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Obituary:

Rajendra Yadav is No More

Rajendra Yadav who was a Hindi fiction writer, and a pioneer of the Hindi literary movement known as *Nai Kahani*, is no more. He was one of the main literary figures of India who, according to critics, brought 'New Wave' in post independence Hindi fiction. Fiercely independent of thought, he heralded modern sensibility in Indian Literature through his trailblazing original works and translations alike. Giving new direction and radically shaping the form and content of story writing, he forged ahead as a major architect of *'Nai Kahani'* movement and helped carve an irrevocable place for *Nai Kahani* transforming the Hindi Literary scene permanently. In all his major writings he revolts against inhibiting traditional values and orthodox precepts as well as socio-political chicanery in modern times. He edited the literary magazine *HANS*, which was founded by Munshi Premchand in 1930.

He was born at Agra, Uttar Pradesh on 28 August 1929 and died in New Delhi on 28 October 2013 night, around 12 o'clock in the night while being taken to the hospital. He was a Life Member of the PUCL. He also delivered the nineteenth JP Memorial Lecture held on 23 March 1999 at Jamshedpur, (then) Bihar on 'Jadon ki Talaash' in Hindi which was translated into English under the title 'In Search of Roots' by Dr. Y.P. Chhibbar, the then General Secretary, PUCL. He has left behind a void which will not be easy to fill. The whole PUCL family pays its heartfelt condolences to the bereaved family members and his friends and its respectful tributes to the memory of Rajendra Yadav.

Mahi Pal Singh, Secretary, PUCL ❑

Supreme Court Opinion on Electoral Reforms should be Welcomed

Rajindar Sachar

(After the landmark Supreme Court judgement on 27 September 2013 in the PIL case filed by the PUCL in 2004, "PUCL vs Union of India", upholding the right of the Indian voters to reject all the candidates in the parliamentary and state legislative assembly elections by using the "NONE OF THE ABOVE" or (NOTA) button in the Electoral Voting Machines (EVMs) if they feel that none of the candidates fielded by various political parties deserve their vote, many inquiries have been received in the PUCL National office requesting for providing information on the earlier PIL of the PUCL regarding the ***declaration of assets and criminal antecedents by the candidates at the time of filing of nomination papers for an election,*** *and the Supreme Court judgement of 2003 in the case making such a declaration mandatory. We reproduce below an article by (Justice) Rajindar*

Sachar which was published in the PUCL Bulletin, May 2003 after the 2003 Supreme Court judgement. The article throws sufficient light on the circumstances necessitating the filing of the PIL, the SC judgement in the case and the reaction of the government and political parties on the judgement showing the real character of the political class as a whole. It is worth reminding that the present UPA government was forced under tremendous public pressure to withdraw the ordinance which was brought to circumvent another SC order of 10 July in an attempt to enable convicted MPs and MLAs to continue as legislators till the final rejection of their appeal by the highest court whereas the Court had ruled that convicted legislators sentenced for two years or more would be disqualified from continuing as legislators immediately on being pronounced guilty and sentenced. - **Ed.***)*

An unnecessary confrontational stance is being taken by the Central Government and some political parties on the March 13 Supreme Court Judgement on electoral reforms, in response to the second writ petition filed by the People's Union for Civil Liberties. It is best to get the facts rights. In 2001, the PUCL filed a writ petition in the Supreme Court on the plea that voters have a fundamental right to know the relevant particulars of candidates standing for elections.

It referred to the Election Commission's observation that it is widely believed that there is criminal nexus between the political parties and anti-social elements and that it is leading to criminalisation of politics; that the criminals themselves are now joining the election fray, and some of them have even adorned Ministerial berths and, thus, law-breakers have become law-makers. At present, there are about 700 legislators and 25 members of the Parliament who are having a criminal record.

In this background, the Court took the view that elections would be a farce if the voters were to remain unaware of the antecedents of their candidates. Though it agreed that such tainted candidates ought to be disqualified from contesting elections, it acted with judicial self-restraint and emphasised that "at the outset, we would say that it is not possible for this court to give any directions for amending the Act or the statutory rules. It is for Parliament to amend the Act and the Rules".

The Court held that the right to information - the right to know antecedents, including the criminal past, or assets of candidates - was a fundamental right under Article 19(1) (a) of the Constitution and that the information was fundamental for survival of democracy. In its Judgement of May 2, 2002, it directed the Election Commission to call for information on affidavit from each candidate seeking election to Parliament or the State Legislature as a necessary part of the nomination papers on: Whether the candidate has been convicted / acquitted / discharged of any criminal offence in the past - if any, whether the candidate was accused in any pending case of any offence punishable with imprisonment for two years or more, and in which charge was framed or cognisance taken by the court of law.

If so, the details thereof; the assets (immovable, movable, bank balance, etc.) of a candidate and of his/her spouse and that of the dependents; liabilities, if any, particularly of any overdues of any public financial institution or Government dues; educational qualifications of the candidate.

The Court was so circumspect in not even remotely giving the impression that it was treading on legislative domain, that it did not accept the arguments to provide for disqualification for non-compliance with its directions or for the consequences of filing a false affidavit.

One should have thought that these mild directions towards cleansing the political field would have been welcome, considering that even the Prime Minister, Atal Behari Vajpayee, had publicly lamented that the electoral system had been almost totally subverted by muscle power and vote bank considerations of caste and community. Instead, in a hurry, the Government brought in the Representation of the People (Amendment Ordinance), followed by the R.P. (Third Amendment Act). Section 33A required the candidate to file an affidavit along with his nomination papers, giving information on pending criminal cases, if any, against him and in which charge has been framed against him.

As for information on his assets/ liabilities, it could be furnished after his getting elected. The amendment also provided for penalty for filing a false affidavit. These provisions, in addition to the requirement of information to be given as per the direction of the May 2, 2001 Judgement, would have been broadly accepted by the public as a welcome step towards electoral reforms.

But then, the Legislature stepped beyond its powers by incorporating in the Amendment Act Section 33B purporting to nullify the May 2 Judgement by providing that directions issued to the candidates by the court as per the judgment - to provide details of information mentioned therein - need not be complied with. Frankly, no challenge might have been made if the Amendment Act had not introduced Section 33B, which may verily be called a "constitutional monstrosity". This alone was challenged by the PUCL. The Court also held only Section 33B unconstitutional and void because it is well settled that the Legislature has no power to ask the instrumentalities of the State to disobey or disregard the decisions given by the courts, or to declare that the decision rendered by the court is not binding or is of no effect.

The result of the latest Judgement is that the candidate, in addition to the disclosure to be made in pursuance of the earlier Court Judgement of May 2002, will also have to give information in pursuance of the Third Amendment Act, 2002. The directions by the Supreme Court and under the Act are supplementary. The court accepted the Government plea that though the Election

Commission could insist on information as per the May 2 judgment, it was not justified in saying that wrong information furnished by a candidate would permit the Returning Officer to reject the nominations. It accordingly asked the Election Commission to revise its instruction.

Unfortunately, some political parties, without even observing the courtesy of reading the judgment, assumed a shrill posture, warning of "serious consequences" of alleged usurpation by the Court of the functions of the Legislature. The Court has done nothing of the sort.

Recently, the Election Commission issued revised instructions saying that it is only if information is not furnished as required under both the Supreme Court Judgement and the Third Amendment Act will the nomination papers be rejected. But, if wrong information is given though there will not be a rejection, it will entail criminal prosecution under the Third Amendment Act. Surely, if legislators object to this, their ire should be directed at Parliament, not the Supreme Court.

Over-touchiness on the part of legislators and their treating the Court as an opponent is unedifying. The courts have never doubted that the function of making laws is that of the Legislature. But then, the Legislature also needs to appreciate the role of courts as expounded by the then Chief Justice of India, Patanjali Sastri (1952), who reminded the Executive that "what is sometimes overlooked is that our Constitution contains express provision for judicial review of legislation as to its conformity with the Constitution. If, then the courts in this country face up to such important and none-too-easy task, it is not out of any desire to tilt at legislative authority in a crusader's spirit, but in discharge of a duty plainly laid upon them by the Constitution… We have ventured on these obvious remarks because it appears to have been suggested in some quarters that the courts in the new set-up are out to seek clash with the legislatures in the country".

Those words of wisdom need reiteration to serve as a beacon light to all constitutional instrumentalities. ❑

Civil Liberties & The Armed Forces (Special Powers) Act

Mahi Pal Singh

(This article was written in 2004 exclusively for the PUCL Bulletin but for unknown reasons could not be published in it at that time. It was later published in The Radical Humanist in September & October 2004, in two parts. It is being published in two parts here because the issues raised herein have not been resolved so far and the facts provided in the article are as relevant even today as they were in 2004. The first part was published in the November 2013 PUCL Bulletin. Here is the second and concluding part of the article. Ed.***)***

Continued from the last issue …

Can the Courts Provide any Relief?

The Constitution of India has laid down the responsibility of protecting the fundamental rights of the people, as guaranteed under the Constitution, on the shoulders of the Supreme Court of India and the various High Courts. In individual cases these courts have given some historical judgements thereby extending the scope of some of the fundamental rights. The Right to free and compulsory Education as a fundamental right emanated from the judgement of the Supreme Court in 1993 in Unni Krishanan's case (AIR 1993 SC 2178) wherein the Court observed that the 'Right to Education' is also a right to life, which is implicit as it flows from the right to life guaranteed by Article 21, though it had been present in the Constitution of India as a Directive Principle of the State Policy under Article 45 ever since the adoption of the Constitution in 1949 without being considered a fundamental right by any government before that. Right to know and information have also emanated from the interpretations of Articles 19 and 21 of the Constitution by the apex Court.

