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'Encounter Culture' and Accountability of Police

Pushkar Raj and Shobha Sharma

The recent judgment of a Delhi court holding ten policemen guilty for the killing of two businessmen in an encounter killing has brought to the fore the issue of the growing culture of police encounters in our society. It is a matter of concern for a society that the public at large treats encounters as a routine and necessary part of police work. A lack of effective internal mechanisms to probe police decision-making leading to encounters and the virtual absence of credible independent complaints mechanisms to investigate encounters, particularly where an allegation of their being 'fake' are levelled, has made the situation more alarming.

The encounter killing case of businessmen Pradeep Goyal and Jagjit Singh caused public outcry as it happened in the heart of the capital city of the country. The public pressure led to resignation of police commissioner and the case was handed over to CBI for investigation. The families of the victims were resourceful and not only they perused the case but showed extraordinary grit and determination against all odds to see the case reach a logical conclusion though it took ten long years. However in majority of encounter killing cases it is the police version that is fed to media and public. In Connaught Place encounter killing too police initially maintained that they were fired upon and they tried to prove it by planting an old pistol next to dead and tampering even the forensic report. However their lies were nailed.

A Rising Trend

Recent times have seen a rise in encounter killings in the country. According to National Human Rights Commission all over the country (barring Jammu and Kashmir) 83 people died in encounters with police in 2002-03 while in 2003-04 there were 100 deaths. The number reached 122 by 2004-05. Uttar Pradesh maintained an upward trend with 41, 48, and 66 deaths respectively in three years followed by Andhra Pradesh that had 41 deaths during this period. Even a peaceful state like Uttarakhand reported 12 encounter deaths in these three years.

There are several reasons for encounter culture to flourish in the country. First the tradition of rewarding killing by police through medals, promotions and monetary benefits encourages men in uniform to be trigger happy. It is now in public domain how cops in Punjab harvested riches killing innocents in the name of militants and a series of investigation are still in progress unearthing gory history of police brutalities and killings during insurgency period that deeply effected not only the discipline of police force in the state but even society at large. The side effects of the police high handedness (... on

page 3)

Jharkhand PUCL Report:

Burning of 28 Huts in Shivpur, Bhawnathpur Division, Garhwa

Shivpur a village in the Bhawnathpur Division is the residence of landless tribals where on 9th October 2007, 28 homes (huts) were ablazed by the forest workers along with the local criminals. The belongings of these tribals were looted and the residents were brutally thrashed and misbehaved.

During the investigation by a five-member team of Garhwa PUCL comprising of S N Pathak, General Secretary, Garhwa PUCL; Suresh Manas, Secretary; Advocate Awadh Kishor Choubey; Ugendra Nath Choubey, and Lix, the facts revealed were daring and shocking. The event is a shame for any civilized society moreover in a democratic State.

Shivpur located nearly 5 Km North-West of Bhawnathpur is a small village with nearly 140 huts having 60 families of Agaria, 28 Korwa, 26 Oraon, 13 Kharwar, 12 Bhuiyan, 6 Teli Sao, and 1 hut of Munda. This newly constructed settlement of wooden huts made up of branches and leaves is the resident of displaced tribes with uncertain means of livelihood. Most of the illiterate tribes earn their livelihood by working in the trucks as labour, the work which they hardly get. The settlement of these landless tribes have a very painful bitter story which somehow or other forced them to come here and settle. In 1977, when Steel Authority of India Limited (SAIL) was formed in Bhawnathpur, then the lands of these tribals staying in Ghaghra (Bhawnathpur) were acquitted by the Govt. for SAIL. Each family was given Rs.1000 to 1500 and land for 1 to 2 rooms which became insufficient in due course of time. Giving away there ancestral land for the upliftment of the SAIL and government proved too expensive. They were given land for building only 1 to 2 rooms in Sinduria. As time passed the

members of the families increased and the allotted space became insufficient. Have they not lost their own ancestral land they wouldn't have faced such a miserable situation. These people were roaming here and there with temporary settlement and on the other hand the Govt. Officials of the SAIL went on with their illegal benefits. Eventually these landless, ignored and betrayed tribals made their settlements in small huts in a forest land beside Kaylan, in Bhawnathpur Division. They cleared some open spaces in the forest, the place where there were no plantation, and started cultivating some crops for their food. They stayed there for few months peacefully and felt the place as their own land. This act of theirs became an eyesore for some local musclemen and criminals who were illegally using these lands for their personal benefits and business along with the help of the forest officials. At the initial stage these people used to take their cattle from their settlement for grazing and rudely ask them to provide path for the same. On this pretext they started destroying their cultivation. These criminals being the member of local forest protection worker misbehaved with these innocent and peace-loving tribals. These forest-workers started beating and misbehaving with women and children and repeatedly threatened them about harsh consequences. Till this time the forest officials had never given them any notice against these settlements.

Suddenly on 9th October 2007, Tuesday at around 1:30 in the afternoon, the forest guard along with forest workers came and started beating the villagers in which they didn't even spare 70 years old Lachhmaniya Oraon who was also thrashed. After this 16 persons were arrested and 4

bullocks, 2 ploughs, 3 axes, etc., were seized. While returning the forest workers threatened the villagers and ask them to leave the area as they will return tonight and if they found anyone over there, they will bum them alive. Saying this they returned along with the arrested persons. After this event an air of fear and terror prevailed in the entire village. At twilight the villagers left the village to save their life and the shame of the women and girls. By the time it became dark and all the people along with women, small children, and even infants took shelter under the trees of forest. They kept themselves curled to protect themselves from cold and venomous animals. Many of the male members were not present as they had gone out of the village for their earning. By 7 in the evening a group of criminals arrived and started putting the huts to fire. For around 2 hours they went on plundering and firing the houses. The villagers hidden in forest could see their houses turning to ashes leaving behind nothing for their life. When the villagers returned to their settlement in the morning after spending the entire night, sleepless and shivering in cold, from the forest they found all their belongings like utensils, garments, beddings, bird flocks, etc., missing and their huts completely turned to ashes. The miscreants have taken away whatever they came across along with them. The villagers have been left with nothing for their livelihood. 28 huts were completely burnt but few huts were left unharmed. Bignni, Rampyari, Roopkali, Basudeo, Malti, Harihar, Rajendra, Jagmani, Sugna Oraon, Ram Khelawan, Lallan, Ramdeo Oraon everyone's huts were burnt. All their family members along with their children waited with tearful

eyes under a tree questioning about their hopeless future.

Lallan Oraon, Basudeo, Hari Narayan, Sugna, Bindu Bhuiyan, Sanichar, Kalicharan, Ramu, Chhathan, Jaduni Agaria, Indrodeo Korwa, Fazihat Korwa, Raju Korwa, Arjun Korwa, Pandey Kharwar, Pintu Buiyan were arrested.

After returning from the site, the PUCL team went to the Forest Department. When asked regarding the event and how they got the power to put the huts to fire in the name of evacuating encroachment and who gave them such orders to do so, the forest officials disapproved such incident and didn't give any satisfactory answer. The team when asked for the Range Officer and Forester, they said they are not here. When team made a telephonic enquiry from Mr. V K Pal, D.F.O. North Zone, Garhwa, he made Range Officer responsible for the act. When talked to Sub Divisional Officer, Nagar Untari, he said to have been seeked for a report by the Deputy Commissioner, Garhwa. But after such a heinous event neither the officials have taken any serious step to rehabilitate these landless, homeless, socially crushed, hungry tribals of Chhotanagpur nor they

been provided any provision from the relief fund. Moreover, the most astonishing part of the entire event is that till the time when the team went for the investigation, i.e. even after 4 days, no F.I.R. had been lodged against the criminals. All these give a very clear outlook about the involvement of the government Officials, Forest Officials, Police, Forest Workers along with the criminals regarding their mute consent in this misdeed.

It is to be noted here that 16 persons who were arrested by the forest-workers were brutally thrashed and tortured in a closed room by the forest workers following the order of the Range Officer. Due to this inhuman act Fazihat Korwa lost his mental stability. Shock and pain made him insane.

