowed a free hand in villages who on behalf of companies unleash violence on villagers. According to a court order companies do not get police protection but still the police accompany them to threaten people. The police raid the villages early in the morning loaded with arms against farmers and this is a usual scene in the villages of Orissa. What previously used to be cotton godowns and cotton farms are now the posts of CRPF forces. Niyamgiri in today's context is highly militarized; often CRPF men enter villages and abduct women and rape them.

Fourth speaker: S.N Prabhat, PDFI (Jharkhand)

In Jharkhand sedition cases are rampant. Jharkhand is the state which suffered the most under repressive laws. After Gujarat, Jharkhand is the second state where POTA and TADA were used in most of the cases. He gave the example of Jiten Marandi stating how the state victimizes citizens. Marandi was booked for singing a folk song which showed signs of protest in the CM rally and he was charged with UAPA and three other related cases on suspicion. There is massive displacement of tribals in Jharkhand and those who resist being displaced. Especially representatives of organizations who fight against displacement are penalized. Giving the reference of Saranda forest he said CRPF often raids the houses of tribals residing there, and pick up their documents of identification and burn them to destroy proof of their habitation. He concluded by saying that the situation in Jharkhand is grim and UAPA is widely misused. You can be charged with sedition even by condemning that somebody has been wrongly charged under sedition.

Fifth speaker: Pankaj Tyagi, PUCR (Haryana)

Those involved in people's struggle are dangerous for the government and are booked under sedition so their voices are repressed. The situation in Haryana is more or less the same. People are charged with sedition for their opposition to the government. If one is charged with sedition their bail is rejected in session's courts. Even high courts in many cases deny bail but make the proceedings on day to day basis. Often people fighting for rights, for lands and farmers are booked under this Act. He emphasized that one is always free to criticize the government and 124A allows for criticism of the government in the form of three explanations to the section on sedition. The government gets anxious when some organizations try to organize masses and mobilise them by exposing the misdeeds of the State. Ghasiram, the BKU president, was charged under sedition and sent to jail. He came out as a result of political negotiations when the government changed. Students protesting against the Private University Bill were charged with sedition. Whenever an organization becomes capable of leading masses, they are charged with sedition and other repressive laws.

In 2009, in one of the villages there were slogans on the walls of the village like 'boycott election'. The police arrested 19 people after searching their homes and recovering things like paint brushes, gum bottles and other painting stuff, considering them as evidence. Nine out of 19 of these people were jailed under 124A and denied bail. People charged under sedition cannot prove themselves innocent. It is this situation of extreme repression that results in eruption of armed struggles. Violent struggles are consequences of discontentment and suppression. It's a war by the State on its people.

Referring to a case in Haryana in 2009 he said there is a girl named Poonam who is constantly being victimized in the event of any mishap in the state. She has been booked under sedition thrice and confessions have been recorded against her. 99 per cent of the people charged are dalits and small farmers. He concluded by saying he is looking forward to holding state level convention in Chandigarh in the coming days.

Sixth speaker: Phulendro, COHR (Manipur)

He stressed upon human rights violations by paramilitary forces in Manipur resulting in acute militarization of society. There is gross violation of the fundamental right to life. Security forces have been deployed in the name of maintenance of law and order. But the real purpose is to restrict the right to movement, the right to education and other such basic rights. He compared the situation of Manipur to that of the Military Junta in Myanmar. Military has a privileged position in society. Narrating the story of an 80 year old man, he said the man delivered the speech on the right to self-determination, cultural rights, etc., and was arrested by the police for doing so. Under AFSPA, he said one should consider himself/herself lucky if detained and being alive because most of the detainees are killed in encounters. The government is suppressing the agitation by using force. Human rights defenders are being targeted under 124A massively. Human rights violation is a crime against humanity. The session concluded with the vote of the presidium representing the states of Rajasthan, Andhra Pradesh and Punjab reiterating the significance of the convention against repressive laws and the need to be together in this effort.

Session Four

Presidium: Mamta Das (Orissa), Binayak Sen (Chhattisgarh), PUCR (Haryana)

Moderator: Sanjay Parikh

First speaker: Siddharth Narain, Alternate Law Forum, Karnataka
He mentioned the fact-finding done by ALF to find out how many people are facing charges of sedition in the state and how many are convicted by looking at the registered cases in jails. six jails responded to giving data on conviction under 124A. 27 cases were found to be registered under the section and all of them were against Muslims. He identified the pattern on which 124A is invoked stating that it is often invoked with either 153A for inciting hatred among people in society or 121A for conspiring against the State. Most of the time 124A is accompanied by 121A and 153A, that is, inciting hatred among people. Further emphasising on its use he said that sedition law is used more against the minorities and some are even facing death penalties. The link between sedition and 153A needs to be probed further in relation to targeting specific communities.

Second speaker: Satnam, Right Activist, Punjab

In Punjab the government tried to introduce two black laws: Public Property Protection Act and provisions for seeking police permission for protest. Most people's organisations had protested against these laws. Punjab has recently witnessed elections. Neither of the two laws featured in the debates around the elections. The representatives who got elected were completely indifferent to the two laws against which the people had protested heavily. The two laws were taken back on mass public protest. He stressed on the fact that people have been very proactive in protests against repression. Another example dated 11 years back when a girl was abducted, raped and murdered. A mass agitation followed and police arrested three people leading the agitation in a false murder case. But due to public protest, they had to be released. Therefore it mass protest

by the people which yields results in Punjab.

This is not to say that Punjab does not face state repression. In a case in Mansa district, the government promised to give small pieces of land to dalits which they have not got till date. When people protested, 435 of them were charged with disruption of peace. Of those arrested, 150 were jailed for more than eight months. However, the lesson to be learnt is that there is a link between protection of democratic rights and mass movements and Punjab stands as an example. The convention must make a note of it and stress on mass participation against repressive laws.