However, in the matter of such draconian laws as the TADA, the POTA and the Armed Forces (Special Powers) Act, the courts have somehow failed to fulfill their responsibility as the protectors of the Fundamental Rights of the people as assigned to them by the Constitution and as recognized by themselves as such, when, in the Keshvanand Bharti case, otherwise known as Fundamental Rights case (AIR 1973 SC 1461) the apex Court observed that the democratic form of government and the fundamental rights are some of the basic structures and framework of our Constitution and they cannot be abrogated or whittled down even by the Parliament in exercise of its plenary powers of amending the Constitution. Yet the Court has gone against its self-assigned, and constitutionally mandated, duty again and again. On the allegations of "administrative liquidation" of two men by personnel of the Manipur police, the Supreme Court had ordered a district and sessions judge to conduct an investigation on a public interest petition filed by the People's Union for Civil Liberties (PUCL) in 1992. The Court, however, gave orders only for monetary compensation, in its judgement on February 6, 1997, to the relatives of the victims. It did not exercise its authority to refer the matter to the trial court for the criminal prosecution of the perpetrators of the crime.

When the necessity to examine the Armed Forces (Special Powers) Act arose as a result of a letter-petition addressed to the Court in 1982, it was converted into a petition under Article 32 of the Constitution. The judgement came after 14 long years and the Court ruled that none of the provisions of the Act can be characterized as arbitrary. Though utterly bizarre such judgements

might seem, they are in perfect consonance with the status-quoits character of the establishment, be it the legislature, the executive or the judiciary. Otherwise how does one view the judgement of the apex court, during the Emergency in 1976, where in the Habeas Corpus Case, which came to be known as ADM (Jabalpur) Case, (AIR 1976 SC 597) the majority of the four Judges headed by Chief Justice A.N. Ray (Justice Khanna alone differing and paying the price for it) ruled that "Article 21 is the sole repository of the right to life and liberty and that since that right was suspended, Habeas Corpus petitions were not even maintainable," which practically meant that the Government had a right to kill a person without the authority of law and, in fact, contrary to the rule of law.

The National Human Rights Commission is even prevented by Clause 19 of the Protection of Human Rights Act from investigating directly complaints of human rights violations against the armed forces.

How Can an Atmosphere Conducive to Human Rights be Secured?

The National Democratic Alliance (NDA) government led by Sh. Atal Behari Vajpayee could not find time to pass the Women's Reservation bill to empower women during its six year rule because, as it claimed, it wanted to bring about a consensus on the issue. The same government passed the POTA within no time by calling a joint session of Parliament when it realized that it would not be able to get the bill through in the Rajya Sabha where it did not enjoy a majority. The same Congress party, which was opposing the move then, and later declared that it would abolish the Act as soon as it came to power, has still not found ways to do so, although, if Justice Rajinder Sachar, a retired Chief Justice of the Delhi High Court and expert in legal matters, is to be believed, the Act can be abolished overnight by an ordinance issued by the President. Not only that, the Congress led government at the centre is now planning to invoke Article 355 of the Constitution to keep the Armed Forces (Special Powers) Act in place in Manipur, where the people in large numbers have come out in favour of repealing the Act, in view of its gross misuse by the security forces. Article 355 permits the Centre to intervene in the state affairs without the consent of the state government in the interest of protecting the state from external aggression or internal security threat. What kind of threat from 'external aggression' or 'internal security threat' the government perceives is hard to comprehend. On the issue of keeping Manipur designated as a "disturbed area", there is a consensus in the political parties of all hues supporting the government, including the Left parties, who have otherwise been opponents of such black laws. The stand of the Congress party on continuing the AFSPA to remain in force in Nagaland and the other North Eastern states can well be taken as a foregone conclusion.

In such a scenario, in which none of the three branches of the State seem to care for the human rights of the people, in spite of their commitment to them under the Constitution of the country, the United Nation's Declaration of Human Rights of 1948 and the Covenant on Civil and Political Rights that followed the Declaration, to which the country is a signatory, the people of the country are left with no other alternative except to organize themselves into a movement against such draconian laws which act as an instrument of depriving them not only of their civil liberties but also of their right to life with impunity. As Justice P.B. Sawant (Retd.) observed in the Twenty-third JP Memorial Lecture organized under the auspices of the People's Union for Civil Liberties, Pune, on March 23, 2003, "A citizenery well-empowered to assert itself, sufficiently well-informed to take proper decisions on public issues, active enough to participate in the day-to-day affairs of the state, and always alert to call the governors to account for their acts of omission and commission - these are the minimum prerequisites of a successful democracy." The people have to be vigilant because, to quote him again, the powerful people "are in a position to control all the key institutions - the media, the bureaucracy, the police etc. and manipulate and corrupt them, manufacture consent in their favour, and sabotage not only the will of the people, but also the law of the land." (Human Rights in Retreat: P.B. Sawant, Mainstream, June 28 and July 5, 2003).

If the people of the country are to be saved from the onslaught of inhuman laws and not to be pushed against the wall by them into taking to arms which in any case is no solution of the problems facing them and the country, they must organize themselves into a strong people's movement to oppose such laws. Human Rights groups and other NGOs engaged in securing the rights of the people should lend full support to their peaceful efforts directed to this end. Some organizations from Nagaland, including some people engaged in the protection of human rights and civil liberties there, had approached PUCL, PUDR etc. some time ago to get their support for the movement to repeal Armed Forces (Special Powers) Act. It was decided to co-ordinate the efforts of various human rights groups in this regard and form an all India Committee to take up this cause. In this connection a convention was organized at Constitution Club on 29th July and a resolution was passed there. On 30th July another convention was organized at Gandhi Peace Foundation in which PUCL-Delhi played a very significant role. At the latter meeting, an action plan was also passed - including contacting various political groups and also individual MPs to muster their support for the cause. It was also decided to form sub-committees or regional committees which can take up the matter with the governments and political parties at the level of various states where this law is in force. An awareness campaign about human rights education should also be started among the people so that the State

can be pressurized to tackle such political issues politically through talks with all concerned groups instead of resorting to the use of armed forces which are best kept confined to their barracks except in times of external aggression. That is the minimum we should take a pledge to perform on this Independence Day if we have to save our democracy from slipping into anarchy or an autocracy, and ensure justice and full enjoyment of basic human rights for all our people. **(Concluded)**

Courtesy: **The Radical Humanist,** Nos. 414-15, September & October 2004 ❑

Press statement from NPMHR on Irrelevance of NHRC: October 24, 2013

Irrelevance of National Human Rights Commission in the North East

The Government of India, when it set up the national and the state Human Rights Commissions (NHRC and SHRC) in 1993, the mandate of these commissions excluded atrocities committed by the army and the paramilitary forces.

When the Manipur State Human Rights Commission (MSHRC) was being constituted, the Naga Peoples Movement for Human Rights (NPMHR) was also asked to send a representative to the Commission. The NPMHR after deliberation decided not to participate on the principle, that human rights issues in Northeast India mostly emanated from violations perpetrated by the army and paramilitary forces, and whose acts were shielded by the infamous Armed Forces (Special Powers) Act, 1958 (AFSPA); an Act that directly contravenes and violates the right to life. To be a part of a commission that cannot deal with serious human rights issues was not only meaningless, but also painful.

We recall the 1997 ruling of NPMHR v. Union of India in which the NHRC was also a party, where the Supreme Court upheld the constitutionality of the AFSPA. While the Court provided a list of Dos and Don'ts to check on the exercise of such power of impunity, these rules have been largely ignored. The NHRC has pleaded its helplessness under Section 19 of the Human Rights Act even in cases where the army and paramilitary has contravened it.

All these suggest that unless a radical change in the laws, particularly bringing the acts of the army and paramilitary within the scope of NHRC, and also to limit the impunity enjoyed under AFSPA is changed as has been recommended by various non-state and state agencies including the Jeevan Reddy Committee, the visit of the NHRC would remain a meaningless exercise for the people of Northeast India, including Manipur.

Naga Peoples Movement for Human Rights (NPMHR), Kohima, Nagaland ❑

INDIA: Disturbed or Discriminated?

*Ms. Anjuman Ara Begum

The extension of 'disturbed area' status for north eastern states since 1955, and thereby the activation and extension of emergency laws, has been but a routine administrative exercise for the union government. The legacy was upheld this year. The union has again extended the 'disturbed area' status of Assam for another six month period, with effect from 4 November 2013. Despite such back door declarations of emergency laws, India continues to claim internationally that there is no situation of armed conflict in the country.

The latest extension means continued application of the draconian Armed Forces (Special Powers) Act, 1958 (AFSPA) in Assam and in the 20 km area in bordering states of Arunachal Pradesh and Meghalaya. Reportedly, the decision has been taken by the Home Ministry after considering the security situation in these three states.

The practice of declaring an area as a 'disturbed area' began with Assam. Assam was declared a 'disturbed area' for the first time in 1955 under the Disturbed Areas Act, 1955 (DAA) at a time when the current Nagaland state was still a part of it. Nagaland became a separate state in 1963, and remained 'disturbed'. In November 1990, again, the entire state of Assam was declared a 'disturbed area'*, *under AFSPA and the DAA, with the argument that the use of armed forces to aid civilian government was necessary to counter the United Liberation Front of Assam (ULFA) sponsored militancy. Assam still remains 'disturbed'. On 17 September 2001, areas in Arunachal Pradesh, Nagaland, and Meghalaya, lying in 20 km range from the Assam border were also declared 'disturbed areas'.* *Earlier, in 1980, the entire state of Manipur had been declared 'disturbed'. Following a public agitation in July 2004, the disturbed area tag was partially lifted from Imphal city, the state capital. And while Nagaland has remained a designated 'disturbed area' till today, 38 police stations in Tripura state and the Tirap and Changlang districts of Arunachal Pradesh have also been declared 'disturbed.'