When the PUCL team asked the villagers to evacuate the forest land their answer was that, if the government provides them appropriate and sufficient land to stay and cultivate they will definitely leave the forest land. According to them they have been repeatedly cheated by the government and now they are not going to leave the land until and unless they get justice and proper rehabilitation. On the contrary, they would prefer to stay here as they

are, rather than being cheated once again by the government and government Officials.

(Investigating Team PUCL Garhwa: SN Pathak, Suresh Manas, Advocate A K Choubey, U N Choubey, Lix) □

Organisational Queries

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

(from page 1...) during militancy period continue to persist. It is no surprise that Punjab continues to report large scale custodial violence even today. Secondly there is a lack of impartial and credible internal mechanism of investigation in alleged cases of fake encounters. Without proper inquiry, there is little hope of prosecuting and convicting the perpetrators of crime. The NHRC as an oversight institutional mechanism to bring the guilty to book has over the period proved to be ineffective due to inadequate resources in form of investigative staff statutory limitation of having only

recommendatory powers. Consequently men in *khaki* operate without departmental disciplinary pressures and external overseeing fears. The situation is worsened due to existence of section 132 and 197 of the criminal procedure code that requires prior sanction of the Central or State government to prosecute public servants. The government sanction is neither easy nor prompt thereby entrenching a culture of unwritten impunity to officers who allegedly commit murder in the name of encounters. Even if the sanction of government comes forth the next stumbling block to punishing the offender comes in

form of long drawn judicial battle that might last for years. By the time judgement comes, the alleged perpetrator of crime have either gained multiple promotions or retired from service.

Need of the Hour

Transforming the 'encounter culture' to a culture of accountability is a Herculean effort requiring a multi-pronged approach. Though it is a mammoth, it is no longer one we can shy from, if we care to preserve our democratic ideals. As long as the thinking continues that encounter killings are a legitimate and justifiable form of police work – thinking (on page 20...)

Bihar PUCL:

Report on Floods in Bihar

Bird's eye view:

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Floods and Human rights; Basis and manner of preparation of the present report

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I. Introduction:

Floods have been a recurrent phenomenon in Bihar and we have numerous references in the literary sources since antiquity. The perception about floods and the strategies to cope with them, however, have changed over time. Bihar in general is crisscrossed by many rivers, while north Bihar in particular is drained by an extensive network of rivers. The catchments of the rivers stretch beyond the boundaries of Bihar into Nepal Himalayas and even part of Tibet for the rivers like Gandak and Kosi. The catchments of all these rivers receive more than 80 per cent of their annual precipitation from June to September, causing floods as an annual feature, only the extent and intensity varying from year to year. In fact India is the most flood affected country in the world after Bangladesh and Bihar is one

among the five most flood-prone states, other four being Uttar Pradesh, West Bengal Assam and Orissa. Large scale measures to control floods were undertaken after independence only after the floods in Bihar in 1954 which led to the formulation of the National Flood Control Policy the same year. The *Rashtriya Barh Aayog* (RBA) or National Commission of Floods was set up in 1976 because of the growing public concern over increasing floods and this Commission first provided statistical evidence of the problem. However RBA has been largely relying on the data provided by Central Water Commission (CWC).

Floods and Human rights

In Bihar floods affect millions of population year after year posing threat to life and survival to many, dislocating people in still larger numbers, forcing them all to live in appalling conditions where the basic human dignity is compromised. Whether it is the bare right to life or the right to live with dignity as provided under article 21 of the Indian constitution as judiciary interprets it, fundamental human rights issues are involved under flood conditions of millions of people in the state. The first natural question therefore would be whether the state has an accountability in this regard. There was a time when natural calamity would virtually protect the government from a large part of the blame, but today it would be unethical as well as unconstitutional to advance any such plea. More so in the face of frequent accusation that this amounts to failure of governance and government policy; some would go a step further by holding the flood policy followed by the government responsible for a worsening of the situation in deed.

If protecting people from misery is one of the responsibilities

of state regardless of the fact whether they may not have caused it themselves, distribution of relief has been an accepted policy and principle in times of distress. The question can be raised whether relief is a dole which state may provide as an act of charity, or is it the right of the people and the duty of the state. At this point of time it is beyond doubt that this is nothing short of a right sanctioned by various codes, government circulars and even legislations, at least a legitimate expectation of each person affected by the calamity. This understanding and attitude ought to be reflected in the action of the administrative machinery. They do not have the right to insult the people, even if many of them may be on the verge of starvation, much less to treat them with the type of aggression and insensitivity that was witnessed at many places.

The issues of floods, flood control, displacement due to dams and embankments, rehabilitation and relief, and compensation of losses are inevitably intertwined with the development debate. What does development mean and how does it affect segments of population, especially the poorer sections, are human rights questions. Right to development has been recognized as a human rights issue after the Vienna conference at the global level and in India critical decisions relating to development policies have been seriously questioned by socially concerned citizens all over the country.

Basis and manner of preparation of the present report

Along with a general appraisal of floods in Bihar, State PUCL decided to take stock of the situation in the current flood affected area of the state in view of the fact that due to incessant rain for 18 days continuously the state

faced severe floods devastating the lives of more than 15 million people in July itself. The flood situation aggravated further by the first week of August due to more rainfall in July end breaching embankments at several places. The severity of the floods were more pronounced in Begusarai, Khagaria, Samastipur, Darbhanga, Madhubani, Muzaffarpur, Sitamarhi, and East Champaran district. Altogether 20 districts were affected by the floods, uprooting 20 million people from their normal life. Earlier on, reportedly Bihar witnessed its worst floods in the year 1987, when 33 out of then 39 districts (Jharkhand included) were affected resulting in loss of life of 1100 persons dislocating 30 million people. In order to comprehend different issues relating to floods, if it was felt necessary to have a direct feel of the ground situation with the help of PUCL teams, it was also found useful to peruse some of the existing literature, talk to people who have studied the problem from various angles. One of the excellent reports which has been used extensively is the Third Citizens' Report on State of India's Environment brought out by Centre for Science & Environment (CSE) in 1991.

A draft report was presented before members of PUCL and some invitees working on the theme of floods and relief and some of the suggestions given by them were incorporated in the report. In fact

The present report is based on all the exercise noted above. Before coming to the reports received from the field it may be worthwhile to take a look at the drainage pattern and ecological setting on the one hand and nature and causes of floods along with an appraisal of the flood control measures in the post-independence period.

II. Drainage Pattern and Ecological Setting:

Drainage Pattern

North Bihar is drained by at least seven rivers with their tributaries, most of which flow into the mighty river Ganga. If Ghaghra demarcates Bihar from Uttar Pradesh on the western side, Mahananda runs along the eastern fringe of Bihar just shy of the Bengal border. Between these two rivers there are five rivers in north Bihar from west to east, namely, Gandak, Burhi Gandak, Bagmati-Aghwara group, Kamla-Balan and Kosi. Gandak passes through West Champaran and the districts of Gopalganj and Saran lie on its western flank, East Champaran, Muzaffarpur and Vaishali lie on the eastern side. Burhi Gandak is situated further east passing through West & East Champaran, Muzaffarpur, Samastipur and Begusarai falling into Ganga in Khagaria district. Bagmati, Kamla-Balan and Kosi come from Nepal and merge into one stream and pass through Khagaria and Naugachia before finally flowing into Ganga. Before merger Bagmati runs through Sitamarhi, Muzaffarpur, Darbhanga and Samastipur; Kamla running further east passes through Madhubani, Darbhanga and Samastipur, while Kosi run between Saharsa and Madhubani and part of Darbhanga. In South Bihar, that is, the area south of Ganga we have five rivers, namely, Son, Punpun, Kiul & Harohar, Chandan and Badua.