Third speaker: Tapan, APDR (West Bengal)

Mentioning about the encounter of Kishan ji, he said APDR demanded fresh judicial enquiry into the matter, and following the demand Mamta Banerjee stated that APDR is a branch of CPI (Maoists). This shows the level of anxiety of the state in suppressing any opposition. West Bengal has a huge number of political prisoners and during election campaigning Mamta Banerjee had declared that all political prisoners would be released but it did not happen. After conducting a fact finding in Jails, APDR found that there are 630 political prisoners out of which majority are allegedly Maoists and CPI members. Most of them are booked under 121A, 124A, 304, etc. When APDR tried submitting a petition on these cases, the CM refused to even meet them. There have been further amendments under Mamta's tenure to curtail the powers of Panchayati Raj.

Fourth speaker: Suman, Asansol Civil Rights Association (West Bengal)

He referred to the state of West Bengal under such repressive laws as a Jungal Raj where anybody is picked up under any law for showing the slightest signs of dissent. 124A

is a weapon of the state for keeping an eye on human rights activists. It has become a means of surveillance. He said after the last elections, a review committee for the release of political prisoners was formed, but none of the political prisoners have been released till today. Talking about the trend he also stated that 124A is invoked with 121A.

For human rights organizations it is important to be autonomous; alliance with opposition parties against the government has been fatal for the movement. In the context of Mamta Banerjee he said that she is practising the same policies that she condemned before her election victory.

Fifth speaker: Ramashray, PUCL Bihar

His insights were against the stereotypical image of Bihar under the Nitish government as a model state. He stated that corruption and other political malpractices have only increased under the new government. The National Security Act has been invoked again in Bihar. People who resist corruption in governance are being charged under sedition. Fake charges are rampant. He narrated examples of a person who was detained for 16 days but the police record mentioned detention only for 20 minutes. Custodial deaths are widely known but nothing is being done to enquire into such deaths.

He mentioned that we need to work at ground level to get a holistic picture of reality rather than a glance from above that gives one a fake picture of situation.

Sixth speaker: N. D. Pancholi, President, PUCL Delhi

He started by appreciating the efforts of all the organizations united under a common aim. Sedition law under the British had a specific purpose; even then the punishment was not that grave. Independent India resorts to more stringent penalty under such laws. In the 1980s in Punjab, Citizens for

Democracy published a report on Operation Blue Star and the military harassment of public and about how the military killed innocent people. This was a 200-page report. Soon after its release the report was banned, and publishers along with Panchauli were charged with 124A along with 153A and five people were arrested. When the matter was handed over to the judiciary for hearing, it was evident there was nothing seditious in the report. The need is to build public pressure to repeal such repressive laws.

Seventh speaker: Siddiqui, Advocate, Delhi

He introduced himself as an ex-state president of SIMI from UP, and narrated the government's bias towards the organization because it voiced the grievances of a minority community. Many people were arrested since SIMI was banned on 27 September 2001 and some were not even members. Muslims youths are the main targets of the police. When UAPA was tabled in the Parliament, former Prime Minister Atal Bihari Vajpai himself said this law had the tendency to be misused. He stated two demands in the convention: human rights organizations should work for the repeal of UAPA and the ban on SIMI should be lifted.

Eighth speaker: Monika, CPDR (Maharashtra)

She highlighted the atrocities being committed under MCOCA in Maharashtra. Insurgency is also included in its ambit. People are arrested under one case and then implicated under many charges and this is a pattern. She stated the example of Arun Ferreira who was arrested under eight cases of UAPA. In due time, he was acquitted in all of them. However, when he came out of the jail, he was re-arrested in another case under a different crime committed on a date when he was still in jail.

Ninth speaker: Kavita Srivastava, General Secretary, PUCL Rajasthan

She mentioned the pattern under which people are targeted in the state of Rajasthan. People are arrested in Jaipur blast cases for association with SIMI. She mentioned people like Aseemanand and Pandey convicted **(accused or chargsheeted perhaps;** in the Jaipur blast case. However, we are opposed to these laws when they are levelled against our adversaries also. When the Jaipur bomb blast happened Muslims youths were held and charged with 124A. 6 boys are under arrest and all are charged under 124A. Sedition implies disaffection. The whole argument about disaffection is central to laws such as UAPA and MCOCA. The courts' stand towards detainees under such laws is to deny bail. She called it illegal detention where the right to bail is denied. She emphasised that documentation related to these cases is very important as government agencies are not maintaining proper records. The movement against repressive laws needs to focus on documentation.

Session five: Resolution of the convention

The resolution was read out by Pushkar Raj followed by a discussion on the resolution.

The suggestions towards modifications in the resolution came from members of the convention. There were suggestions for:

- Inclusion of UAPA in the resolution to demand for the repeal of the same along with 124A.
- Inclusion of the demand to repeal the Prevention of Seditious Meeting Act 1911, recently invoked in Manipur.
- Excluding the names of specific human rights organizations from the resolution as the convention is a joint effort.
- Addition of a clause in the resolution demanding the right to get bail and fair trial for people already in jail under 124A.

It was argued that we need to

streamline the emphasis of the resolution which is on sedition laws, as a strategy to not dilute focus by bringing in all repressive laws under one resolution.

However, a collective decision was taken to mention in the resolution that this convention records that there is opposition to AFSPA and UAPA as well.

It was decided that representatives of different organizations would form a committee to consider these suggestions and modify the resolution to make it more inclusive of the demands so mentioned.

The resolution so drafted:

Resolution

An all India convention was held in Delhi on 31 January 2012 against the law on sedition to launch an all India campaign against it. The following resolution was adopted at the Convention:

The convention notes with serious concern that the law used by the British Raj to suppress the Freedom Movement remains part of our statutes. Its egregious use against all forms of dissent and protest including peasant activists, environmental movement, women, dalits, adivasis, minorities highlights how the laws on Sedition [in Section 124 A of the Indian Penal Code as well as in other Laws in operation such as S 2(O) of the Unlawful Activities (Prevention) Act or in any state level laws such as Criminal Law Amendment Act or its equivalent] strike at the heart of democracy by curbing freedom of expression, assembly and association and thus undermine constitutional democracy. In the name of curbing 'disaffection' towards the government or 'disloyalty' to the Indian State, S. 124 A of the IPC threatens to imprison a person for life, whether such disaffection, hatred or contempt is created by words spoken or written or by signs or visible representation. The convention is convinced that it is the legitimate right of every citizen

to express his or her opinion, expose the misdeeds and anti-people policies of the government or to even disapprove of, express disaffection, question and condemn the present system, and even vent out opinions which call for transforming State and Society. The convention considers respect for difference of opinion, perspective or view as being a vital part of our struggle for strengthening democracy. We, therefore, call for the repeal of S 124 A of the IPC and dropping 2(o; from the UAPA as well as similar provisions from state level laws.