AFSPA and the DAA empower the state and the union government to declare an area as 'disturbed'. Once the declaration is made, the armed forces, empowered with lethal powers can be deployed in the area. According to a parliamentary question answered on April 5, 2013, the Ministry of Home Affairs disclosed that the following areas in

the country have been declared as disturbed[1]:

(i) Entire State of Assam & Nagaland;

(ii) Tirap, Changlang & Longding districts of Arunachal Pradesh;

(iii) 20 km wide belt bordering Assam in Arunachal Pradesh & Meghalaya;

(iv) The entire State of Manipur, excluding the Imphal Municipal Area;

(v) Parts of Tripura as notified by the State Government; and

(vi) Jammu, Kathua, Udhampur, Poonch, Rajouri, Doda, Srinagar, Budgam, Anantnag, Pulwama, Baramulla and Kupwara districts in Jammu & Kashmir.

Declaration of 'disturbed area' also means additional budget allocations. The Ministry of Home Affairs further informed the parliament that union government has been providing financial assistance in 2011- 2012 under Security Related Expenditure (SRE) to the affected states; Assam (153.04 crore), Nagaland (83.11 crore), Manipur (28.88 crore), Tripura (39.25 crore), Arunachal Pradesh (27.82 crore), and Jammu and Kashmir (342.27 crore).

The state of Meghalaya is the exception to the trend of 'disturbed area' increase and extension. The state government decided not to recommend that the union declare the Garo Hills area of the state as a 'disturbed area' on the ground that 'the situation in the region is not bad compared with other disturbed areas of the country'. The Garo Hills district of Meghalaya has been subject to active armed hostility for few years. The Garo National Liberation Army (GNLA) rebels, under the leadership of a former police officer, Mr. Champion Sangma, have carried out insurgent activities in three impoverished districts of Garo Hills and killed over 35 people, including security personnel.

There have been instances where a state's resolution against such declaration has been ignored. It is reported that the Nagaland state assembly passed resolutions against the extension on four occasions.

Each time these resolutions have been ignored by a union government bent on extension. The recent declaration of Nagaland as 'disturbed area' for another year under AFSPA reinforces nothing but the union's dominance over law and order in a state, something supposed to be a state subject under schedule 7 of the constitution. Nagaland is under active ceasefire for decades now; casualties amongst the armed forces are rare. Yet, recently, on 30 June, 2013, the 'disturbed area' status has been extended to Nagaland for another year through the Gazette of India Notification No. S.O. (E) dated 30 June 2013. Immediately after the notification, there was protest against the declaration. Several citizen's groups issued their protest notes. The latest declaration completely overlooked the fact that has hardly been any army casualty in a decade.

Tripura, a state often touted as an example of successful counter insurgency measures, has also still remained 'disturbed'. Tripura has not had any major armed encounter in recent years. The only reward for this lack of conflict: in June 2013, Tripura police stations marked as 'disturbed area' have been reduced from 34 to 25.

The parameters to declare an area 'disturbed' are never clear. Initially, in 1958, only a state could declare an area a 'disturbed area'. In 1972, an amendment to AFSPA empowered the union government to also declare an area 'disturbed'. With this amendment, the power and role of state governments reduced to that of cheer leaders in a game of cricket.

To date, there is no legal definition of what constitutes a 'disturbed area', a specially designated zone where the right to life can be easily violated under AFSPA with absolute impunity. Even the judiciary has ignored this aspect. In Naga People Movement for Human Rights vs. Union of India, AIR 1998 SC 431 (NPMHR in short), it was simply said that the country understands what constitutes a disturbed area. It was further decreed in the same judgment that there is no requirement that the union government shall consult the state government before making such a declaration. The Court held that a declaration of 'disturbed area' under Section 3 of AFSPA has to be for a limited duration, subject to periodic review before the expiry of six months. The judgment stated that 'the conferment of power to make a declaration under Section 3 of AFSPA on the Central Government is not violative of the federal scheme as envisaged by the Constitution'.

Further, the Court held, 'a similar conferment on the Governor of the State cannot be regarded as delegation of the power of the Central Government'. 'Although a declaration under Section 3 can be made by the Central Government /suo motu/ without consulting the concerned State Government, it is desirable that the State Government should be consulted by the Central Government while making the declaration', held the Court.

The continuation of 'disturbed area' status has been criticised by the Human Rights Committee in its observation on India's third periodic report in 1997. The international legal standard, such as the one laid down in article 4 of International Covenant on Civil and Political Rights, 1977 (ICCPR), allows a state to undertake extra ordinary measures 'in times of emergency which threatens the life of the nation', following an official proclamation that the measures taken are 'strictly required by the exigencies of the situation', and on the condition that certain fundamental rights, including the right to life and the right not to be tortured, can never be suspended. The UN Human Rights Committee, in its General Comment on article 4 of the ICCPR, emphasised that measures taken under article 4 are carefully justified as why it is necessary and legitimate in the circumstances.

It is time for the Government of India to stop this routine practice of prolonging emergency in north east India. Being a party to the ICCPR, it must comply with article 4. Doing so will help the union overcome its 'disturbed' syndrome, and start functioning responsibly.

An Article from the Asian Human Rights Commission, November 11, 2013

***Anjuman Ara Begum** is Program Officer - India Desk at Asian Human Rights Commission ❑

Drop the RTI (Amendment) Bill, 2013

D.L. Tripathi

RTI (Amendment) Bill 2013 intends to amend Section 2 of the RTI Act in order to nullify the decision of CIC dated 3rd June 2013 which declared six national political parties as Public Authority under Section 2 (h) of the RTI Act 2005.

Almost all Political Parties have united to get this decision undone through this Amendment in the Act.

The contention of the political parties is that these are already answerable under the RP Act 1951 and answerable to Election Commission of India so there is no need to be answerable to Transparency Panel.

This is not enough. Every one is aware that RTI Act is a unique piece of legislation which endeavours to create a practical regime for citizens to get access to information under the control of public authority in order to promote Transparency and Accountability. The preamble of the Act clearly states its objective that " Whereas Democracy requires an informed citizenry and Transparency of information which are vital to its functioning and also to contain corruption and hold the governments and their instrumentalities accountable to the governed."

Already as per March 27,2003 order of Election Commission of India in pursuance to the SC order dated 13th March 2003 in PUCL vs. Union of India case it is mandatory for the candidates contesting Elections to submit an Affidavit disclosing his Assets and Liabilities etc. And this is being followed very well by all the candidates of various political parties. Though this submission by the candidates also requires strict scrutiny yet this is a big advancement in our democratic functioning.

So the political parties plea that in the context of their candidates submitting Affidavits no further encroachment is needed in their income and expenditure and their inner working. This argument is invalid in a Democracy leading towards Transparency and Accountability with a mission of e-governance. Hundreds of Political Parties have been formed in India. The purpose of their creation is to serve the people, develop and govern the country. Their slogan and their manifesto loudly proclaim various promises and pledges on this count. Every Party says if comes to power it shall provide discrimination free welfare State based on equality.

But to achieve its objectives and expand its activities it requires funds.- Wherefrom these should come? This is a big question! Indian People are keenly interested to know the sources and the way in which these funds are expended by the political parties.

The Political Parties collect Funds from Companies, Business Houses, from foreign countries (as well) even from Mafias and from many unknown sources. More the funds more the activity and more the candidates to contest elections. In the process the Political Parties are deeply involved in exercise of Black-Money may it be through donations or otherwise leading to biggest source of corruption. The hon'ble Apex Court has expressed its serious concern on umpteen occasions observing that through Black Money the Electoral system is getting corrupted. It has repeatedly urged upon Parliament to tighten the law. Since many decades this debate is going on as to how to cure this problem?

Even in the Year 1975 and 1978 the Committees under the Chairmanship of Justice Tarkunde recommended provision of Assistance from Public Exchequer. We have in India banned Company donations to political Parties in 1969 itself and later on restored by an Amedment in Company's Act in 1985. The Dinesh Goswami Committee set up in 1991 recommended limited support while simultaneously recommending a ban on Company donations. The Election Commission in 1998 realized the utmost urgency and proposed that "there was a strong need for Transparency in the matter of collection of Funds by Political Parties and also about the manner in which those funds are expended by them. The 170th Report of Law Commission laid down conditions for accepting donations by political Parties and for their inner -party democracy.

The Indrajeet Gupta Committee on State Funding of Elections (1998) - while discussing the problem said " for meeting huge expenses on Elections Political Parties require huge funds which at present come mostly from private sources such as Big Business houses and enterpreneurs who consider these contributions as INVESTMENT capable of yielding rich returns from the Political Powers later on. They influence the government decisions giving rise to political corruption. It recommended that the State Funding would be of great help in bringing complete Transparency in Financial Management of Party Funds. This would be not only for elections but also for other Party activities as in other countries such as Sweden and Germany etc. This would ultimately ensure inner-party democracy as well."

The Parliament in 2003 unanimously enacted " The Election and Other related laws (Amendment) Act" which considered Dinesh Goswami Report and that of Indrajeet Gupta Committee Report and also acknowledged the recommendations of Dr. Man Mohan Singh Committee on Party Finances- mainly providing full tax exemptions to individuals and Corporates on all contributions to Political Parties disclosing of Party Finances and contributions over Rs. 20000/- and

indirect public funding to candidates of recognized parties (already in vogue) and recommended partial Funding. The Chief Election Commissioner Sri T.S. Krishnamurty drawing the attention of the Prime Minister to this wrote that the provision made in the Act for contributions beyond Rs. 20000/- is not sufficient for ensuring Transparency and Accountability in the Financial management of Political Parties. The Political Parties must be required to publish their Accounts.

The National Commission while reviewing the working of the Political Parties concluded that no party has been able to observe the basic norms of inner party democracy. Parties may look democratic but in reality it is not. It is universally known that the undemocratic parties are not inclined to contribute to Constitutional democracy and to the democratic governance. Here the enforcement of Party Constitution through legal and judicial process may prove quite fruitful. Regular organizational elections should be mandatory and there should be honest and transparent funding from legitimate sources.