All these rivers carry a heavy sediment load, particularly during the months of June and October. With the exception of Burhi Gandak, they have a steep course in their upper Himalayan reaches, and the gradient abruptly flattens when they enter the north Bihar plains. The problem of siltation therefore is very large. The aggrading character of the rivers raises river beds, reduces channel capacity and typically results in the phenomenon of braiding. Shift of course is a common feature and most rivers have a network of abandoned courses, which serve

as spill channels during floods. Kosi however is a case apart, which has moved west ward by 120 kilometers or more in the past 250 years. Kosi has a sediment load five times higher than other rivers and further, the percentage of coarse and medium silt is as high as 45 percent of the total. The excessive coarse sediment carried by Kosi is due to the fact that the Himalayan valleys are narrower in its catchment area and there is no wide basin in the hill region for the river to deposit its coarse sediment load. On account of steep gradient and high mountain sides, frequent landslides contribute more to the coarse sediment load. In Nepal Kosi has seven streams giving it the name *Sapt Kosi* below Triveni, where three main streams namely, Sun Kosi, Arun and Tamur join. The river enters the plains near *Chatra* and joins Ganga near Kursela.

The issue of silt deposit brings into sharp focus the altered perception about floods since the advent of British, and more importantly, attainment of independence. The natural fertility of the soil was replenished by the silt deposits of rivers in spate and hence was considered a nature's bounty. If Permanent settlement led to impoverishment and marginalization of many peasants, population pressure also increased, these combining to push many to occupy and cultivate marginal and submerged lands. This aggravated the misery of farmers during floods inducing the governments to do something about it. Of course, even during the colonial times floods were not viewed as unmitigated evil and many district gazetteers have noted how after a spell of temporary suffering, the cultivators were more than compensated by the increase in productivity owing to the rich deposit of silt making soil more fertile. There is an oft quoted saying in Mithila, '*Ayal Balan ta banhal dalan, gel Balan ta*

tootal dalan' (that is, if there is flooding in the Balan river it will help to build a new '*dalan*', but if no floods in Balan even the existing '*dalan*' may be in ruins). There was a culture of living in harmony with nature, including with occasional hazards like floods, because it eventually works to our advantage. This attitude, approach and mindset has since been totally revised, the process beginning mildly in British times and getting an unqualified support by a zealous government in the post independence era.

The National Flood Control Policy of 1954 was a major turning point in its history. It ushered in an era of techno-centric solution to phenomena like floods viewing them exclusively as problems to be solved, imitating the typically modern western approach towards nature which nurses the ambition of its conquest. The age-old traditional knowledge system relating to water harvesting and management relying on community involvement was abandoned in favour of a state-controlled mechanism of flood control. North Bihar had thousands of *pokhars* in every district, big *chauris* and *chauris*, *mands*, *mauns* etc strewn all over which are either destroyed or encroached or are in poor states. The system of crop production was also woven around complex and diverse ecological conditions and seasonal cycles, respecting fully the specific local conditions and vagaries of nature. There was a fine tuning of choices, whether it was the type of crop which was to be sown, or the life style in the rural areas. All that has changed, but their memories remain and provide a point of reference and comparison.

Ahar-pynes of South Bihar

Ahars and *pynes* have been the typical traditional water harvesting structures in south Bihar dating back to the ancient times. The soil here has low water retention capacity and with a

marked slope from south to north there is a quick flow of water, necessitating appropriate structures to hold water for irrigation. Under the *zamindari* system, this indigenous system had a decentralized management under them. Buchanan in his reports has observed the deterioration of the system in many areas, one of the reasons cited by him was the partitioning of *zamindaris'* shares in the irrigation works, making mutual co-operation difficult. This was reaffirmed by a British official while the Bihar and Orissa Private Irrigation Works Bill was introduced in the provincial council in 1922. As Nirmal Sengupta has pointed out the introduction of cash rent in place of produce rent also contributed to the deterioration. Flood advisory Committee on Gaya, the district where *ahar-pyne* system was best organized in the past, wrote in 1949 that it is of the opinion that the fundamental reason for the recurrence of floods there was the deterioration in the irrigational system. Irrigation Commission of 1901-03 noted that these systems irrigated about 6.76 lacs hectares, more than half the area of the district in Gaya.

In south Bihar the slope is roughly at the rate of 1m pr km and using this terrain an *ahar* was built by erecting an embankment of a meter or two in height. It was usually a rectangular catchment area with embankment on three sides and unlike tanks the beds were not dug up. *Ahars* with sides more than a kilometer long were not rare, irrigating more than 400ha of land. *Pynes* were channels constructed to utilise water sometimes as long as 20-30 kms irrigating over 100 villages.

III. Flood Control Measures: Flood Control Policy since 1954

The main plank of flood control policy since 1954 has been construction of embankments and dams. In north Bihar the dominant

strategy has been erection of embankments. Though Zamindari embankments had covered small tracts in north Bihar prior to 1954, beginning with Kosi project major rivers of north Bihar have been systematically embanked over the years. As per the report of Bihar government in December 1987 till then the total length of embankments constructed was 3438 kilometers (Of which 2951 km was constructed in north Bihar), part of it would lie in present Jharkhand since the state has since been bifurcated in the year 2000. In 1998 the length stood at 3465 km, which was a meager 160 km in 1950.

Ironically while embankments were being made for protection from floods, the area which was flood-prone has gone up many times during this period. 1954 was an year of heavy floods and yet the total area affected was no more than 2.50mha. 1971 was another bad year and the area affected had gone up to 4.26 mha. In 1998 the flood-prone area was placed at 6.9 mha. And now in 2007, in truncated Bihar the total area affected by floods is estimated at 7.5 mha. *The inevitable conclusion is that the construction of embankments had a disastrous impact in the state.* 2007 may not be the worst year in terms of rainfall or even flooding, but the trend is there for anyone to see-embankments have contributed to an increase in the proneness to floods. The question is why should it be so?

One possible explanation rests on the fact of heavy siltation of north Bihar rivers which has led to rise in river beds and reduction in their channel capacity resulting in overtopping, combined with frequent breaches in the embankments leading to intense flooding, affecting larger areas. If rise of river beds creates the compulsion of raising height of embankments or another costly option of dredging of rivers, poor

maintenance has been a perennial problem, possibly getting more acute in the recent years.

Another negative impact of embankments has been the stoppage in the fertilisation of the soil by the silt brought by rivers in spate. One local resident complained to a journalist (appeared in *India Today*, Dec 1982) that 'the Bhagmati river project in Sitamarhi district in Bihar has reduced the once fertile district area into a dust bowl'. We have any number of such reports from the fields quoted in various studies. The programme evaluation organization of the Planning Commission in its report submitted to the RBA states, "On the negative side, the continued rise of riverbed has created the problems of seepage and drainage congestion, aggravating the water logging problem of protected area, particularly in a strip along the eastern flood embankments." (RBA report 1980).

Drainage congestion is also a serious problem which aggravates the flood situation. Apart from embankments there are many other obstructions created in the natural drainage routes by the supposed development constructions like roads and railway lines. The provisions of culverts and bridges are often inadequate or badly planned without considerations of drainage patterns of rivers. If indifference characterized the planning in colonial times, the situation today is much worse with more development and alas, greater indifference. All major roads and railway lines in north Bihar run from east to west cutting across the natural drainage as the rivers flow from north to south generally. Canals have also contributed to the problem of drainage congestion by cutting natural flows of rivers. Further, population spill over in the flood plains has also been often responsible for drainage congestion.

CSE's Citizens' Report's following indictment of the flood control measures in Bihar is worth quoting for a proper understanding of the situation:

"...Government documents do admit to the various facets of the flood problem, but there is no attempt to bring out the inter-relation of these different facets. Though drainage congestion is highlighted in the relief commissioner's report for the year 1987, no attempt is made to get into the causes from which it stems. While siltation is stressed as an important aspect of the problem, no attempt is made to explain its likely impact on the river bed in case of embanked rivers. Inundation is related to excessive precipitation. The mounting cost of anti-erosion works due to shifting course is conceded but little effort is made to evaluate the sagacity of embankment construction in a situation like this. Breaches in embankments and canals are enumerated but their causation is attributed to the excesses of nature. The problem of water logging is admitted in the major irrigation schemes but it is made out to be a managerial crisis rather than an environmental one. Indifferent occupation of flood plains is linked to population growth but not the political factors favouring it. These reports though quite disparate at one level, display a consistent focus at another. There is a never-tiring effort to rationalize the measures taken till date. Their persistent effort is to place the blame squarely on the unpredictability of natural phenomena and, to the extent human accountability is to be considered, on the shoulders of Nepal... while fully recognizing the data deficit that exists, an entire spectrum of opinions ranging from unwitting government admissions to old government records, newspaper reports and the perceptions of the affected population does show that the

Bihar government's flood control policy is more misplaced than inadequate and has led to counter-productive results."