In view of the documented reports from all over India about the use of the sedition law and in light of the fact that this law is absolutely incompatible with democracy, we, the participating human rights organisations, as also concerned citizens across the country including teachers and academics,

independent professionals from the media, medical community, lawyers, students, social movement activists and other grass roots social and political activists demand that the Indian parliament immediately take necessary steps to repeal sedition law in sec. 124A IPC and dropping 2 (o; from the UAPA as well as similar provisions from the state level laws. All the constituents members have been campaigning against draconian laws such as AFSPA, UAPA and others and shall continue to campaign for their repeal. As a consequence of repeal of sedition (S 124 A IPC, S 2 (o; of UAPA 1967 and Prevention of Seditious Meetings Act 1911 and other similar laws), all persons facing prosecution for offences made under these provisions/laws should forthwith be dropped and those languishing in prisons should immediately be released.

The convention declares the launch of an all India campaign against sedition and other repressive laws.

PUCL, PUDR, APDR, CPDR, APCLC, MASUM, Human Rights Alert, Manipur, NAPM, New Socialist Initiative, INSAF, Human Rights Law Network, People's Democratic Front of India, Agriculture Workers Union, Karnataka, CHRI, PUCR, (Haryana; Bandi Mukti Committee (West Bengal;

Date: 31 January 2012

Venue: Gandhi Peace Foundation, New Delhi*

- This report is on the documentation of the reporting in the Convention and no analysis/ interpretation has been added to the speeches.
- Almost all speeches were made in Hindi.
- This report acknowledges that not everything voiced in the Convention has been recorded. □

Repeal the Law of Sedition Rajindar Sachar

One of the most shameful pieces of legislation in our penal code is the continuance of 'Sedition' in Section 124A of the Penal Code which provides that whoever excites or attempts to excite disaffection towards the government established by law in India shall be punished with imprisonment for life. The expression disaffection includes disloyalty and all feelings of enmity. This provision was included by the British Government in 1870 as the rulers of India. Regretfully it continues to muddy our laws of crime.

This imperialist legislation was used against several freedom fighters like Bal Gangadhar Tilak, Annie Besant. Mahatma Gandhi was also prosecuted under 124A in 1922. In a speech before the Trial Judge he said: ".....Section 124A under which I am happily charged is perhaps the prince among the political sections of the I.P.C. designed to suppress

the liberty of the citizen. Affection cannot be manufactured or regulated by the law. If one has no affection for a person, one should be free to give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite to violence."

Though in the original draft of the Constitution "sedition" was provided as one of the exceptions to limiting fundamental freedom of speech and expression, however after a long debate in the Constituent Assembly it was dropped.

This was because the incongruity of continuance of such a provision in free India was recognised in the debates of the Constituent Assembly. K.M. Munshi advocated its deletion from Article 19 because "The party system which necessarily involves an advocacy of the replacement of one Government by another is its only bulwark; the advocacy of a different system of

Government should be welcome because that gives vitality to a democracy".

T.T. Krishnamachari, who was then a member of Legislative Assembly of Madras, supported Munshi pointing out that such a law became non-functional since 1802 in the USA.

Nehru's views were totally against this provision when he said in 1951: "Take again Section 124A of the Indian Penal Code. Now so far as I am concerned, that particular Section is highly objectionable and obnoxious and it should have no place, both for practical and historical reasons, in any body of laws that one might pass. The sooner we get rid of it, the better." But alas, these encouraging words remained merely on paper and Section 124A continues to be used as a weapon of oppression by tainted governments.

IMMEDIATELY after 1950, the High

Courts of Punjab and Allahabad held Section 124A to be invalid. But unfortunately these decisions were overruled in the Kedar Nath Singh case (1962) where, with the greatest respect, in an exercise of judicial word-play the court, while holding that “strong words used to express disapprobation of the measures of Government with a view to their improvement or alteration by lawful means would not come within the section”, at the same time downplayed the above by saying that this should be without exciting feeling of disloyalty to the governments. It is to be regretted that the Supreme Court refused to recognise the difference between the State and government. Disloyalty can only be to the Indian State. But to spread disloyalty peacefully to the government because it is considered to have anti-people policies is the very foundation of a vibrant democracy. In a democracy anybody, who is dissatisfied with the government, has the right to create disaffection against it and seek its removal at the next election. In fact, it is the constitutional right of every citizen to expose the misdeeds of the government it disapproves of and create disaffection and disloyalty among the people and work for throwing it out of power—of course without resorting to violence. Disloyalty to a government is different from disloyalty to the State.

But alas, because of the Kedar Nath Singh case the police confidently go on resorting to Section 124A against social activists and being non-bailable the courts as a routine deny bail and the activist remains in jail for years even without the trial starting. A greater degree of human right violation is hard to imagine. Very significantly, the explanation to Section 124A which distinguishes “disapprobation” (that is, criticism) from “disaffection” has been dropped in the Unlawful Activities Prevention Act (UAPA) definition. This makes this provision all that much more dangerous to democratic rights. A recent convention, organised by the People’s Union for Civil Liberties (PUCL) and participated by other human right organisations, heard accounts of widespread and systematic misuse of the sedition law across India. All forms of democratic struggles—from farmer’s agitations to citizens protesting against state policies—have been criminalised and the participants prosecuted under the sedition law. Consequently thousands of ordinary citizens have not only suffered violations of fundamental freedoms and liberties but also been forced to undergo major personal, emotional and financial hardships due to imprisonment and seeking legal remedies. It consequently resolved to launch a nationwide signature campaign to collect at least a million signatures to be presented to

Parliament demanding the immediate repeal of the sedition law, that is, Section 124A IPC and Section 2(o) (iii) UAPA, 1967. It is ironic that the sedition law, which owes its ancestry to English imperial domination, continues on our statute book, notwithstanding that England has abolished the crime of sedition and in doing so emphasised that

- Sedition is defined in vague and uncertain terms. This offends the fundamental principles of criminal law.
- In any case, it refers to a particular historical context (sovereignty residing in the person of the King) which no longer holds. The law is archaic and must be done away with.
- While certain political views may be unreasonable or unpopular, they cannot be criminalised. This offends democratic values.
- The definition of sedition offends fundamental freedoms of speech and expression which are universally recognised.
- In practice, the law is used to silence political opposition or criticism of the government. This has a “chilling effect” on free speech.