There have been more Committees recommendations and Apex Court Orders to clean and cure our Political system. In this context the Central Information Commission decision dated 3rd June, 2013 is a land mark decision which creates opportunities for the citizens to know the credentials and working of the Political Parties who have pledged to serve and govern the country. It is a significant and tangible move forward in a debate that has been going on over several decades-" How to ensure inner party Democracy and Transparency in the way the Parties collect Funds and spend them. "

By establishing transparency and accountability in the sources of funding of Political Parties and their expenditure the CIC has done a commendable job. This would in process strengthen the inner democracy of the Parties and lead to create a value based polity. The Political Parties need not worry when these are answerable to ECI and to Income Tax Department why they should feel scary of passing the information to the citizens on whose support these survive and thrive. No doubt NGOs too should be deemed to have been taken into the ambit of the RTI Act. Public Interest is the SUPREME basis of RTI and therefore, if we are keen to protect the PUBLIC INTEREST and establish Transparency and Accountability in our body politic the Political Parties instead of uniting to torpedo the CIC decision should come forward to strengthen Democracy and ask the government to drop and withdraw the proposed Amendments in the RTI Act.

(D.L. Tripathi is the Vice President, PUCL-Rajasthan & Member NCPRI) ❑

Rights Defenders Increasingly Branded "Enemies of the State" Over Development Projects, UN Expert Warns

NEW YORK / GENEVA (29 October 2013) - Human rights defenders working on behalf of communities affected by large-scale development projects are increasingly being branded 'anti-government', 'against development' or even 'enemies of the State', a UN independent expert has warned.

Human rights defenders trying to help communities affected by projects such as the construction of hydroelectric power stations, dams, and roads or the operations of various extractive industries were being "harassed, stigmatized and criminalized for doing their work," the Special Rapporteur for human rights defenders Margaret Sekaggya said on Monday in a report to the UN General Assembly.

They also faced threats, including deaths threats, and physical attacks. "But rather than being against development, defenders plan an important role in advancing it," she highlighted.

In her report, Ms. Sekaggya calls for a rights-based approach to large-scale development projects, which would include the principles of equality and non-discrimination, participation, protection, transparency and accountability, including access to appropriate remedy.

"It is essential that communities and those defending their rights are able to participate actively, freely and meaningfully in assessment and analysis, project design and planning, implementation, monitoring and evaluation of development projects," said Ms. Sekaggya. Such participation can contribute significantly to defusing tensions, she added.

"It is crucial that relevant information about large-scale development projects is available and accessible," the expert said. A lack of transparency could not only increase the vulnerability of defenders and the affected communities, but also seriously undermine the credibility and legitimacy of both State and private involvement in such projects.

Ms. Sekaggya also stressed that, "States have an obligation to provide protection to those claiming their legitimate right to participate in decision-making processes and voicing their opposition to large-scale development projects."

"It is essential that those who wish to report human rights concerns and violations can safely do so," the Special Rapporteur said, highlighting that private enterprises and donors, as well as States, can contribute to ensuring accountability. ❑

People's Union for Civil Liberties (PUCL) & Citizens for Democracy (CFD) Statement on condemning stopping of 'Sadbhawna Yatra'
Press Statement: 26th Oct. 2013

Stopping of 'Sadbhawna Yatra' for Communal Harmony today

(26th October 2013) by U.P. Police at Delhi -U.P. Border condemned

Paschimi Pradesh Nirman Morcha,UP , in the wake of the Muzaffarnagar communal violence, had organized a 'Sadbhawana Yatra' which started today afternoon from Jantar Mantar, New Delhi. The purpose of Yatra was to promote communal harmony and goodwill between different communities, especially Hindus and Muslims, and to give strong message to the communal forces that attempts to disrupt and vitiate communal relations would not be tolerated. The programme of the 'Yatra' was to tour affected areas of Muzaffarnagar for one and half month and also to visit relief camps. Large number of people had gathered at Jantar Mantar with buses and cars. Social and political activitists of various shades, including Swami Agnivesh; Amar Singh; Arif Mohammad Khan; D.P. Yadav; Hussain Waheed, Ex. President, Aligarh Muslim University Students Union; Mohd. Irshad, President, AMU Old Boys Association (Delhi); Ilyas Azmi, Former M.P.; Satyapal Choudhary and Nihal Singh, both conveners of Paschim Pradesh Nirman Morcha spoke on the occasion and emphasized the need for communal unity for development and progress of the nation. Justice Rajinder Sachar and Captain (Retd.) Abbas Ali, distinguished member of INA and ex-MLC of UP- a veteran socialist, 94 years of age, blessed the Yatra and flaged it. Kuldip Nayar, eminent journalist , had sent a message of appreciation.

The Yatra had started with lot of enthusiasm and great fanfare with banners having slogans condemning Muzzafarnagar violence and communal forces who sought to derive political advantage out of human sufferings. Many joined it on the way. As soon as it reached Delhi-U.P. Border near Ghaziabad around 4.00 p.m. , it was shown red flag by the U.P. Police and was not allowed to proceed further on the ground that Section 144 Cr.P.C. was in operation. The flags and banners with appeals for communal unity and goodwill were snatched and torn. The participants were forced to disperse.

The intimation of the purpose and programme of the Yatra was given well in advance to the U.P.administration who did not raise any objection. The purpose and programme of the Yatra was purely constitutional, democratic and need of the hour in the prevailing communal tensions.

The organizers were hopeful that Yatra would receive the support and protection of the authorities. But the arbitrary action of the authorities show that the U.P. Government is not interested in the restoration of communal harmony and peace between communities.

We strongly condemn this arbitrary and undemocratic action of the UP Govt. and urge upon it to reconsider its attitudes and policy so that efforts for communal harmony and peace are not undermined.

(Justice) Rajindar Sachar, N.D.Pancholi, Dr. Prem Singh

On behalf of PUCL and Citizens for Democracy ❑

PUCL Jharkhand Press Release on the disappearance of Dileshwar Mahato: 22.10.2013

Press Release on Hon'ble Supreme Court order dated 18.10.2013 on the disappearance of Dileshwar Mahato

The Hon'ble Supreme Court has passed an Order on 18.10.2013 on an SLP filed by Sefali Mahato wife of Dilleshwar Mahato, resident of village - Nalbona, P.S. Jhargram, District - West Midnapur, West Bangal arising out of Hon'ble High Court, Jharkhand Order under a writ dated 07.12.2011which held that no grounds were made out for issuing writ of Habeas Corpus on the basis purported claim by the Jharkhand State of purported release of Dilleshwar Mahato on personal bond, referring the matter to CBI for a preliminary investigation a report on which to be within a period of 6 weeks after considering the facts and circumstances of the case.

It whould be recalled that Dilleshwar Mahato was arrested at GOA by the Jamshedpur Police on 23.07.2010 with the help of GOA Police and brought to Jamshedpur for investigation in in Case No.30/10, Golmuri PS relating to theft of INSAS Rifle in which case Dilleshwar was never named accused without any transit warrant. As per the purported claim of the District Police he was kept in illegal confinement for 3 days and purportedly on 26.07.2010 released purportedly on personal bond. His arrest was not notified to his family members by either the Jamshedpur Police or the Goa Police and in fact gave contradictory and false information to his wife Sefali Mahato. The signature of Dilleshwar in that purported personal bond was also disputed by his wife.

On a reference to PUCL the district unit of PUCL investigated the matter and referred that to NHRC. NHRC issued notices to both Jharkhand and GOA Government for their responses. On the basis of preliminary investigation by PUCL and NHRC communication a writ of habeas Corpus was filed through Sefali Mahato which was rejected by the Hon'ble High Court by its Order dated 07.12.2011 against which an SLP was filed by her and the Hon'ble Supreme Court was obliged to pass the above Order.

For PUCL Jharkhand

Jagdish Mishra, President, Singhbhum; **Nishant Akhilesh,** State President; **B N Das,** State Vice-President ❑

PUCL Jharkhand Report on the Death of a 20 year Young Boy in Jail Custody

19 October 2013

This is case of unfortunate death of a 20-year young boy in Jail custody (arrested under Arms Act) under mysterious circumstances. He got sick and prima facie it appears that he was not treated well for want of money by the jail authorities, police and doctors of MGM after interviewing his mother. We have scanned all the medical reports made available to his mother. No document to detail anything about his disease and related treatment. Doctors refused to meet PUCL team. SP refused and even failed to make a reply against an RTI letter. He is prima facie under dock as he failed to provide timely squad for sending him to AIIMS, Delhi for his immediate treatment. NHRC has indicted him and also compensated his mother by awarding Rs.5 Lac.

We have been involved in this case. Now we have written to the NHRC to institute criminal cases against the delinquents who are already indicted in their report.

Akhilesh Kumar Shrivastava, President, PUCL Jharkhand ❑

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To

The Chairperson,

National Human Rights Commission,

Faridcot House, Copernicus Marg,

New Delhi.

Ref: NHRC Case No.1620/34/16/ 2011-JDC/UC

Dear Sir,

We are grateful for the Order passed under the above by the NHRC and highly appreciate the same.

With reference to the above however, we wish to draw your kind attention that the above case was referred to us and our inquiry team visited Gaghidih jail several times and procured relevant papers and examined the same. As the team had limited access at the Jail we were not able to make any inquiry from the other inmates. Further, we were also not able to make any substantial inquiry at the MGM Hospital by reason of lack of diagnosis and other details in the medical records of the deceased. However, after having sought opinion of the medical practices we are prima facie convinced that there has been negligence at some level either at MGM Hospital or at the Jail itself which resulted in the sad demise of the deceased at the tender age of 20 only.