Proposal for Dams

For a long time the state government and many other people have raised the demand of making a high dam in Nepal to moderate the inflow of water and simultaneously give the benefits of canal irrigation and electricity generation. It is suggested that some kind of power sharing arrangement could be worked out with Nepal. Though attractive at the face value, an in depth analysis raises doubts about the project which have been voiced every time that the idea has been proposed. One such proposal was mooted by A.N. Khosla, Chairperson of Central Water and Power Commission in 1945 which was not approved by an advisory committee before which it was presented. The objections were mainly because of the proneness of the sites to earthquakes, with prohibitive cost of construction ruling out a favourable decision. However, the state government has also identified three sites in Nepal where dams can be built. These are at Nunthore on the Bagmati, at Shishpani on the Kamla and at Barahkshetra on the Kosi. Some other sites which have been suggested at times include Belka and Kothar on the Kosi. The arguments given in its favour, apart from benefits relating to power and irrigation, include the possibility of flood control as the catchment area of rivers of north Bihar mainly lies in Nepal. However, on the opposite side it is pointed out that release of water from the dams in periods when rivers in the Bihar plains are already overflowing may actually lead to greater havoc. The heavy siltation of the rivers coming from Nepal also makes the idea less attractive on closer look. The uncertainties of Nepal politics and the vulnerability of the entire region

to extremist versions of politics are also cited as factors which make it inadvisable to go for such an ambitious plan.

Even if we leave out the cost factor and the difficulties in clinching negotiations with Nepal, the solution of the problem of flooding of Bihar plains by making high dams is not as reliable as it is made to appear in casual talks, perhaps smaller dams here and there may provide a more viable and effective alternative, but before any decision is taken far more consultation and investigation seems necessary. In this context the report of World Dam Commission released in the year 2000 is quite instructive. For any dams to be constructed in future the commission has recommended five basic principles, namely, equity, skill, participative process of decision making, sustainability and responsibility. All alternatives should be thoroughly examined before dams are decided upon, while the technical aspects like design, construction and maintenance must be decided by technical experts. As it is politicians have the largest say in such matters, while contractors are alleged to play a significant role.

River Linking Project

For some time past there has been a debate on another ambitious and expensive project which was first mooted by Dr. K.L. Rao and seconded subsequently by Dinshaw J. Dastur (a pilot by profession). According to Ramaswami Ayyar, Former Secretary, Water Resource Department, Government of India both these proposals were rejected in the 70s itself, but National Water Development Authority continued with the idea even as it failed to develop any concrete proposal. Recently Hon'ble Supreme Court thought it fit to issue a direction to the government to link the rivers in a PIL filed before it. It was followed by a strong protest by intellectuals

and social activists who find the project of doubtful value, too expensive and according to some, disastrous. Many experts also think that it may create more problems that it might solve. As Ayyar puts it, "The project on river-linking is planning 30 big and small link canals. Plans are afoot to construct these 30 canals using different methods. But I believe that rivers are not artificial pipelines which can be bent, broken and joined at will. Each river is a natural and cultural flow and cannot be kept alive by twisting it artificially. All efforts in this direction will be disastrous."

To say the least, the idea is not only too expensive and but contentious too and must not be hurried through. The consequences of some tampering with the course of rivers have resulted in large problems and we can surely ill afford a risk many times more serious.

IV. Prior Preparation & Flood Relief:

Preparedness of the state government

Floods being an annual phenomenon there are standard drills prescribed in administrative codes. If one type preparation relates to the upkeep of embankments, another type is in anticipation of the eventuality of floods regarding storage of materials which may be needed and a tentative plan of action. It seems that the exercise is being taken rather casually in the recent years and often the district administration is found wanting in terms of preparedness.

The cavalier attitude of the administrative mandarins of Bihar towards disaster management and flood relief is amply demonstrated in the reports of Relief & Rehabilitation department of government of Bihar. According to this department, between 1995 and 1999, sixteen districts were declared flood-affected including Araria, Banka, Buxar, Begusarai,

East Champaran, Lakhisarai, Munger, Patna, Sheikhpura, Siwan, Sheohar, Sitamarhi and Muzaffarpur. District magistrate of 15 out of 16 districts did neither file any report about floods, nor did they ask for any money or materials for flood relief. In fact it was the state government that provided them with 5.12 crores rupees for flood relief. Eight out of the district magistrates of these 15 districts surrendered 1.18 crores, the expenditure adding up to only 3.94 crores. But even this reduced amount was allegedly mismanaged and sometimes misappropriated. It was discovered that 50,700 dhosis and saris bought in the year 1995-96 could not be distributed that year and was subsequently sought to be distributed in subsequent years, but 32,700 pieces were found to be damaged and unusable as these were eaten by insects.

One kind of necessary advance preparation for floods was regarding commandeering of boats from local fishermen, a practice which has become difficult due to non-payment of past dues several years. Large number of breaches during rains and apparent lack of vigil when rivers are in spate have become quite common lately revealing the lackadaisical attitude of the government functionaries. In fact at several places it was due to the vigilance of local villagers that embankments could be saved.

Flood Relief 2007:

Even as first round of floods struck Bihar in July itself, the pace of relief operations did not pick up before the Chief Minister returned from his trip abroad at the end of the month. By 6th August 2007 the amount distributed by the government was as follows:

Wheat-15731.50 Qtls; Rice-13221.00 Qtls; Chura-3185.17 Qtls; Gur-566.02 Qtls; Candles-89757 pieces;

Match boxes-47312 pieces; Polythene sheets 25126 pieces; Packets dropped by helicopter

were the following: Darbhanga-448; Madhubani-640; East Champaran-96.

However, it was reported that many of the food packets dropped from helicopter fell in water or at dirty places. At many places there was a complaint against the supply of wheat and rice rather than ready made food like *chura*, particularly when rains still continued and there was no facility of cooking at the temporary sites where people fleeing from their homes took shelter. There were only some places where arrangements could be made to provide cooked food. Often it was done by some philanthropic organizations. Had mid-day meal programme running in all the government primary schools and nutritional supplement being provided by *Aanganwadi* centres were properly organized a lot more could have been done. That it could be organized just at a few places brings out the weakness of the programme.

As per a recent report released by the government the total amount of wheat and rice distributed by 25th September were 1027615.94 Qtls and 968653.53 Qtls respectively. It is important to keep in mind that this quantity of materials has been distributed among 2 crores of people in the flood affected areas. That means an average meager availability of only 5.14 kg of wheat and 4.80 kg of rice per person, assuming that there was negligible pilferage and the amount was distributed evenly. But as per field reports relief did not actually reach many areas. Ironically still there was a sense of satisfaction and complacency about relief operations in the governmental quarters.

Misappropriation of Relief Fund:

If neglect of advance preparation was one part of the story, misappropriation of funds and materials has been rampant. Floods have provided a golden

opportunity to officials and their cronies to make quick money when attention was riveted on the promptness of relief distribution. The climax possibly reached in 2004.

In 2005 the then district magistrate of Patna Sudhir Kumar disclosed the massive misappropriation of the year 2004 when Dipak Goswami was the district magistrate of Patna. Goswami was made the over all in charge of relief operations. Sudhir Kumar disclosed that out of 17.50 crores of rupees meant for flood relief, materials distributed were worth 7.70 crores only. Rest of the amount was gobbled up by Goswami and his accomplices. Subsequently Goswami was arrested and the case is still sub-judice.

As a matter of fact this is just an isolated instance of misappropriation coming to light. Actual cases of misappropriation have been reportedly several and repetitive.

V. Feedback from Field on Floods-2007:

To assess the situation the district committees (of PUCL) of Begusarai, Khagaria, Samastipur and Madhubani constituted enquiry committees. These teams visited the flood affected areas of their district and presented their report to state PUCL on 26th August. The state PUCL had convened a special meeting on that day to discuss the flood situation. Together with these report other report and experiences were presented verbally by several speakers who had visited or worked in the flood affected areas. The flood situation was discussed in the meeting and it was generally agreed that informed discussion should be organized for finding a lasting solution to this perennial problem faced by the people of Bihar. It was also felt that immediate relief and rehabilitation measures are required at the

moment to alleviate the suffering at the people.