Should India still suffer public humiliation and embarrassment before the human rights audience, both nationally and internationally, by continuing the law on sedition? □

PUCL Press Statement on Abduction of Sukma Collector

PUCL urges the CPI (Maoist) to immediately release Mr Alex Paul Menon, the District Magistrate of Sukma in Chhattisgarh as the politics of abduction and ransom in the form of release of their comrades is not compatible with justice and fair play. The fact that the State has been indulging in the inhuman act of implicating thousands of innocent persons in false cases and killing in fake encounters does not justify their act as their declared objective is to create a society free from

exploitation and oppression, and as such they cannot afford to be as bad as the government they condemn if they want to carry conviction with the people. PUCL also urges both the government and the Maoists to come to an understanding that neither the government will indulge in fake encounters and implicating innocent persons in false cases nor the Maoists will indulge in abduction and killing for the fulfillment of their demands. It may be added that had both the parties been belligerent

nations at war, they would have been guilty of war crimes and crime against humanity. PUCL urges the central government to initiate concrete steps for coordination with the affected state governments aimed at creating an atmosphere of confidence building in which negotiations are possible amongst the fighting parties for a lasting solution of the problem.

Pushkar Raj, General Secretary;
Prabhakar Sinha, President □

Press Statement on Anti-democratic Conduct of West Bengal Government

The recent developments in the state of West Bengal are very disturbing for all democratically thinking people in the country. The Chief Minister of the state is behaving more as a medieval despot than as the head of a government democratically elected. One is extremely surprised that such public conduct should come from a leader of the party that has rode to power accusing the previous regime of anti-democratic ways.

First the Chief Minister stooped to the level of accusing two unfortunate victims of rape of being part of a conspiracy to defame her government even before the police had investigated the case, and then retaliated by transferring the police officer who found the allegation of

rape being true and nailed her lie. Secondly, instead of improving governance, she has banned the purchase of newspapers critical of her conduct and has gone to the extent of warning that she may dictate to the people what they should read or not read. Third is the outrageous act of arresting a professor of Jadavpur University along with his friend for mailing to a few persons a very decent cartoon critical of her erratic behavior. Now we hear that the state CID is instructed to trail the IP addresses of all those who post material on social website Facebook critical of her ways, policies and conduct. It seems that Chief Minister has forgotten that we have a constitution and a functioning democracy

accordingly. Add to this the brutal attack on protesting slum dwellers of Nonadanga in Kolkatta and arrest of Scientist Parta Sarathi Roy for allegedly leading the slum dwellers' protest. These acts of the state government constitute multiple democratic aberrations violating freedom of press, freedom of expression, academic freedom and blatant misuse of state power and are totally unacceptable and deserve to be condemned in the strongest possible words. PUCL demands that the state government desist from strangulating the social media, arrested professor be forthwith released and democratic norms be restored in the state.

Pushkar Raj, General Secretary;
Prabhakar Sinha, President –
PUCL National ☐

Press Statement:

PUCL West Bengal condemns undemocratic move of State Govt.

The People's Union for Civil Liberties, West Bengal unit strongly condemns the recent decision of not allowing some major daily newspapers in all the State run libraries, by the West Bengal Government. The State convener of West Bengal PUCL, Mr. Ananda Mukherjee said that the more of the Government is a direct attack upon the freedom of press and also a threat to democracy.

PUCL believes in freedom of speech and expression as enshrined in the constitution of India. The kind of restriction upon media was imposed by Mrs. Indira Gandhi during the period of emergency. The new Government led by Trinamul Congress also restricted the renewal of accreditation card of so many veteran journalists of West Bengal. Not only that they also stopped giving

advertisements to the small newspapers and magazines of the State, citing paucity of fund, Anand Mukherjee said. The West Bengal PUCL demanded immediate withdrawal of the said undemocratic order to the State Government and to secure freedom of speech and expression in the State.

Ananda Mukherjee, Convener,
PUCL West Bengal ☐

The End of the Nuclear Illusion

Praful Bidwai

A year after the Fukushima nuclear catastrophe began in Japan, the world has a historic chance to end one of the biggest-ever frauds played on the public to promote a patently unsafe, accident-prone, expensive and centralised form of energy generation based upon splitting the atom to boil water and spin a turbine. Candidly, that's what nuclear power

generation is all about. The promise of boundless, universal prosperity based on cheap, safe and abundant energy through "Atoms for Peace," held out by US President Dwight Eisenhower in 1953, was deceptive and meant to temper the prevalent perception of atomic energy as a malign force following Hiroshima and Nagasaki.

Eisenhower was a hawk committed to building up the US nuclear arsenal from under 1,500 to over 20,000 warheads. He sought to "compensate" for this by dressing up nuclear energy as a positive force and camouflage the huge US military build-up. The nuclear promise was based on unrealistic assumptions about safety and being "too cheap even to metre."

The US Navy transferred reactor designs developed for nuclear-propelled submarines to General Electric and

Westinghouse for free. The US also limited the nuclear industry's accident liability to a ludicrously low level.

The world has since lost over \$1,000 billion in subsidies, cash losses, abandoned projects and other damage from nuclear power. Decontaminating Fukushima alone is estimated to cost \$623 billion, not counting treatment costs for thousands of likely cancers.

All of the world's 400-odd reactors can undergo a catastrophic accident. They will remain a liability until decommissioned (entombed in concrete; at huge public expense -- one-third to one-half of the cost of building them. They will also leave behind nuclear waste, which remains hazardous for thousands of years, and which science has no way of storing safely.

All this for a technology which contributes just 2% of global final energy consumption!. Even the Economist magazine, which long backed nuclear power, calls it "the dream that failed."