The criminal negligence of district police is all apparent in not providing the police squad for 15 days for transferring the deceased from RIIMS, Ranchi to AIIMS, New Delhi which resulted in his death which fact has already been acknowledged by the NHRC and which formed the basis of Order of compensation by the Hon'ble Commission.

With this we wish to make an earnest request to you to investigate this matter further and fix criminal negligence of all the officials including the Superintendent of Police in this case and refer the matter to appropriate court for trial and conviction of the delinquents.

Warm regards,

For PUCL, Jamshedpur

Nishant Akhilesh, State President, Jharakhand; **Jadgish Mishra,** President, Jamshedpur

Encl: Statement of dates and events and copies of the documents procured and examined by the PUCL.

Chronological statement of dates and documents detailing the information, events etc.

S.No.	Particulars	Date	References	Remarks
01.	Surrender before the Court of Chief Judicial Magistrate.	01.02.2010	GR Case No.195/ 10 & Sonari Case No.07/10	Section 307, 326 & 34 of the IPC, 1860
02.	Application to the court for medical treatment in MGM Hospital	24.10.2011	Letter No.2659/ Jail	Fever; For saving the life of the under trial he was referred to MGM for special Medical investigation on 08.10.2011. He was sent back against to Jail. On 09.10.2011 he developed fever again and was also feeling weakness. He was admitted and remained admitted till this letter was sent for formal consent to the Court.
03.	Application to SSP for shifting of Sunny Singh to RIMS, Ranchi	29.10.2011	Letter No.nil/Jail	It was informed that the under trial was referred to RIIMS, Ranchi as his condition was critical. SSP was requested to provide armed police force with vehicle.

04.	Application to the court for shifting of Sunny Singh to RIMS, Ranchi medical treatment in RIMS, Ranchi.		Letter No.2696/ Jail	The Court was informed that the under trial was referred to RIIMS, Ranchi as his condition was very critical therefore, he was sent to Ranchi. A formal application was made for consent.
05.	Jail Superintendent's letter to the family of Sunny Singh about the critical condition of Sunny Singh.	05.11.2011	Letter No.2717	Information to the family members of the under trial repeating the message above.
06.	Application to the court for medical treatment in AIIMS, New Delhi.	18.11.2011		
07.	Application to the SSP for shifting of Sunny Singh for medical treatment in AIIMS, New Delhi.	25.11.2011		
08.	Jail Superintendent's letter to the family of Sunny Singh about the Death of Sunny Singh.	01.12.2011		
09.	Inquest Report	02.12.2011		
10.	Post Mortem Report	02.12.2011		
11.	Paper cutting	08.12.2011		
12.	Letter from NHRC to the chief Secretary, Jharkhand	04.02.2013		
13.	Filing of complaint with the NHRC to take action against the officials responsible for death of Sunny Singh.	06.03.2013		

The Politics of Special Legislations in India

Asha Kowtal

"..turn in any direction you like, caste is the monster that crosses your path. You cannot have political reform; you cannot have economic reform, unless you kill this monster." - **Dr. B.R Ambedkar**

I was not yet in my first standard of school when the strategies of the Scheduled Caste Sub Plan (SCSP) (earlier known as Special Component Plan for Scheduled Castes) were put into force. Way back in 1979-80, the SCSP mandated every State/ Ministry to earmark funds from the Plan outlay, atleast in proportion to the population of SCs in the State/ Country i.e. 16.62% as per the Census records. It meant that 16.62% of the budget of every Ministry was meant exclusively for the development of Scheduled Castes in India.

Context

The logic behind this idea was to essentially, 'bridge' the developmental gaps experienced by the Scheduled Caste people as compared to the population belonging to socially advanced groups. The idea was to allocate funds at individual, family and community level in order to ensure growth within the SC community and bring them at par with the other general population.

As is the case with several legislations meant for SCs, this one too failed miserably. Now in the year 2013, more than 34 years later, the Government of India recognizes the inadequate implementation of the SCSP and therefore considered it appropriate to provide a legislative backing to the SCSP strategy through a Central legislation. It is rather interesting to note that some 30 odd years after Independence, the idea of SCSP was conceived and then more than 30 years later, it is being legislated.

A few months ago, in a very welcome step, the Ministry of Social Justice and Empowerment uploaded the Draft Scheduled Caste Sub Plan Bill 2013 on its website, inviting suggestions and comments. Through this, the SCSP strategy and the idea to bridge the development gaps would finally be legislated in India. It sounded hopeful. Several activists across the country, including Dalit activists working on the economic rights for Dalits began

to hold series of consultations to deliberate on the draft Bill and its contents.

Less than two months later, in record time, the Bill was expected to be introduced in the Monsoon Session of Parliament. However, it did not happen. Now, several groups and individuals across the country are keeping their fingers crossed with the hope that the Bill will be introduced in the Winter Session 2013.

Major Concerns

The Draft SCSP Bill 2013 aims to bridge the gaps without sufficient analysis of the gaps in the first place.

In rural areas, poverty rates are 9\% higher for Dalits; similarly in urban areas, poverty rates for Dalits exceed those of socially advanced groups by 14%.1 Further, trends in poverty reduction suggest that these inequalities are growing wider, with an average annual poverty reduction of 2.4 % amongst Dalits against 2.7% for other groups in rural areas; in urban areas, the annual pace of poverty reduction was a meager 2.1 % for Dalits against 2.7% for other groups2.

With scientific data like these available for the policy makers, it is rather baffling to understand how/why it is believed that the magic figure of 16.62% allocations for Dalits will bridge the gaps and address this growing poverty amongst Dalits as a social group. It is not rocket science to understand the simple fact that with high disparity in the poverty reduction rates, this gap is only going to remain un-addressed.

In the much-needed exercise of gap analysis, the need for creation of wealth for Dalits is stark and visible. The entire wealth and resources of this country is controlled by a miniscule number of people from socially advanced classes; one cannot dream of any long-term structural change unless some serious steps towards re-distribution and creation of wealth are taken up. Access to land and autonomous resources along with special schemes for education, employment, and entrepreneurship for Dalits is crucial.

The SCSP Bill 2013 perhaps has the right intentions but without an accurate analysis of the gaps that it aims to address, it will seem like mere charity done for the poor and marginalized SCs of India. Well meaning legislations like the SCSP should aim at bringing in structural changes. On the contrary the nasty truth is that the 'benevolence' of the budgets provided by the Indian state for development of Scheduled Castes in India has suffered from massive diversion and pilferage both at the stage of allocations and implementation3.

Further, there is no dearth of statistical evidence to show that the situation of SC girls and women is worse off as compared to general caste women and SC men. One of the biggest drawbacks of the Draft SCSP Bill 2013 is that it does not take into the account the multiple forms of exclusion faced by SC women. The Bill does not acknowledge this visible gap and hence it is further baffling to the extent that Dalit women activists begin to wonder if this Bill is intended to maintain this gap forever.

The Bill in its current form does not set aside exclusive resources for development programmes for Dalit girls and women. Without this focus, the Bill will lack meaning and purpose in addressing the gender and caste inequities faced by Dalit women in India.

Just like the institutions where the Draft Bill originated, it too reeks of caste and patriarchy. It not only lacks a focus on Dalit women, but also fails to even acknowledge the fact that women within the SC community need an extra push to come up to a level playing field. The farcical nature of this story is best understood by the fact that the word 'woman' appears only once in the Bill and even here it only refers to nomination of three women social workers from organisations working for development of Scheduled Castes as members of the National Scheduled Caste Development Council which will oversee the implementation of this Act.

Why the hurry?

The strategy proposed through the SCSP has been around for over three decades now. It has been infested with problems of notional allocations, diversions of funds and mis/under/non-utilization of funds. What was the plan of the GOI and political parties in power to address the issues of failure of accountability? Nobody knows how the new legislation will set right the institutions that are corrupt and completely biased along caste and gender lines.

A special legislation like the SCSP Bill should be well-grounded, scientific, visionary and path breaking. It should aim at breaking centuries of exploitation and oppression faced by Scheduled Castes in the country. Without a thorough planning and impact analysis of the SCSP, the legislation will remain a feather in the cap of policy makers and a failure at the level of implementation itself.

A decade or two later, the impact of a special legislation like the SCSP may turn out to be an unfathomable exercise, since it is unclear what it initially set out to achieve. For example - without an inbuilt mechanism to review the impact on SC women, how can schemes and programmes be developed, approved and implemented by the ministries? The SCSP Bill does not include a gender audit or mandatory annual report on development indicators for SC women. How then will the schemes be evaluated and corrected? What will be basis of allocation of funds?

Every public policy including special legislations like SCSP should be based on the needs and requirements of the community. In its current form the SCSP has been drafted without any inputs from the beneficiaries. While the world over, bottom-up participatory planning processes are being encouraged, here the need to dialogue with SC men and women beneficiaries is not even thought of.

The discourse on the SCSP bill and economic rights for Dalit women is extremely relevant for the autonomous Dalit women's movement in India. The time is right to stake the claim on resources meant for development and social change. There is a growing awareness that by lobbying for policy changes and monitoring implementation of schemes, we should not lose sight of the demand for structural changes. Opportunities such as these provide tangible ways to work towards demanding the Indian state to usher in some radical changes. For example: the SCSP Legislation could envisage a body which can mandate revenue departments of every State to work towards establishment of a Dalit land bank in each state to identify and acquire available lands. The SCSP funds can easily be allocated for purchase of these lands for Dalits. In this way the land distribution process can acquire some administrative teeth. The reality is that the SCSP legislation has the potential to bring in path breaking, long-term changes in the lives of a community that has been violated and excluded for centuries.

The question is whether our policy makers share the same farsighted vision?

Dalit women have the power to be the game changer. It is time to do just that.