Begusarai District

The enquiry Committee members for Begusarai district were Ramashray Prasad Singh, PUCL district president, Mahesh Bharti, State Council member of PUCL, and Mahesh Yadav, PUCL member from Begusarai. The team visited Basahi, Manjhaul, Karhor, Cheria Bariarpur, Khazhanpur villages together with different relief camps in these area on 21st August. The team members talked to the people in the relief camps, people living on the embankments, on roads, in temples and other public places. They also talked to Panchayat members and persons from district administration, who were involved in the relief work.

As per the report of the committee the worst devastation was caused due to 200 ft wide breach in the embankment of the river Burhi Gandak at Basahi Village in the night of 2nd August. Basahi village is 30 km from Begusarai on the main road for Rosera via Manjhaul. The river takes a sharp turn in Basahi. So, the pressure on the embankment at the turning point is tremendous. The river was swollen and embankments were at the risk of being branched or over topped at several points. The swirling waves of Burhi Gandak were directly colliding with the embankment at the turning point in Basahi. No special measures were taken to protect the embankment there, taking into consideration the vulnerability of the embankment at the said turning. There were also minor damages to the embankment there. These were also not repaired. As a result the embankment breached there and the main flow of water started passing through it washing out even *pucca* (cement built) houses, not to talk of mud houses or huts. One double storied *pucca* building got submerged in water before the eyes of thousands of people.

Altogether 128 houses were swept away. The water currents took along nearly 100 persons, out of which many caught hold of trees and saved their lives. But 29 persons remained untraced. Dead bodies of 9 persons were recovered later on. As the main current of the river started flowing through the breach at Basahi, huge quantity of water spread far and wide submerging large parts of Begusarai district, and finally crossing over to Khagaria district to submerge many areas there. The situation got further aggravated due to flood waters of Bagmati and Kareh rivers coming from Samastipur side and merging with Burhi Gandak waters to create a vast flooded landmass of nearly 1000 sq. km. The most affected blocks of Begusarai district are Cheria Bariarpur, Chhorali, Garhpura, Bakhari, Manjhaul, Jay Mangalpur, Garh Khouli, and Naw Kothi. Bakhri subdivision as a whole is the most affected. 80 villages of Bakhari subdivision, nearly 75% of its total area, are submerged. Nearly 5 lakh people have been uprooted and devastated due to floods in this area. 15 persons have been drowned in Bakhari sub-division alone apart from deaths in Basahi and other *Panchayats* of the district. Hundreds of cattle also got drowned and lost their lives. Crops to the tune of 50 crores rupees have been destroyed. Nearly 60% of the houses have been destroyed. In pucca houses 4 to 5 ft. of water is still there in that area.

The enquiry team visited many relief camps and talked to numerous people. Notable were relief camps in Manjhaul at *Parishad* Middle School and Jay *Mangla* High School, Karhor Middle School, Rajeshwari High School, Cheria Bariarpur, *Durgasthan* Karhor, Khazhanpur primary Schools. The team members talked to numerous affected people in these relief camps. They also talked to *Zila*

Parishad, Manoj Ram, ward member of *Nigarani Samity*, Arvind Kumar of *Kumbhi Panchayat*, Jay Ram Mahto of Basahi, *Panchayat* Secretary of Khazhanpur Umakant Rai, etc in course of their enquiry. In this process they talked to the displaced persons from villages Basahi, Manjhaul, Bakhari, Garhpur, Naw Kaothi, Chhaurahi, Doura, Garahi, Basiyakat, etc. at the relief camp in Manjhaul. They talked to displaced villagers from Bhelwa, Sakakhasa, Auraiya, Bithan, Dhokra, Bhitayara, Bangali Tola, Charba Tola, Pokharpar, Yadav Tola, Azad Nagar, etc. villages in the relief camps situated at Cheria Bariarpur, Karhor and Khazhanpur.

The team enquired deeply regarding the relief offered to the people. It was revealed that 30 kg wheat and Rs.200/- per family had been provided to the people of Basahi village. But 500 villagers of ward no. 7 and 8 were not given any relief. In some camps *Khichri* was served initially but later on stopped. At some places only 1 kg *chura*, 1 match box, and *Daal moth* packet (small) had been given initially. Flood relief arrived quite late in the form of wheat and Rs.200/- per family. In some places like Basahi 50 kg wheat and Rs.200/- were distributed. But in many other places only 30 kg of wheat and Rs.200/- were being distributed. The pace of distribution was slow and faced many difficulties due to corrupt practices of some *Panchayat Mukhias* and block officials. The villagers also complained at some places that the officials and *Panchayat* representatives were giving 5 to 10 kg less wheat to the people. Many people faced difficulties in using wheat as there were no *atta* grinding mills around the relief camps. They needed items which could be consumed easily, like *chura*, *sattoo*, rice, cooked bread, *khichri*, etc in the relief camps. But the govt. failed to provide such

items. At some place like Garhapura block only some rice was distributed. But the quantity was very small. Only 160 quintal of rice was provided for *Panchayats* of Garhpur block. A clash took place in New *Kothi Panchayat* when the *Mukhia* (*Gram Pradhan*) distributed only 20 kg wheat and Rs.20/- per family. *Mukhia* and his headman assaulted the flood affected people when they protested. The B.D.O., instead of taking any action against the *Mukhia*, stopped the relief distribution work there.

The relief operation is negligible in the areas surrounded by water where people are living at high places, schools, roof tops of *pucca* houses, etc. Very small relief materials and medicines are reaching in these places. The number of boats is very meager compared to the gravity of the situation. There were only 6 operational boats of the Bakhari subdivision by which army personal ferry people or carry relief materials. At some places village strongmen had monopolized boat services and were using as per their own needs and requirements at the cost of people's needs. Due to shortage of boat services, people remained trapped and surrounded by flood waters, suffering terribly. At many places even plastic sheets to cover their heads were not supplied. Over all people have been very much dissatisfied with the relief provided by the Government.

On the other hand, people living in villages not devastated by the floods, organized cooked food for the flood affected people living in the camps, or on house tops. Political parties, NGOs, and private schools have played good role in relief work.

But the worst sufferers of the floods have been the members of the deprived *Mushahar* community of Bhelwa, Basahi, Jaymangalpur, Garh Khoti, Usraha villages.

A state level fact finding team comprising Vinay K. Kantha, President of PUCL, Bihar, Arvind Sinha, State Council member and Ramashray Prasad Singh, President of Begusarai district PUCL again visited flood affected areas of Begusarai on 3rd September. The team visited Basahi, Manjhaul, Koroh Khanjaha, Melida Shahpur Villages, and a number of relief camps situated there. The team members also met and talked to affected people on the embankment or the road, and in the villages.

The team members were shocked to see the conditions in the relief camps and at places where affected people were living under the open sky. No viable medical aid centre was seen, except at Manjhaul which is the sub divisional head-quarters. It was even more shocking to see that cooked food was not being served to the hungry people even after one month of the disaster at Basahi on 2nd August. The only exception was the relief camp at Manjhaul Middle School where cooked food was being served by *Anganbari* workers under the supervision of the school teachers.

The government relief started after 18 days of the disaster at Basahi from 20th August. 25 to 50 kg of wheat and Rs.200/- per family was being distributed. But the pace was very slow. Even on 3rd September when the team visited the area, many people were waiting for their turn to get government relief.

The team members tried to find out how the people survived in such a situation. Then the startling fact came to light that the villagers from the safe areas got organized and arranged cooked food for the flood affected people. Youth of the villages moved door to door, collect cooked food (mostly chapattis & vegetable), pack them in small packets (10 Chapattis each), and move to the flood

affected people. They would go to the roads, embankments, relief camps. And some would take the boat and go to the people surrounded by water and living roof tops, trees, and other high places. They would get back by the evening, and preparations would be started for the next day. A 70 year old retired school teacher of Bihat Village, named Shubhashini Sharma, would collect food every morning in her village and start for Manjhaul, nearly 10 km away from her home. She would ride the boat ferried from there (for flood affected people) and go to the remote water surrounded villages to provide food to them. She has been doing this since last one month. Continuously after Basahi *bundh* breach on the 2nd August. So, the flood affected people in this district survived the disaster mainly due to the support extended to them by the fellow villagers (who were not affected by floods). This experience strengthens one's confidence in the common people of Bihar for any positive development. This provides a ray of hope in the otherwise bleak scenario in the present day Bihar.