Nuclear power declined on its home ground because it became too risky and "too costly to hook to a metre." The US hasn't ordered a new reactor since 1973. Western Europe hasn't completed a new reactor since Chernobyl (1986).

As a former member of the US Nuclear Regulatory Commission says: "The abiding lesson [from Three Mile Island meltdown (1979)]... was that... reactor operators...could turn a \$2 billion asset into a \$1 billion cleanup job in about 90 minutes."

Nuclear power is now on the run globally. The number of reactors operating worldwide has fallen from the historic peak of 444 (2002; to 429. Their share in global electricity supply has shrunk from 17% to 13%. And it's

likely to fall further as some 180-plus 30 years-old or older reactors are retired. Just about 60 new ones are planned.

Post-Fukushima, nobody will build reactors without big subsidies or high state-guaranteed returns --or unless they are China or India. China's rulers don't have to bother about democracy, public opinion or safety standards.

Nor are India's rulers moved by these. They are desperate to award the reactor contracts promised to the US, France and Russia for lobbying for the US-India nuclear deal in the International Atomic Energy Agency. Dr. Manmohan Singh has even stooped to maligning Indian anti-nuclear protesters as foreign-funded, as if they had no minds of their own, and as if the government's priority wasn't to import reactors.

Nuclear power is bound up with secrecy, deception and opacity, which clash with democracy. It evokes fear and loathing and can only be promoted by force while violating civil liberties.

A recent BBC-Globe Scan poll shows that 69% of people in 23 countries oppose building new reactors, including 90% in Germany, 84% in Japan, 80% in Russia and 83% in France. This proportion has sharply risen since 2005. Only 22% of people in the 12 countries which operate nuclear plants favour building new ones.

Nuclear reactors are high-pressure high-temperature systems, in which a fission chain-reaction is barely checked from getting out of control. But controls can fail for many reasons, including short circuits, faulty valves, operator error, fire, earthquakes or tsunamis.

No technology is 100% safe. High-risk technologies demand a meticulous, self-critical and highly alert safety culture, which most countries lack.

The world has witnessed five core meltdowns in 15,000 reactor-years. At this rate, we can expect one core

meltdown every eight years in the world's 400-odd reactors. This is simply unacceptable.

Yet, the nuclear industry behaves as if this couldn't happen. It has a collusive relationship with regulators, highlighted in numerous articles on Japan, including one by Yoichi Funabashi, chair of the Rebuild Japan

Initiative Foundation: "We Japanese have long prided ourselves on being a society that provides safety and security...[But this] has been matched by our aversion to facing the potential threat of nuclear emergencies..."

He adds: "Any drills for a nuclear emergency were meticulously designed to avoid giving any impression that an accident could possibly progress to the severity of a meltdown.... But avoidance ultimately translated into un-preparedness."

Nuclear power is bound up with radiation, which is harmful in all doses, at each step of the nuclear fuel cycle. Nuclear plants routinely expose surrounding populations to harmful radioactive and chemical emissions.

Nuclear power is costlier not just than coal- or gas-based electricity, but increasingly, renewable energy. The European Pressurised Reactor of the crisis-ridden French firm Areva, and earmarked for Jaitapur in India, is now quoting for \$6,500-plus per kilowatt, compared to under \$2,000 for wind turbines.

Nuclear power cannot be a solution to the climate crisis. Its potential contribution is too small, it's too slow to deploy, and too expensive. By contrast, renewables have already emerged as a safe, flexible, quickly deployable solution, with a typically lower carbon footprint than nuclear power.

The world needs a new climate-friendly, safe, decentralised energy system with smart grids and high efficiency. Nuclear power can have no place in it. □

Press Statement: In Solidarity with Anti-NKPP Struggle: 22 March 2012

In Solidarity

The state government of Tamil Nadu has finally succumbed to pressure by the Central government and decided to commission the operation of the two Russian built nuclear reactors in Koodankulam. It has carried out a major crackdown on the mass movement in and around Koodankulam in southern Tamil Nadu, outrageously slapping sedition charges — no less — on several people, and arresting close to 200 people in a pre-emptive show of intimidation and force.

Over the last six months in what has been the latest phase of a more than decade long struggle, tens of thousands of residents in and around Koodankulam have peacefully and non-violently demonstrated against the government's nuclear power plans. They have demanded that their concerns over issues of safety, environmental hazards and procedural violations of the AERB (Atomic Energy Regulatory Board; be fully and properly addressed. That their livelihood and life concerns should have been so casually ignored by a government that has even resorted to allegations of 'foreign manipulation' of what is an indigenous mass movement is extremely disturbing.

We strongly condemn the repression

launched against the people of Koodankulam and southern Tamil Nadu and demand that those arrested be immediately released. If a willingness to exercise one's democratic right of protest in peaceful and non-violent ways, or to criticize the pursuit of nuclear energy, or even to oppose government plans in this regard is to be deemed seditious and warrants being arrested, then we the undersigned also declare ourselves to be as guilty as our fellow citizens in Tamil Nadu. We stand in solidarity with them. The government may please take note.

Signatories:

Admiral L. Ramdas, former Chief of the Indian Navy & Magsaysay Awardee; **Admiral Vishnu Bhagwat**, former Chief of the Indian Navy, **Rajindar Sachar**, former Chief Justice of Delhi High Court, **SP Shukla**, former Finance Secretary, Government of India, **Romila Thapar**, Professor Emeritus, Dept. of History, JNU; **Aruna Roy**, Member, National Advisory Council and Magsaysay Awardee; **Medha Patkar**, Social Activist; **Arundhati Roy**, Writer; **Sandeep Pandey**, Social Activist and Magsaysay Awardee; **Ramchandra Guha**, Historian and Professor, London School of Economics; **Rammanohar Reddy**, Editor,