[1] These group disaggregated figures date back to the 2009-2010 NSS but based on the calculation in line with Planning Commission's new poverty line. GOI (2012),'Press note on Poverty Estimates 2012' at: http://planningcommission.nic.in/press_pov1903.pdf

[2] S. Thorat, A. Dubey(2012), 'Has Growth been socially inclusive during 1993-94 and 2009-2010?' EPW XLVII(10), pp.43-54.

[3] Please see 'Loot of SC/ST funds in last year's Union Budget' by Karthik Navayan on Round Table India (published on 23rd February, 2012), for figures pertaining to the massive diversion of funds in just two years (in the Union Budgets for 2010-11 and 2011-12).

***Asha Kowtal** is General Secretary of the All India Dalit Mahila Adhikar Manch (AIDMAM).

October 29, 2013 ❑

PUDR Press Release on Pentavalent vaccination in Kashmir: 12th November 2013

Adverse Events following Pentavalent Vaccination in Kashmir

The pentavalent vaccine for protection against five childhood diseases was introduced in Jammu & Kashmir in February 2013, as part the Universal Immunization Programme (UIP). Three doses of this vaccine replace the conventional DPT vaccine which protects against three diseases, diphtheria, pertussis (whooping cough) and tetanus. The newer pentavalent vaccine includes the DPT as well as vaccines against pneumonia-meningitis (Hib) and hepatitis B.

In Srinagar eight infant deaths were reported between September and October this year in the press following immunization with this vaccine. Soon after these reports appeared a team from the Ministry of Health & Family Welfare, Delhi, headed by Dr N.K.Arora of INCLEN (International Clinical Epidemiology Network), visited Srinagar to investigate into these deaths. While the final report of this team is awaited, their preliminary report has already stated that the children have died from causes like septicemia and pneumonia, and are unrelated to the vaccine. This conclusion fails to explain why or how the babies were administered the vaccine in the first place if they were seriously ill at the time of immunization.

It was in this context that the PUDR, Delhi (People's Union for Democratic Rights), put together a team comprising public health experts, including clinicians, to look into these incidents. The team which was in Srinagar between 8th to 10th November, visited some of the affected families and conducted a verbal autopsy of the infant deaths to look for antecedent illnesses as well as enquire about other adverse events (as per the Advesrse Events Following Immunisation (AEFI) guidelines.

This team came across infants who had developed serious adverse events after the immunization and had been admitted in the children's hospital in Srinagar. It was found that the FIR (First Information Report by a doctor or health worker for reporting AEFI) had been recorded only in the cases of death and not in cases of those infants who survived; in other words FIR was prepared after death of the child and not on admission. Most of the infants had received the vaccine in a dispensary or health centre near their homes during the regular immunization day (Wednesdays), with a doctor in attendance in most cases. However, some of the children developed serious reaction later in the day or the following day but could not be taken to the nearby dispensary as

there was no doctor there. The parents rushed them to the GB Pant Hospital in Srinagar, the tertiary level children's hospital attached to the Government Medical College. In at least one case this travel took up to two hours, and by the time the baby reached the hospital the hospital reported the case as `brought dead'. The team was told of about at least 9 deaths following immunization and could meet with some such families.

The team also visited GB Pant hospital, which has been in the news in Srinagar since 2012 due to the large number of infant deaths there. Inquiry reports into these deaths have pointed to the abysmal conditions in the hospital arising from lack of facilities, understaffing, overload due to non-functioning of the peripheral health facilities, and general mismanagement. The team witnessed the difficult circumstances in which some of the doctors were working to provide care to the large number of sick children being brought there.

It needs to be mentioned that such allergic responses to this pentavalent vaccine, including deaths, have been reported also from Kerala, Tamil Nadu, as well as from Bhutan, Vietnam, and Sri Lanka. It had been discontinued in Vietnam in May for these reasons and was re-started in October, following which adverse reactions were once again reported. It is being used largely in several developing countries only and is not licensed for use in the USA by the US FDA. This vaccine is being promoted vigorously by several international agencies, specifically World Health Organization (WHO) and the Global Alliance for Vaccines and Immunization (GAVI), an international network of vaccine manufacturers and philanthropic organizations such as Gates Foundation.

Concerns regarding the safety and efficacy of this vaccine, as well as the very need for it, have been repeatedly pointed out by public health professionals to the health authorities, which have been brushed aside. Given these problems with this vaccine, one is left questioning the wisdom and this urgency in promoting this vaccine, especially through ill-equipped peripheral health facilities such as dispensaries and sub-centres, which cannot manage the adverse reactions in the immunized infants. A detailed report of the fact finding will be released soon by the team.

D. Manjit and **Asish Gupta,** Secretaries ❑

Supreme Court order on turning citizens into guinea pigs: October 24, 2013

Supreme Court Blasts the Government for Turning Citizens into Guinea Pigs

It should not have taken a Supreme Court order for the Indian government to know that it cannot turn its citizenry into guinea pigs for private companies. This is one of the very basic duties, the raison d'être in fact, of a government bound to protect the lives and dignity of its citizens. Sadly, the Government of India cannot take recourse to the argument of ignorance or that it did not know. It has been well aware of the unethical practices adopted by the private interests as evidenced by the outrage over the death of seven girls in post-licensure clinical trials conducted on tribal girls in Khammam in Andhra Pradesh and Vadodara in Gujarat in 2010. The trials, jointly conducted by the Indian Council of Medical Research (ICMR) and the state governments to test the efficacy of the human papillomavirus (HPV) vaccine, were suspended after the uproar. The inquiry committee formed to look into the issue found serious violations of the ICMR guidelines, mostly over consent related issues, and yet chose not to fix any criminal culpability of those responsible on the pretext that there was no deliberate or planned attempt to cause damage to persons taking part in the trials.

Civil society and health activists have been warning for a long time that the Indian clinical trials industry has turned the country into a safe haven for drug trials on humans by multinational pharmaceutical companies. The government, however, seems to have no clue of this. A recent editorial in the Economics and Political Weekly, a reputed journal, exposes the gravity of the situation. It shows that the government itself admitted that the clinical trials have caused 2644 deaths across the country in a short span of seven years from 2005 to 2012. Civil society organizations like the Swasthya Adhikar Manch, a petitioner in this case, contest the figures as highly inaccurate, not in the least because they come from the same companies which conducted the trials. The absurdity of the data is betrayed, also, by the fact that in response to a right to information (RTI) petition the government admitted 2,061 clinical trial-related deaths between 2008 and 2011.

Worse still, the governments confessed that compensation was paid in just 22 of these cases. Can a government treat the lives of its citizenry worse than that; ensuring compensation to a mere 22 out of 2061 deaths as per its own admission? It could at least tighten the rules and guidelines that pharmaceutical companies violate at will. This was exposed, again, way

back in 2011 by The Independent, a reputed British Daily. In an industry dominated by asymmetry of information making the doctor's word final, the investigation had found the law enforcers to be criminally lax in enforcing even the then guidelines, for example, private companies enlisted hundreds of tribal girls for a study without parental consent, the use by drug companies of survivors of the world's worst poisonous gas disaster without proper informed consent and tests carried out by doctors in the city of Indore.

They can enjoy this impunity not only because the 'peculiar situation' of India forces millions and millions of its starving citizens to take up whatever ways of making a little money that can get them and their family the next meal. They do this with impunity because of the corruption, evidenced by the Supreme Court blasting the government for nor tacking the 'menace 'of rackets of multinational companies, which let the guilty go scot free. The anguish of the Supreme Court on being shown merely the draft rules despite even the Parliamentary Committee having accepted the presence of such rackets is understandable. This is more so because the government had been letting the Drug Advisory Committees (NDACs) permitting drug trials in complete violation of an earlier order of the court that had put in place a new mechanism consisting of the new, technical committee and apex committee.

It is in this respect that the AHRC welcomes the honourable Supreme Court's decision of halting 157 drug trials with immediate effect. The need of the hour, in fact, is to go beyond this and put a complete moratorium of conducting such trials until a fully functional foolproof system of monitoring is put in place. The AHRC congratulates the Swasthya Adhikar Manch and other activists for their relentless struggle against the trails that dehumanize Indian citizens.

Samar, The Asian Human Rights Commission ❑

Indian Muslim Youth: Groping for Equity and Security

Ram Puniyani

In most communities youth have a serious struggle on hand to look beyond the present for the future, especially their careers, longing for dignity and a decent existence. While this applies to all the youth, the struggle of youth from marginalized and discriminated against communities are much more. It is on this terrain that, Chetan Bhagat, the popular writer turned columnist, decided to advise Muslim youth about their future path, choices. His advice came in the form of an article, a letter from a Muslim youth, in a leading daily. The article was so insensitive to the plight of Muslims; it amounted to blaming them for their own plight; and so subtly advised them to opt for leaders like Narendra Modi. This was not a direct advice, Modi's name was not spelt but the hint was obvious.

Muslim youth felt hurt and insulted by the tone and tenor of the letter and wrote a response which is widely circulated on the net. The letter in nutshell points out the plight of Muslim community as a whole and Muslim youth in general; it also expressed the hurt feelings of the youth. The feeling of hurt and anger is oozing through this expression of the sigh of Muslim youth, a group currently facing myriad problems. The letter questions the democracy of ours, "If it were so, Afzal Guru wouldn't have been executed to "satisfy the collective conscience of the nation". Muslim youth would not have fallen prey to minority witch-hunting, and their killers not decorated with gallantry awards." It also questions the popular perceptions that the Muslims are under the influence of Maulanas and that Muslims vote in herds.

The letter is an apt response to the proclivities of the crass writers like Bhagat. But Bhagat is not alone in not understanding the plight of Muslim youth. There is a large section amongst our population who will buy the type of crudity which Bhagat is displaying in his article. As such Muslim community's plight has been worst compounded during last three decades. There are multiple factors; some of them have a lot to do with the historical background of Muslims in India, partition tragedy, the ascendance of global terrorism in pursuit of oil wealth by US and coining of the term 'Islamic terrorism' by US media. Other factors relate to the rise of communal politics, politics of religious identity and some others have a deeper relation with the communalized state apparatus.