Khagaria District

A two member enquiry committee was constituted to enquire into the flood situation and the relief operations going on in Khagaria district. Ramashray Prasad Singh, a National Council Member of PUCL, and Dharmendra Kumar were the members of the Committee. The committee visited the flood affected areas of the district on 26 August.

The committee visited many relief camps in and around Khagaria town, notable among them were relief camp at Ramjanki temple Thakurbari Old Court Premises near Khagaria, Women's College, and some relief camps made on the railway track near Kothia. It is to be noted that many relief camps were situated on the

railway track from Kothia to Mansi Ju as large number of people have taken shelter on the railway track. The committee members met and talked to large number of flood affected people in their relief camps, and also at different places where they had taken shelter. They also talked to some local leaders of political parties and *Panchayats*. The team members talked to Ram Bahadur Azad, Ex-MLA of the area, Bhola Das of Awas Board, Satyanarain Poddar and Baleshwar Yadav of ward no. 4 of Rako *Panchayat*, Sarita Devi of ward no. 4 of Awas Board, Kabo Devi of ward no. 17 of Awas board, Shailu Yadav of ward no. 1 of Awas Board, Fulkeswar Verma, retired VLW, Dr. Parmanand Singh of Snahauli, Geeta Devi, etc in course of the enquiry.

Khagaria district was very badly affected by the floods. The location of this district is also to a great degree responsible for this. Burhi Gandak river joins Ganga in this district. As a result of this, it had to face double load of water due to heavy rains and swollen Burhi Gandak and also flood waters coming from Begusarai and Samastipur districts. The flood waters from Basahi embankment breach spread to Khagaria district villages, and it could be stopped only by the National Highway (for Assam) near Nawgachhia. A huge mass of water has been trapped between Basahi-Manjhaul and Khagaria-Nawgachhia. The flood waters of Bagmati and Kareh rivers, which come from *bundh* breaches of Samastipur, also joined the water body formed through Basahi *bundh* breach, to make the situation in Khagaria district precarious. As a result Alouli, Khagaria, Mansi, Choutham, Balaur, Gogari, and Parbatta blocks have been badly devastated by the floods. Nearly 8 lakhs and 30 thousand people have been affected. In all these areas Alouli block has been worst affected. The condition in Jhamta,

Barhara, Matiarwa, Vishanpur, Dhusmuri, Bochhauta and Bhadas Panchayats of Khagaria block is pitiable.

The condition of relief from the government is very bad. Floods came from the night of 2 August. But the relief started after 15th August. Very small quantity of food grains arrived. Only 37000 quintals of wheat and rice, together with 2495 plastic sheets were made available for 7 blocks around Khagaria, namely Khagaria, Alouli, Manasi, Choutham, Balaur, Gogari and Parabatta. Each family was given Rs.200/-. The administration claimed to ply 777 boats. But these boats were no where visible. Some boats were there under the control of powerful people. There were also allegations of widespread discrimination in the distribution of relief materials. Medicines were not supplied at all. Animals were dying due to lack of availability of fodder. Only 21 kg of wheat was provided to people in the name of 25 kg. Cooked food was not served anywhere. Large number of people from Sadpur Rako complained that they received neither any food grain, nor any money.

The worst affected Alouli block had no boats to ferry people, or relief material. As a result Devu Yadav (35 yrs) of village Bandher died on 9th August due to non availability of boat, or any medical treatment locally. Seema Kumari (13 yrs) and Jagdish Muni (35) of Meerpur Mushahari died due to diarrhea. Altogether 55 persons have died due to drowning and 5 persons from snake bite in the district. Sattan Das of Rahimpur Panchayat died due to hunger.

In this way the enquiry revealed that the situation in Khagaria was precarious, and the people faced great hardships in the absence of any meaningful relief operation from the government.

Samastipur District

PUCL district enquiry committee consisting of Vijay Vatsyayan, Mukesh Kumar Pandey and Vashistha Thakur, all members of PUCL, visited the flood affected areas of the district on 23rd August.

The worst affected areas of the district were Kalyanpur, Warisnagar, and Khanpur blocks of the district. The main flood in this district came when Bagmati river breached the embankment at Malkauli village by nearly 1000 ft and spread its swirling waves submerging hundreds of villages of Kalyanpur, Warisnagar, and Khanpur blocks. The flood waters over topped the embankment at village Daroti, and Parna zero mile. River water over flooded the Samastipur Darbhanga State highway. The water was flowing also over the bridge on river Bagmati, and only the top of the temple at one end of the bridge was visible. The surging water of Bagmati moved far and wide and finally joined flood waters of Burhi Gandak in Begusarai and Khagaria. The flood destroyed houses, crops, roads, in the villages. People were forced to live on the embankments and on the top of a few pucca houses in the village.

The enquiry committee first visited relief camp on the bundh near submerged Ladora Panchayat. Poonam Devi, the Mukhia of the Ladora Panchayat said that till that day (23.08.07) neither the B.D.O., C.O., nor D.M., S.D.O. had visited that area. The floods had come there in the night of 1st August. But still they had received no help or relief from the district administration. Only the local M.P. Alok Kumar Mehta had visited the area 5-6 August and distributed 1 kg chura and 250 gm *gur* per family. He also arranged three hand pumps for drinking water.

The people from the affected villages were living on the embankment as that was the only

safe place in the area. So, there were many shanties or relief camps on the embankment. So, the enquiry committee moved on the embankment and met large number of people there. They met people of Jitwaria Panchayat who said that they had received nothing till that day. One day the *Mukhia*, Pramod Rai came in a drunken state. The people got infuriated and chased him. Large number of people belonged to the Mushahar community there. In this way the committee visited Madhurapur, Jitwaria, Sormar Haat, Parna, Pakamahini Haat, Malkauli village relief camps. They found that at some places like Jitwaria, Sorampur, Namapur and Malkauli the district administration had started distributing 25 kg wheat and Rs.200/- per family. But in other large number of relief camps nothing had reached by that day. Cooked food was no where being distributed by the administration. Only UNICEF was running a *langar* (community kitchen) where nearly 1000 persons were offered *khichri* since 20 August. Only one health camp was found on the embankment near Parna village. Dr. Shashi Bhushan, the doctor deputed there was absent till 11.30 am. Only a dresser named Shrikant was present in the camp. There was a good stock of medicine, but people were not there as they had no information regarding this camp.

From visiting these camps and meeting the people it became quite apparent that there was hardly any relief worth the name in the affected areas till 23rd August. People were hungry, had no medicine, and there was nobody to take care. The indifference and insensitivity of the district administration was heart breaking.

Madhubani: Chakdah Police Firing

A 5 member PUCL Committee was formed to enquire into the Chakdah Police firing on 3rd August near Madhubani town. The

members of the team were Kalyan Bharti, Dr Mahendra Yadav, Anaro Devi, Surendra Das, and Dinesh Paswan. The Committee went to Chakdah village on 25th August to investigate the matter.

After meeting the victims of police firing and *lathi* charge, and scores of other inhabitants of the area, the committee members came to understand the background of the trouble, and reasons of police firing.

Madhubani town suffers from floods nearly every year. The adjoining villages named Chakdah, Paliwar, Ranti, Navtoli, etc. also suffer from floods. The only channel for water discharge from the town and the villages is Watson canal. But this canal is not maintained properly, nor is it cleaned regularly. So many people have built houses on it, or have encroached its land. As a result the canal has become very narrow, and is unable to discharge water at required speed. Water flow has become very slow.

The people of Chakdah and other adjoining villages formed a struggle committee on 2nd July 2007 and put forward three demands before the district administration:

1. Watson canal be cleaned immediately,
2. Jalkumbhi must be cleared after the rainy season is over.
3. The prices of commodities be kept under control during floods.