Economic and Political Weekly; **Justice P.B. Sawant**, former Judge of Supreme Court; **Justice B.G. Kolse-Patil**, former Judge of the Bombay High Court; **Binayak Sen**, Member, Planning Commission; **Irina Sen**, Professor, MG International University, Wardha; **Lalita Ramdas**, former Chairperson, Greenpeace International; **Praful Bidwai**, Independent Journalist and Professor, Council for Social Development; **Jean Dreze**, Professor, G B Pant Social Science Institute, Allahabad; **Kamal Mitra Chenoy**, Professor, School of International Studies, JNU; **Anuradha Chenoy**, Professor, School of International Studies, JNU; **Surendra Gadekar**, Social Activist; **Vasanth Kannabiran**, Founder & Head, Asmita Resource Centre for Women, Hyderabad; **Ritu Menon**, Founder Publisher, Women Unlimited; **Pamela Philipose**, Director, Women's Feature Service; **Rohan D'Souza**, Assistant Professor, Centre for Studies in Science Policy, JNU; **Darryl D'Monte**, former Resident Editor, The Times of India; **Soumya Datta**, Scientist & Activist; **Lawrence Surendra**, Founder Director of the Asian Regional Exchange for New Alternatives, South Korea; **Achin Vanaik**, Former Dean of Social Science, University of Delhi. □

PUCL Tamil Nadu and Puducherry: 19 March 2012

PUCL Condemns the Unprovoked Arrests of the Anti-KKNPP Activists

PUCL, Tamil Nadu-Puducherry strongly condemns the arbitrary and illegal exercise of police repression by the Tamil Nadu State Government against peacefully demonstrating local protestors in Koodankulam today, 19.3.2012. What exposes the

deceitful move of the State Government is the fact that the State Government which had been conducting discussions with the protesting villagers, did not even bother to inform the public about its final decision; while so, the Tamil

Nadu State Government moved in more than 5,000 armed police early this morning encircling Idinthakrai and neighbouring villages. The operation resembled a military action of 'encirclement and suppression' and was wholly an unnecessary

show of police might against peaceful, unarmed demonstrators. The Police action against Idinthakrai villagers resembles the Jalianwalabagh incident and raises concern about the true intention of the State Government's action coming immediately after the Sankarankovil bye-elections. The least the State Government could have done is to take the Koodankulam and Idinthakarai villagers into confidence and engage

in democratic discussions. Such Police action is wholly unwarranted and is meant to intimidate local villagers and citizens.

We condemn the State Government's dishonest police crackdown as an act of democratic betrayal without parallel.

We condemn the illegal arrest of villagers as also the arrest of Sivasubramaniam, Advocate and Rajalingam at the struggle committee office which was set up near the plant with the concurrence

and approval of the District Collector and the State government. PUCL demands immediate and unconditional release of all arrested villagers. PUCL also demands immediate withdrawal of Police force from the area. PUCL also calls upon the state government to resume dialogue with the villagers and desist from using force and unleashing repression.

V. Suresh, General Secretary, Tamil Nadu and Puducherry PUCL □

PUCL Gujarat: 23-03-2012

Open Letter to the Prime Minister reg. Kundankulam Nuclear Plant

Shri Manmohan Singh
Prime Minister
Government of India
New Delhi
Sir,

The news from Kundankulam reaching to us is very disturbing as there is largescale mobilisation of armed police in the areas around the Idinthakarai protest site and the Kundankulam Nuclear Power Plant. Many are arrested. It is a matter of grave concern that the protesters' families and supporters of the movement are targeted. The school run by the wife of Mr. Udaykumar, Meera, has not been spared and was vandalized. While the protestors are sitting on a fast unto death, rampant acts of lawlessness are spreading across the district of Tirunelveli. And the family members of activists who are leading the agitation against the nuclear power plant are the targets of attacks.

We condemn the inhuman violent attacks and arrest on the struggling groups at Idinthikara, Kudankulam. This is a direct onslaught on the democratic rights of people who are non-violently fighting for protecting their right to live.

It is very shocking to learn that the media has been blocked for the coverage.

We think, the decision to give the go-ahead to the power plant by the Govt. of Tamil Nadu is ill-informed

and has created a dangerously volatile situation. The Tamil Nadu Chief Minister's claim that the Expert Committees have addressed all concerns raised by the protestors is contrary to fact. Numerous issues such as the lack of back-up water supply, the fate of the desalination plants in the event of seawater recession, the quantum and fate of nuclear wastes and the sub-lethal effects of thermal pollution on marine biodiversity are only a few of the issues that remain wholly un-addressed by the Committees. Information relating to the arrangements made between the Governments of India and Russia relating to liability in the event of a nuclear disaster has been withheld. Commissioning the plant at this stage without having conducted the statutorily required emergency drills is a clear indication of the lack of safety culture, and the insincerity of the declarations that the plant is safe. Kudankulam nuke plant will definitely affect the lives and livelihoods of the people living in that area. The radioactive particles leaked out will be harmful to the health of people and the environment of the marine system. The officials could not provide satisfactory answers to the questions raised by the people. In the international context also Nuclear energy is not accepted by scientists and governments. Most of the

countries which are depending on nuclear energy had changed their stand because it is highly expensive and risky. Nowhere in the world scientists could find a safe method to process or keep the nuclear wastes including the spent fuel.

It is a matter of grave concern that you as the Prime Minister of India tried to blame the Kundankulam movement being foreign funded and froze the account of few NGO's. Earlier the Church was accused of helping the movement. Instead of accusing the movements as foreign funded or a conspiracy against India, the issues related to the peoples' problems be addressed and solved. We would like to recall that Mrs. Indira Gandhi used the same tactic during her regime to malign JP Movement and one Kudal Commission was appointed.

We are very concerned for the safety and well-being of the people of Idinthakarai, and expect that the Government of Tamilnadu will not use force. We demand from both Union and State Govt to withdraw all police action, TN Govt. to revoke the clearance, and close down the Nuclear Plant as demanded by the local people.

Prakash N. Shah, Illaben Pathak, Gautam Thaker, Dwarikanath Rath, Manishi Jani, Dinesh Shukla, Minakshi Joshi, Rajni Dave □

Gujarat PUCL:

In Gujarat, the process of elimination of values of democratic foundation and defeating the same is continuing - Suresh Mehta (02 - 04 – 2012)

Public Convention of PUCL in Rajkot

A convention on the theme of “**In which way Democracy is heading in Gujarat**” was held at Rajkot on 25-03-2012 under the chairmanship of former Minister for Labour, **Mansukh Joshi**, jointly organized by PUCL and **Lok Andolan Gujarat**, together with the intellectuals of Saurashtra, Gandhians, all the people associated with Khadi and Constructive works. This convention was attended by 150 representatives hailing from different districts of Saurashtra.