A large section of Indian Muslim community comes from the untouchables, the shudras, who embraced Islam under the influence of Sufi saints. This was done to escape the tyranny of varna-caste system. During colonial period, the poor Muslims plight remained unaffected. This was mainly due to the fact that in the aftermath of 1857 rebellion, British subjected Muslims to greater repression as they held Muslims as having bigger role in 1857 event. When the community started recovering from its snubbing, some efforts for modern education leading to Aligarh Muslim University began in right earnest. Still these efforts were restricted more to the Ashraf, elite and low caste poor

Muslims remained where they had been from centuries. Majority of Muslims were part of freedom movement, ignoring the communal appeals of Muslim League. Later Muslim League, which began with the sections of landlords and Nawabs also, started getting some support from section of educated and elite Muslims. With partition, a large section of traders, bureaucrats and educated Muslims left for Pakistan, while the majority of poor Muslims remained here in India.

At the time of partition the average condition of Muslims and dalits was practically similar. Despite that the future trajectory of both these communities was diametrically opposite. Dalit identity gradually gained some respect due to the struggles led by Dr. Ambedkar. Dalits also got reservations. The impact of these was very positive on the march of dalits towards equality. Muslim community had another fate in store. They started being blamed for partition, started being looked down upon as 'other' and their employment in Government jobs became difficult, much below their percentage in population. This discriminating against became a sort of disincentive for the youth to go for studies. To add to the woes of the community communal violence directed against them started picking up leading to the increased feeling of insecurity by and by. By now this minority, close to 13-14% has a huge representation amongst the victims of communal violence.

The rise of communal politics, beginning with Shah Bano case and then the aggressive Ram Temple movement, started pushing the community into the margins of the society in a very active way. Muslim political representation in the representative bodies, Lok Sabha (Parliament) -Vidhan Sabhas (state assemblies) started coming down heavily. Ram Temple movement and the accompanying violence left the community gasping for survival. To add to this came the global phenomenon of terrorism, Al Qaeda, its entry into Kashmir and the demonization of Muslims which went up in due course of time particularly after 9/11 2001. The investigating authorities had a simple formula, if there is an act of terror, Muslim youth must have done it. The consequences of this are simple enough, after every acts of blast arrest hundreds of youth put them behind bars and by the time courts declare them innocent, their future life is ruined and the label of terrorist is permanently stuck on their foreheads. To supplement to this the encounters, Batla House, Ishrat Jahan completed the picture of demonization of Muslim community in general and Muslim youth in particular.

Running parallel to this adverse situation a social humiliation, the attitude of state, police bureaucracy and average people picked up rapidly, and by now Muslims are practically barred from buying houses in the mixed localities, ghettoisation of community in major cities has started going up. A de facto second class citizenship for them is being gradually getting constructed. It is against these odds that a large section of Muslim youth stood firm with grit and determination and made their space in IT world and in occupations which did not require state patronage. As such also many of them have struggled to make their space in non formal professions, films sports. Interestingly even in America, the subjugated class of African Americans has higher representation in Films, music and sports. Their bigger presence in similar areas in India also has its own tale to tell.

In such a situation the sympathetic sounding 'opponents' of the ilk of Chetan Bhagat are scattered in different walks of life, giving them advices to the effect that Muslims are responsible for their own plight. When a girl is raped many from such tribe blame the girl for the fate she met, something is wrong with her. Victim as the culprit is the language of the conservative ideologies, Chetan Bhagat does represent such a mind set when he writes to Muslim youth the way he has written this article. ❑

Stop Communal Violence in the State of Madhya Pradesh

ISSUES: Freedom of religion; Police inaction; Poverty & adequate standard of living; Right to remedy; Right to education; Right to health

The AHRC has received information from civil society groups in Madhya Pradesh who have forwarded a fact-finding report regarding another incident of communal violence against Muslims in Khirkiya Nagar Panchayat, Harda District, Madhya Pradesh. The incident, which resulted in numerous people losing movable and immovable property, occurred on 19 September 2013. In an arson attack, 20-25 houses and about 30 two-wheelers were set on fire. A mob attacked the town's cleric, Mr. Imam Hafiz Saukat, and vandalized the local school and mosque. It is alleged that the riot was pre-planned by Hindu fundamentalist groups, though what has been projected so far is that the riot started when some Hindu fundamentalists accused Muslims of cow slaughter. Reportedly, the skinning of a dead cow by the member of an oppressed caste in the premises of his Muslim landlord sparked the riot. The police could not control the large mob that resulted. While trying to bring the rampaging crowd under control,

Additional Superintendent of Police Mr. Malay Jain and Sub-Divisional Officer of Police Mr. C. Herald were reportedly injured. Three other persons are reported to have been injured when the police fired warning shots to disperse the crowd. The police later arrested 35 persons in connection with the event.

Case Narrative:

The incident of communal violence took place in Khirkiya Nagar Panchayat on 19 September 2013. One third of the population in Khirkiya is Muslim. Out of the 15 wards of the Khirkiya Panchayat, ward number 14 was the worst affected by the riot. The people who reside in this ward, along with those in wards 12 and 13 are those who were displaced due to the construction of dams in the Indira Sagar Project. These people have no documents to show their property title.

On 19 September 2013, at about 9 a.m., Mr. Kalu, a sharecrop farmer and partner of Mr. Taj Khan and Niyaz Khan, had beaten up a cow that was grazing in their paddy field. Kalu is from the Korku tribal community and the members of this tribal community live in acute poverty. The animal reportedly died later.

Soon a rumor spread that Muslims have slaughtered a cow. Very soon members of Hindu fundamentalist groups like the Bajrang Dal, the Vishwa Hindu Parishad, and the Go-Raksha Commando Force (Cow Protection Commando force) loaded another cow carcass in a truck and placed it at the Maharana Pratap square at Chhipawad on the Hoshangabad-Khandwa highway and blocked traffic. In no time, a large number of people gathered at the spot and started shouting slogans against the Muslim community and demanded that the 'culprits' be handed over to them so that they could judge them according to their religious beliefs.

Then the mob reportedly divided into two separate groups. One group attacked Mr. Imam Hafiz Saukat and ransacked the mosque nearby. The other group set fire to around 20-25 houses in Chhipawad. They also set on fire to about 30 two-wheelers and two four-wheeler vehicles. Eye witnesses allege that even though the police were present in the locality, they did not initially intervene.

The Superintendent of Police, Mr. Deepak Varma, reportedly said that the police did not intervene as they lacked adequate strength. At about 4 p.m., the District Collector of Harda and Varma reached the spot. The mob reportedly attacked them and chased them away. By that time, a prohibition order was issued by the district administration for the locality to prevent people from ganging up. The police also fired shots to disperse the crowd, which resulted in three people being injured. Later, the police arrested 30-35 people. The prohibition order was lifted on 23 September.

From the nature of the riot, it is highly probable that it was premeditated. Bottles and kuppiyo (funnels) filled with petrol were used in the attacks. Muslim households were looted before being torched. The mob was composed of people from other districts as well. It cannot be ruled out that some locals helped the mob in locating Muslim houses and properties. During the riot, children were in schools. The mob attacked the schools as well. However, Muslim children were unhurt due to the presence of mind of school teachers, who locked the children in one room to hide them from the attackers.

The date of the riot appears to have been decided beforehand to coincide with a public meeting attended by the Madhya Pradesh Chief Minister in the neighboring district. A large number of police personnel were sent to Betul district for security related to the Chief Minister's speech. Hence the rioters outnumbered the police and there was hardly anyone left to control the mob.

It is reported that the masterminds behind the incident are Mr. Surendra Purohit (alias Tiger) and Mr. Sadeep Patel, son of local Member of the State Legislative Assembly, Mr. Kamal Patel. Mr. Purohit had reportedly been stationed at the place for the past two months..He claims to be the chairman of Go-Raksha Commando Force and also the Secretary of the local Charuwa (cattle shed). He has been absconding since the day of the riot. It is alleged that he incited the mob though hate speeches.

The situation remains tense even after the riot. People affected by the riot were previously displaced internally due to dam construction on the river Narmada and are poor. The administration has provided compensation ranging from Rupees 5,000 to 20,000, i.e. far less than the actual loss suffered.

This incident of communal violence has left a deep scar and fear among children, irrespective of their parents' religion. Many children in the district complain about scary dreams and some have stopped attending school fearing more violence.

Additional information:

The state of Madhya Pradesh in India is perennially beset with communal violence. Hardly any month passes without some incident of religion based violence. The worst communal violence hit districts of the state are Indore, Ratlam, Devas, Khandwa, Harda, Betul, Sagar, and Nimach. It is reported that from 2005 to 2013, about 965 incidents of communal clashes occured. In 2012, a total of 89 incidents of communal violence took place in which 9 people and 241 injured. During this period Madhya Pradesh topped the list of communal violence hit regions in the country. According to the information provided in Parliament, from 2009 to 2013, 432 incidents of communal violence took place in Madhya Pradesh, ranking it third on the list of states

affected by communal violence.