Shashinath Choudhary of the village was elected the Convenor of the struggle committee.

But the canal was not cleaned. As a result when heavy rains came in July, Madhubani town and Chakdah village were affected. The administration cut road at two points so that the surplus water could flow out of the town area. One point was near the railway crossing no. 12. This was done on the 1st August. The dirty water of the town entered into the homes of the villages of Chakdah. They

opposed this and tried to block the entry of water from the town, and demanded cleaning of the Watson canal. The B.D.O. of Rahika Block came on 2nd August, and promised to get it done provided the villagers arranged required number of labour. People arranged for labour, but the B.D.O. did not turn up.

The district administration arrived with full strength on 3rd August at 3.30 pm and started beating the people, including the small shopkeepers near 12 no. railway crossing. They chased them and came to the main crossing of Chakdah. They abused and beat up the people and shopkeepers. All this was happening in the presence of town S.D.O., D.S.P., town D.S.P. and town O.C. Nearly 50-60 armed police were resorting to this brutality. This angered the people, and they started brick batting. But by that time D.M. and S.P. also arrived with more police reinforcement from adjoining P.S. People also started gathering from adjoining villages and a ding dong battle ensued between the police and the people. Dozens of people got injured including convenor of the struggle committee Shashinath Choudhary.

The police started firing on the mob. Two youth of the village (taxi drivers) named Shiv Kumar Choudhary and Dhaniklal Choudhary got injured in police firing. They were returning home after parking their taxi at the railway station. People took them to hospital. But nobody was prepared to take any care of them due to the fear of the administration.

People also got very angry at the police and administration's brutality and inhuman attitude. They attacked police from all sides with brickbats. In the melee a police ASI fled through a lane and entered into the mud house of Darshanand Thakur. Darshanand and his wife Uma Devi asked him

to get out of their house. At this the said ASI Aditya Narain Singh got infuriated and shot Darshanand dead, and fled from there.

The DM and district administration were justifying the police firing and also the killing of Darshanand by the ASI. Hundreds of agitating people narrated the whole incident to the Home Commissioner the next day that the ASI Aditya Narain was declared guilty and compensation was offered to the wife of Darshanand and other persons injured in the police firing. But still the administration has not withdrawn false police cases against the people of Chakdah village. The people of Chakdah are terrified because of the police case. The team arrived at the conclusion that police and administrative high handedness was apparent in this incident. A clear cut case of human rights violation is also established in this case.

VI. Observations:

General:

1. Floods are natural phenomena in Bihar or elsewhere, but their intensity, extent and resultant suffering of the people relate to the policies of the government. As such there is an element of truth when social activists describe them as man-made phenomena in the state. CSE's report concludes, "The unrealistically multiplying costs of construction and the recurring expenses on their repair have over the years, given rise to a firmly entrenched combine of politicians, engineers and contractors, each one of whom stands to benefit enormously from the enterprise... The consequent breaches regenerate a potential for further income for all the three." If the expenditure on relief is added to the list, usually difficult to monitor, then the scope of corruption, patronage and enrichment shoots up further. By and by some NGOs have also entered this league,

even as many of them have rendered exemplary service to the people in times of distress.

2. To deal with a situation like floods, or for that matter any calamity, apart from a well thought strategy and planning based on prior preparation, a degree of sensitivity is needed on the part of the delivery system. Sometimes they have to bear risks and invariably they should take the human factor into account. Unfortunately system of governance is not known for its sensitivity, or even efficiency in Bihar. Time and again it is exposed in times of crisis. Their response is sluggish, and at best routine. On top of that there are quite a few among them who are intent more upon making a quick buck, rather than providing succour to suffering masses.

3. The fact that the poor and marginalized sections are more vulnerable also makes possible such a response, because there is very little appreciation of their rights and concern for their human dignity. The conditions of most of the relief camps leads one to come to such conclusions. In fact most of the rural poor live in shoddy dwellings made of mud, sticks and thatch, rather than stable, robust structures that can withstand flood waters. They are dependent on manual labour and land and are quite vulnerable to the vagaries of nature. Insurance is non-existent one of the reasons being that majority of poor do not even own the land on which their homestead stands. In many cases *basgeet parchas* have been issued in their favour but given the lack of administrative support they have failed to take possession of the land allotted to them. The problems relating to floods should not be seen in isolation.

Observations on Floods 2007:

4. The severity of the current floods can be gauged from the fact that it affected nearly 25 million

people living in 20 district of Bihar. The floods started in July, and got aggravated in August after the *bundhs* breached at several places in East Champaran, Muzaffarpur, Samastipur, Darbhanga and Begusarai districts in the first week of August.

Flood situation in Bihar as reported on website of Lok Sabha (as on 30.09.2007)

Areas affected

- 22 districts, 244 blocks, 3011 *Panchayats* and 10843 villages

- Population: 226.73 lakhs

Relief organised

- 1672 relief camps accommodating 10,05,637 persons

- 609 medical camps

- 7277 boats

- 1009 cattle camps

Damages

- Lives lost: 889

- Cattle/livestock lost: 978

- Crop damaged: 16,18,000 Hectares (Rs.128843.51 lakhs)

- Houses damaged fully: 323265, partially: 347162 (Rs.84224.92 lakhs)

- Total damages including public property assessed at 158070.36 lakhs

5. The relief operation of the government started in most of the areas after 20th August. The pace of relief operation was very slow, and the relief offered meager. Health care arrangements were nearly absent. No of boats were much less than required. There was widespread mismanagement and misappropriation of relief materials. People were desperate, and demanding. The administration resorted to *lathi* charge dozens of place on the flood affected people. There was police firing on the people of Chakdah village near Madhubani town. These incidents show the callousness, insensitivity, and brutality of the police and the administration towards common

people. This situation also exposes the lack of preparation of the administration to face the floods, and inefficiency when the floods devastated the state.

6. At many places there was a complaint against the supply of wheat and rice rather than ready made food like *chura*, particularly when rains still continued and there was no facility of cooking at the temporary sites where people fleeing from their homes took shelter. There were only some places where arrangements could be made to provide cooked food. Often it was done by some philanthropic organizations. Had mid-day meal programme running in all the government primary schools and nutritional supplement being provided by *anganwadi* centres were properly organized a lot more could have been done. That it could be organized just at a few places brings out the weakness of the programme.

7. While the state system did not work well, the people living in the villages and towns around flood affected areas showed brotherhood and genuine concern for the flood affected people. They engaged in lot of relief work to help fellow brothers and sisters. But the inhabitants of the state capital Patna remained, by and large, cold towards the suffering of the flood affected people. The apathy and insensitivity of the state and the urban elite has been exposed through the prism of suffering of the people due to the unprecedented floods of this year.

VII. Recommendations:

If there are long term measures required to be taken under a well thought out policy framework, some immediate steps can be taken in the short term as well. Generally speaking, if flood policy is a matter of long term set of measures, toning up the system relief distribution has an urgency, which must be kept in focus here and now.

1. A serious exercise is needed to develop a clear perspective on floods, because to start with it is a matter of perspective and approach towards floods in particular and development in general before a policy modified framework is evolved and a set of strategies is chalked out. While experts should be involved in the exercise, association of social activists who bring the point of view of the affected people will be even more important. People's point of view must be given full respect and their involvement secured both in the design of strategies and their execution. Direct dialogue with the people will certainly help in tackling the problem more realistically and effectively. Indigenous knowledge system had a lot of merit, even as it may not be sufficient under altered conditions today, but only through an open and honest dialogue and critical review of existing policy more viable strategies can be worked out.

2. In more specific terms the policy of making embankments must be carefully examined and very sparingly used only after taking the entire ecological situation into account.

3. The issue of floods needs to be seen in the larger perspective of water management. Water is a precious resource which is getting even more scarce globally and in the times to come, availability of such a resource can be of great advantage. Since we fail to manage it properly it looks like a problem, but if greater care and planning is there it can be of immense value in future. But care should also be taken not to see it merely as a resource, because it is linked with our culture and civilization as well. Water deserves the utmost respect from the mankind because without water there would have been no civilization and there will be no human existence.