While addressing this convention, former Chief Minister **Suresh Mehta**, expressing deep concern and distress, had informed that currently, in Gujarat, it has become obvious to undermine and overlook democracy and constitution. The process of eliminating values of foundation of democracy and defeating the same is set in motion. He presented this view point with adequate details and evidences. Presently the criminal cases are being proceeded by transferring to other States and that recourse to formation of Special Investigation Team is being taken. No one is feeling shame for this. In the Legislative Assembly, signatures are taken on the blank forms for raising questions, questions are being wrongfully rejected and details on the expenditure incurred on the ‘Sadbhavana’ programmes are not furnished even to the Governor. On the R.T.I. front, ruling regime is suffering set back. False expenditures are being approved by way of supplementary budget. How and who will explain this modus operandi and foul play on the part of the Govt., to the general public ?

While addressing the convention, senior Journalist, **Prakash N. Shah** stated that we are not raising unviable high demands but our only demand is that the Govt. should fulfill its duties by running the administration efficiently. The

tradition of development in Gujarat is going on since many years. To-day, the C. M. is behaving in a haughty way, solely claiming the entire credit in his own name. On the other hand, many organizations have been stripped off their autonomy. The Government is withdrawing itself from the tasks of education and health services. Government's sight is set merely on the statistics of foreign investment but the index of human development is dropping on which no attention is being paid. In the past, Devkant Barua said that “Indira is India” but to-day the Chief Minister himself is self-dependent and boasts that “Modi means Gujarat”. In the future, believers in democracy will ask BJP as to why did you tolerate such arrogant leadership?

Leading Women Activist, **Ilaben Pathak** informed that conditions of women and children in the State is very pathetic. Chief Minister had told the women that if you send only one postcard then your ‘brother’ shall be present at once. But the fact is such that grievances of the women are not heard even in person. Govt. does not seem to take any responsibility for preventing incidents of murders of women, rapes, harassment to the women. Infant mortality rate is high and steps have not been taken to create proper administration for safety of the women.

The editor of Bhoomi Putra, **Rajani Dave** in his presentation expressed the agonies of the people subsisting for their survival on water, lands and forests. The State has not taken care for farmers, farm labourers, fishermen, salt workers, shepherds, cattle owners, working women, unorganized labourers etc. In fact, there is a need for this community to tread on the path of development. In the name of the industrial development, farmers' lands, sea-shores, waste lands, grazing lands etc. are being acquired. It is planned

to acquire some 75,000 hectares of land of about 300 to 400 villages in the coming years, for 180 GIDCs, 60 SEZs and 4 Special Investment Regions in the State. Senior Journalist, Yasin Dalal informed that Gujarat State, in fact, belongs to Gandhi, Sardar, Ravishankar Maharaj and Uma Shankar. It is very ridiculous that instead of saying so, Gujarat is being talked as Modi's Gujarat ! It is not proper for Chief Minister to talk of Centre's schemes as being launched by himself. After partition of Bengal, 20 % Muslim population is there and even though riots are not taking place there whereas Muslim's population is hardly 8 % in Gujarat and yet riots break out here. In Saurashtra no riots took place before the year 2002 which however, took place this time. There is rise in the castism and communalism in the State. Govt. has become thick skinned. It is ashamed of nothing whatsoever. In his presidential address, Mansukh Joshi stated that unfavorable situation prevails in Gujarat. C. M. is expanding his personal powers, indulges in arrogance, violates the democratic values. People are relegated to the position of slavery. To-day whosoever should be in jail, are jubilant. We will have to fight unitedly and it becomes our duty to see to it that traditions and systems of democracy are maintained.

At the outset, **Meenakshi Joshi** of Lok Andolan Gujarat had explained the aim of holding this convention. In the Parliamentary democracy, the ruling party must listen to the view point of the opposition and it is not proper to silence, stifle or suppress it. Now-a-days, many movements are spearheaded in Gujarat and the people are struggling, having been awakened. In his keynote address, **Gautam Thaker** as the General Secretary of the PUCL, Gujarat said that recommendations of the NHRC are not being implemented in Gujarat.

The task of Human Rights Commission is not functioning on whole-time basis. reports of various Committees are not being placed on the table of the Legislative Assembly, the post of Deputy Speaker is vacant, the post of DG

is vacant since 2010, to-day in Gujarat there is a situation of mini emergency, Govt. is intolerant even towards Leader of the Opposition, there is no appointment of Lokayukta after the year 2003 in the State, senior leaders of BJP are

marginalized and all this is the tall talks of Gujarat. Entire arrangements for the Convention were handled by **Balendu Vaghela**, Organizing Secretary of PUCL, Kutch and Saurashtra.
(Report by Rajani Dave) □

Press Release: 21 March 2012

Sri Ravi Shankar's Views about Government-Run Schools

Jaipur: We are shocked and strongly condemn the statement made by the Global Corporate Brand "Art of Living" businessman, Ravi Shankar in Jaipur on 20th March, 2012, wherein he states that "Government schools are breeding grounds of violence and Naxalismthat is why Government run schools and colleges must be handed over to private bodies....and that 'Adarsh schools' must reach all areas". We would like to demand evidence from Ravi Shankar that Government schools, in which 16 crore children of the age group 6 to 14 years are studying are breeding grounds for violence and Naxalism. An army of Indian engineers, doctors, nurses, computer professionals, government servants, army and police personnel and factory workers come from government schools. It would appear that this human resource that is the backbone of this country is wholly 'Naxalite' in the eyes of this completely irrational guru. The truth is that Ravi Shankar, being the brand Guru of the Global corporates, would like education to be the milking cow of this sector, so

that there is colossal growth in their profits. We consider the statement Anti-constitutional as it goes against Article 21-A where the Government is bound to provide free and compulsory education to children of the age group 6 to 14 years. Since the Parliament of India has passed this Fundamental Right, the implication is that Ravi Shankar considers the Parliament to be promoting violence and Naxalism, by charging the government with the responsibility of providing education to every child of the country. And also talks of reproducing the ideology of hate as presented by Golwalkar and Savarkar which schools like Adarsh Vidya Mandir teach, since he said that Adarsh schools should be set up everywhere in the name of *bhartiya sanskriti*. It should be known that this statement was made from the platform of the silver jubilee celebrations of Adarsh Vidya Society which runs more than 1000 Adarsh Vidya Mandir schools in Rajasthan. We demand legal action against the global brand corporate guru.