Suggested Action:

1. Urge the Government of Madhya Pradesh to remedy the loss of property by reconstructing the burnt houses. The administration has disbursed a pittance in the guise of compensation - between Rs. 5,000 and 20,000 - which is insufficient to meet the loss occurred;

2. Urge the Government of Madhya Pradesh to provide land pattas in lieu of the lost houses of the victims, as soon as possible. An internally displaced population affected by communal violence has been re-displaced in the village and has no land documents in their possession now that their houses are burnt to cinder;

3. Urge the Government of Madhya Pradesh to provide the victims with interim food and basic supply for at least four months. Due to the riot, the families have lost their provisions for meeting basic needs;

4. Urge the Government of Madhya Pradesh to immediately address the psychological trauma and fear psychosis created among children. And the children, who are unable to go to the school outside their villages, should be provided with a temporary school to re-engage them with their education;

5. Urge the Government of Madhya Pradesh to carry out a proper investigation and identify the perpetrators and initiate a trial at the appropriate court. Eye witnesses have stated that petrol was constantly supplied from a nearby petrol pump during the riot. This aspect must be investigated as well and the perpetrators must be brought to justice;

6. Urge the Government of Madhya Pradesh to investigate the roles of Mr. Sadeep Patel, son of local MLA Kamal Patel, and Surendra Purohit (alias Tiger), as, reportedly, they were inciting the mob. If they are found guilty, they must be prosecuted. Surendra Purohit is missing and police must trace him and arrest him to continue the investigation;

7. Urge the Government of Madhya Pradesh to investigate how such a large group of people got together 'spontaneously', as it appears the incident was a pre-planned conspiracy. Survivors state that the mob was composed on 3,000 - 7,000 people;

8. Urge the Government of Madhya Pradesh to investigate the roles of Hindu fundamentalist groups like Bajrang Dal and Go-Raksha Commando Force.

The civil society fact-finding team that investigated the incident was comprised of Lajjashankar Hardenia (Rashtriya Secular Manch), Yogesh Diwan (People's Research Society) Javed Anis (New Socialist Initiative Bhopal), Vijal Kumar (CPI, ML) Deepak Vidrohi (Krantikari Naujawan Bharat Sabha), Upasana Behar (Nagrik Adhikar Manch), and Azam Khan (Advocate).

The AHRC is writing a separate letter to the UN Special Rapporteur on Freedom of Religion or Belief and on Adequate Housing, the UN Independent Expert on Minority Issues and the UN Chairperson of the Committee on the Rights of the Child, calling for their immediate intervention into this matter.

25 October 2013 ❑

Income Disparity between Rich and Poor Growing Rapidly

Subodh Varma

New Delhi: Everybody knows that there is a chasm between the rich and the poor. But can it be measured? And, more importantly, is this disparity between the rich and poor growing or coming down?

New data based on consumption expenditure surveys shows that income disparity is growing and at a rapid clip. Spending and consumption by the richest 5% zoomed up by over 60% between 2000 and 2012 in rural areas while the poorest 5% saw an increase of just 30%. In urban areas, the richest segment's spending increased by 63% while the poorest saw an increase of 33%. The effect of inflation was removed while making these comparisons.

Here's another way you can look at these disturbing results: in 2000, the average spend (or income) of the richest group in urban areas was 12 times that of the poorest group; in 2012, it had increased to 15-fold. In rural areas, the disparity between the haves and the have-nots increased from 7 times to 9 times in these 12 years.

These stark findings emerge from a comparison of data on household spending patterns for 1999-2000 and 2011-12. These are collected by the National Sample Survey Organization (NSSO). Consumption spending - that is, all possible expenditure done by an individual in a household on all aspects of life - is the closest measure of incomes available in the country.

Many experts argue that spending and hence income of the uppermost 5% is not completely reflected in NSSO surveys because those who do their surveys hardly manage to meet and fill out questionnaires of the super-rich households. In other words, the incomes of the super-rich are probably more than what is reflected in this data.

Growth highest for richest 10%, lowest for poorest 10%

The richest 10% of Indian society have seen highest growth while the poorest 10% have seen the slowest increase in incomes. The remaining

80% of the people have seen roughly the same levels of growth ranging between 35% and 40% in rural areas and between 40% and 50% in urban areas over 12 years. That means that for 90% of people, annual growth in income was just over 3% in rural India, and just over 4% in urban India.

Clearly, economic policy that resulted in high GDP growth for most of this period has not trickled down to the neediest. Rather, it appears to be benefiting the already affluent sections more.

In 2012, a person of the poorest segment in rural areas was spending just Rs 521 per month. So, a family of four would spend about Rs 2, 084 per month. In the richest segment, a person spent Rs 4, 481 per month which would translate into a monthly spend (or income) of Rs 17,925 for a family of four. In urban areas, monthly spending by the poorest segment was Rs 700 per person or Rs 2,802 for a family of four and for the richest group it was Rs 10, 282 per person or Rs 41,128 for a four-member family.

Details of spending on different items provided by the report show that in urban areas, monthly expenditure per person on food was less than Rs 1, 000 for 50% of the population while in the richest segment every person on an average spent Rs 2, 859. Some of the food items showing vast disparity between rich and poor included vegetables, fruits, eggs, fish and meat, and milk products. The data blows the myth that poorer sections are consuming more of fruits, eggs, etc.

A similar multi-fold difference is seen in other key items of expenditure like education, medical and durable goods.

Courtesy: **TNN | Jul 28, 2013** ❑

Ploughing through Landmines

Ashutosh Sharma

As millions of mines are yet to be deactivated in border areas of Jammu and Kashmir, poor farmers have to wrestle with their destructive consequences everyday

One day when he was young, Mohammad Deen was ploughing his field with a pair of oxen, in mountain village, Keerni in Poonch district, which sits just on the Indian side of Line of Control (LoC)-which separates Indian-administered-Jammu and Kashmir from Pakistan administered Kashmir.

Torrential rain on the night before had washed an old landmine onto the field. Unaware, he stepped on the explosive and lost his left foot and an eye. Unable to marry or work, he eventually became a street beggar, with no one to look after him in the old age.

Millions of anti-personnel mines have been buried periodically along the border in the aftermath of rising tension between the two countries. Notably, unlike 160 countries, India and Pakistan are not signatories to the Ottawa Treaty, officially known as the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines which came into force in 1999.

Despite a ceasefire on the LoC, land mines continue claiming lives and limbs of innocent villagers and their livestock, turning vast tracts of agricultural and grazing land into danger zones, disrupting farming and restricting the ability of local people to access natural resources in the area.

Compensation Rare

In May 2010, a Court in Kupwara district directed the government of India to pay Rs 1.2 million to Gulzar Mir, a double amputee who lost his legs to antipersonnel mine in 2002 while grazing livestock in village of Warsun. However, it was a rare case; majority of the victims don't get any compensation. An ex-gratia scheme for the causalities was floated by the Ministry of Defence in 2003 under which a victim or the affected family is paid a compensation ranging from Rs 1 lakh to 2.5lakh. However, human rights activists believe that very few affected people have actually benefited from the scheme.

"The mines in my fertile land have rendered me landless," says visibly worried, Faqir Mohammad of Shahpur village in Poonch, a landmine amputee, adding, "The landmines have ruined my life."

Children are particularly vulnerable to the mines, especially in the mountains where flood waters can push buried landmines to the surface. While playing in fields close to their home at Noonabandi village, a group of children including Shaheen Fatima and her siblings were critically injured in a landmine blast in 2009. Shaheen's right eye was completely damaged and her one hand had to be amputated whereas her sister Zaheen's left eye suffered critical injury.

"I sold off the only piece of land that I had, at a throwaway price, for the medical treatment of my children," says Aslam, the father of the children.

The stray landmines also have turned grazing lands into killing fields. A teenaged girl, Zahida Parveen of the border village of Jandrola in the same area, lost her leg while grazing her cattle. Gulkhar - a middle aged widow and mother of six daughters - lost three buffaloes, the only family asset and source of income, when they wandered into a landmined pasture near the LoC in Bala Kote village last October.

"Most of our land is landmined; the

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rest is rocky and arid. Only a small portion is cultivable," she says, noting she now survives only with the help of her relatives.

Difficulties of Clearing Land

Imtiaz Sheikh, a researcher at the University of Jammu, believes the Indian government is not adequately protecting people living near the LoC against landmine injuries.

"The government is not doing enough to de-mine the agricultural lands along the border with Pakistan," he said, pointing to nearly a thousand kilometers of border area in need of help.

"The Army could not even completely restore the affected agricultural land in the plains along the international border from Kathua to Akhnoor. The real challenge lies in clearing the mined agricultural land that remains in the mountainous areas like Rajouri and Poonch in Jammu region and Baramulla and Kupwara in the Kashmir valley," he said.

The government does not have a clear idea of the total agricultural land contaminated by mines. In April 2013, in a written reply in the state assembly, it stated that about 2,000 hectares of irrigated land has been turned into mine fields in Akhnoor sector alone.

"For defence purposes, the Army laid landmines in a large number of villages in approximately 3512 hectres of land", the then home minister, Sajjad Ahmed Kichloo said, adding that the villagers were shifted to temporary camps.

He also stated that 1,505 hectres of land had been returned to the owners by the Army after de-mining.

Regarding payment of "rental" compensation for the mined land, the minister stated in April that the Revenue Department had sent documents to the Defence Estates Officer, Udhampur. The rent would be paid to the owners once payments were cleared by the Ministry of Defence.

In May this year, Deputy Chief Minister Tara Chand sought the intervention of Union Home Minister Sushil Kumar Shinde in de-mining land in the border area.

But de-mining is never an easy job. "Complete mine clearance is not possible as their dispersal is random and scattered. Due to age, rain, rodents and other natural hazards, the landmines get de-located from their emplacements making it difficult to detect them in rugged mountainous topography," admitted one senior Army officer on the condition of anonymity.

"The tedious process of de-mining is fraught with risk to life, and time consuming. The de-mining process is being carried out in phases in the plains of Akhnoor, whereas in hilly areas it is nearly impossible," he added.

Experts say de-mining and compensation to affected farmers can never be a permanent solution. What is more critical, they say, is to ensure both countries accept the international convention against land mines and stop laying any additional mines.

(The writer is an independent journalist and media fellow with National Foundation for India) ❑

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