We are, **Prem Krisha Sharma**, President, PUCL Rajasthan; **Vinod Raina**, Bharat Gyan Vigyan Samiti; **Shabnam**, ANHAD; **Nishat Hussein**, PUCL Vice-President and National Muslim Women's Welfare Society, Jaipur; **M Hasan**, IRADA, Jaipur **Komal Srivastava**, Bharat Gyan Vigyan Samiti; **Raja Ram Bhadu**, SAMANTAR and People's Union For Civil Liberties, Rajasthan; **Vishwambhar**, Digantar; **Ashok Khandelwal**, Rajasthan Right to food and Work Resource Centre, Jaipur; **Shiv Singh**, Alarippu; **Rashid**, PUCL Rajasthan; **Vijay Goyal**, Resource Institute of Human Rights, Rajasthan; **Sabir Khan**, Sarthak and PUCL, Rajasthan; **Harkesh Bugalia**, Rajasthan General and Nirman Workers Union; **Radha Kant Saxena**, PUCL Rajasthan; **Nirmal Mor**, Student MSW University of Rajasthan; **Kavita Srivastava**, PUCL Rajasthan; **Mohan Shrotiya**, Eminent citizen; **HC Bhartiya**, Rajasthan Science Society; **Anant Bhatnagar**, PUCL Rajasthan, Organising Secretary; **DL Tripathi**, Vice President, PUCL Rajasthan. □

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.....)
That 'it does not make any difference' is one thing to say but what has happened is that it has made a difference. The State legislatures have not enacted laws themselves. Most of the matters relating to

elections are being made subject of delegated legislative powers, i.e. the general rule making power. For example, the U.P. Panchayat Raj Act 1947 contains section 110 which provides that the State Government may by notification in the gazette,

make rules for carrying out the purposes of this Act. It is under this section that the following rules have been framed by the State government:

1. Uttar Pradesh Panchayat Raj (Election of Members, Pradhans

- and *Up*-Pradhans; Rules, 1994)
2. Uttar Pradesh State Election Commission (Panchayat Raj and Local Bodies; (Appointment and Conditions of Service; Rules, 1994)
 3. Uttar Pradesh Panchayat Raj (Registration of Electors; Rules, 1994)
 4. Uttar Pradesh Panchayat Raj (Delimitation of Territorial Constituencies for Election of Members; rules, 1994)
 5. Uttar Pradesh Panchayats (Determination and Publication of the Number of Persons belonging to the Backward Classes; Rules, 1994)
 6. Uttar Pradesh Panchayat Raj (Computation of Period of five years for Removal of Disqualification, Fixation of period of dues etc. and Settlement of Disputes of Disqualification; Rules, 1994)
 7. Uttar Pradesh Panchayat Raj (Election of Members, Pradhans and *Up*-Pradhans; Rules, 1994)
 8. Uttar Pradesh Panchayat Raj (Oath of Office of Pradhan, *Up*-Pradhan, Panch, Sarpanch, Sahayak Sarpanch and Member of Gram Panchayat; Rules 1994)
 9. Uttar Pradesh Panchayat Raj (Settlement of Election Disputes; Rules, 1994)
 10. Uttar Pradesh Panchayat Raj (Vacation of office under section 11-D; Rules, 1994)

Similarly in Uttar Pradesh Kshetra Panchayat and Zila Panchayats Act there is a provision namely section 237 which provides for rule making power of the State government. The following rules have been framed by the State government under this section:

1. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Election of Members; Rules, 1994).
2. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Reservation and Allotment of Seats and Offices; Rules, 1994).
3. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Oath of office of Adhyaksh or Pramukh etc.; Rules, 1994)
4. Uttar Pradesh Zila Panchayats (Settlement of Disputes Relating to Membership; Rules, 1994)
5. Uttar Pradesh Zila Panchayats (Election of Adhyaksh and *Up*-Adhyaksh and Settlement of Election Disputes; Rules, 1994)
6. Uttar Pradesh Kshetra Panchayats (Election of Pramukh and *Up*-Pramukh and Settlement of Election Disputes; Rules, 1994)
7. Uttar Pradesh Kshetra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership; Rules, 1994)

Under the Uttar Pradesh Municipalities Act there are similar rule making provisions and most of the law relating to elections is by sub-ordinate legislative authority. It is well settled that the essential legislative policy cannot be abdicated to the subordinate legislation.

Even the rules which have been framed under the Uttar Pradesh Kshetra Panchayat and Zila Panchayats Act and Uttar Pradesh Municipalities Act do not cover all the matters relating to elections which have been elaborated in the Mohinder Singh Gill's case. **(Concluded)**

Regd. Office :
270-A, Patparganj
Opp. Anandlok Apartments
Mayur Vihar-I, Delhi-110091
Tel.: 22750014
Fax:(PP) 42151459
E-mail : puclnat@gmail.com
puclnat@yahoo.com
Website : www.pucl.org

PEOPLE'S UNION FOR CIVIL LIBERTIES

Founder : Jaya Prakash Narayan
President : Prabhakar Sinha
General Secretary : Pushkar Raj
Treasurer : Ajit Jha
Vice Presidents : Binayak Sen;
Ravi Kiran Jain; Sanjay Parikh,
Sudha Ramalingam (Ms.)
Secretaries: Chittaranjan Singh;
Kavita Srivastava (Ms.)
Mahi Pal Singh; V. Suresh (Dr.)

PUCL BULLETIN

Chief Editor : Pushkar Raj
Editor : Mahi Pal Singh
Editorial Board : Rajni Kothari, Rajindar
Sachar, R.B. Mehrotra, R.M. Pal
Chief Editor, Editor.
Assistance : Babita Garg

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