4. The entire development planning needs to be reviewed and

pursued with people in mind on the one hand and natural resources like water on the other. Sustainability of development is an acknowledged norm accepted worldwide today, even as in actual policy making it is relegated to the background both globally and in our country. Equity and environmental concerns must be built into the strategies of growth, if it is to be made sustainable and this applies to the area of water management as well.

5. The immediate question that can be raised today is whether we should decide to dismantle the embankments built over years with large expenditure if they have done no good and have actually made the situation worse. Some people raise a very pertinent point that the severity of floods today is not exclusively due to embankments, but roads, railways and population growth leading to different land use of patterns also contribute to the aggravation of misery. Shall we decide to undo all that? Surely this would be neither possible, nor desirable. The question is what policy do we adopt henceforth and what kind of correction is possible now. For example, if there are inadequate arrangements of culverts etc for the free passage of water, it should be possible to add many more with a careful detailed planning in every area taking the local knowledge into account looking simultaneously at the larger picture. At places may be it is worthwhile to dismantle a stretch of embankment. At other places may be embankment or its raising is required.

6. It appears that a more people-oriented decentralized approach towards floods can improve the present situation. Panchayats can possibly play the most vital role but only when they function not as administrative units, rather a forum of public involvement and decision making. It may be possible by making the

gram sabhas fully functional and providing the *panchayats* with necessary wherewithal to function. The system of planning should start from below with aggregation and technical support at higher level without obliterating the decision making capacity of the three tiers of *panchayats*.

7. Decentralized approach would also mean revival of local knowledge and micro-management of natural resources. In specific terms villages should be encouraged to revive *pokhars* and *chauris* in north Bihar and *ahars* and *pynes* in south Bihar. With programmes like NREGS it should be possible, but the idea is to plan it in accordance with the local needs and on the strength of their own knowledge system. Wherever need be, services of experts should be made available.

8. There is a need for local village level planning for land use and water management. Be it the system of *pokhars* etc in the north or *ahar-pynes* in the south, state support should be extended to their revival along with other measures like tree plantation under social forestry, or more raised community spaces in the flood-prone villages. Every *panchayat* should have a *panchayat bhawan* and several schools, and to begin with these constructions should be on raised platform so that they can accommodate people in times of acute distress. There are numerous programmes launched by the government, money should be spent according to some kind of general plan of land use. All this calls for building of capacity, generation of awareness, local public vigil and administrative support rather than tendency to exercise control.

9. Even in matters relating to availability of relief materials and medical care local facilities will need to be strengthened. As a matter of fact even in normal times medical services are not available,

then to expect that emergency arrangements can be created soon in the hours of gravest crisis is unrealistic. UNICEF in association with the state government has organized a number of medical camps and pressed into service mobile units, but laudable that the efforts are, these can neither be adequate nor timely unless local capacity and services are in place. The officer-in charge Job Zachariah in his statement highlighted the need of building up a system of early case detection and management with the help of community volunteers, but the question is if it can work without availability of adequate facilities somewhere nearby on a regular basis. For the difficult to reach segment of sufferers, whether in geographical terms or social, only a strong decentralised arrangement can serve properly.

10. Disaster management is the buzz word today and a new legislation was passed by the parliament in 2005, namely, Disaster Management Act 2005. The Act provides for a national plan for disaster management which *inter alia*, should include measures for prevention or mitigation of their effects and integration of these with the development plans. It also provides for measures for preparedness and necessary capacity building. In the very next section of the Act, i.e., in section 12 minimum standards of relief, minimum requirements for relief camps and norms for *ex-gratia* payment as well as damages are supposed to be laid down by the government. Section 23 calls upon the states to prepare state disaster management plans of their own. It has been pointed out by social activists that national or State level authorities visualized in the act give space to local organizations only in respect of relief operations leaving them out altogether in the formulation of policies and plans. Our experience is that community has its own knowledge system which can be immensely helpful. However, even if we ignore the limitations of the Act, in Bihar, like many other states, little

has been done so far towards its implementation and the default was more glaring in its revelation after the floods of 2007. Floods are obviously the most predictable and recurrent type of disaster in the state. Faithful implementation of the Act is an urgent necessity calling for the attention of the state government.

11. If there is a need of integrating traditional disaster detection and management systems in the scientific systems and making use of the recent technological advancements, it is even more important to change the attitudes of officials. Corruption apart, there is an obvious sluggishness and callousness widespread among officials at different levels, making the situation worse. During the floods of current year this was revealed in the firing and *lathi* charge witnessed at different places, followed by crass attempts of justification for the same. In times of distress a more humane and sensitive approach is something which is minimally required, more so when a system fail to come to the help of many of those who are in desperate situation. It is not a dole or charity that the government distributes, rather there are legal provisions in place and getting some kind of relief is a matter of right, and no one has the right to ride rough shod over the dignity of people stricken by disaster.

12. Without the involvement of local community nothing much can be achieved and sooner we realize the better. Whether it is planning or execution or monitoring and control, village community should get a primary role. However, it must be borne in mind that if members of *panchayats* emulate the conduct of politicians at higher levels and get de-linked from the society, then transfer of authority may lead to greater leakage of resources. Processes need to be defined properly to ensure transparency, accountability and control from below, primarily through *gram sabha*.

References:

1. **State of India's Environment, A Citizens' Report (3), Floods, Flood Plains and Environmental Myths**, Centre for Science and Environment, New Delhi, 1991

2. **State of India's Environment, A Citizens' Report (4), Dying**

Wisdom, Centre for Science and Environment, New Delhi, 1997

3. **Bhago-re bhago, Aayi barh...**, an article in **Vikas Sahyatri**, July-September '07

4. **Ganga Valley and River Linking Project**, A Report brought out by *Nadi Vapasi Abhiyan Samiti* after a workshop in May 2003.

5. **Nadi Samvad**, First issue brought out by *Nadi Vapasi Abhiyan* in April 2005.

Compiled & edited by **Vinay K. Kantha**, State President, Bihar PUCL & **Arvind Sinha**, Member, PUCL, Bihar with inputs from district teams from Begusarai, Madhubani, Muzaffarpur and Samastipur.

PUCL acknowledges contribution of friends participating in the meetings held to discuss floods and a draft report who provided valuable suggestions, insights and inputs making possible this report. □

Amrik Singh Brara Passes Away

Amrik Singh Brara, a long time member of the PUCL, expired on Wednesday 14th November. His family members also are deeply involved in the PUCL. His daughter Meera is one of the persons who laid the foundations of the work in the National office. His second daughter Sehjo has been a member of the National Council for long and is known for her video films on Human Rights, especially rights of women along with her husband Anwar. His youngest daughter, Dr N Vijaylakshmi is the convenor of Manipur PUCL. Her husband, N Kotishwar Singh, was till recently Organising Secretary of the PUCL for the North Eastern States from which post he resigned this month on being appointed the Advocate General of Manipur.

The PUCL expresses its sympathy with all the members of Brara family. – **Y P Chhibbar**, General Secretary □

Press Release: Letter to Governor of West Bengal:

Call a Round Table on Nandigram

His Excellency, the Governor of West Bengal, Raj Bhavan, Kolkata.

Sir,

We are from the People's Union for Civil Liberties, India, an organization founded by Loknayak Jayaprakash Narayan in 1976, at a time when India was in deep crisis. We are again in deep crisis, but the crisis now is of a different order. Indira Gandhi imposed authoritarian rule "in defense of the Constitution". During that period all the political parties fought for democracy and constitutional values. At that time CPI (M) was with us. Our late Mr. Tarkunde joined the protest against the Soviet occupation of Afghanistan and that was the reason for CPI (M) to leave us. They had right to leave.

What is going on in Nandigram or what has been going on in Gujarat is in total violation of the Constitution. When massacres took place in Gujarat, the BJP and its allies were in power and they would not take notice of the horrendous events and take timely steps that would have disciplined the government in the State. Congress at the Centre would not take notice because they had Sikh Riots in their cupboard. It is appalling that a Marxist government is out to discipline a whole lot of poor in Nandigram for several months now. Every political party in governance tries to teach the people a lesson. The Congress then wanted to teach the Sikhs a lesson. In Gujarat Modi wanted to teach the Muslims a lesson. Sir, the attitude of the Marxist Party is reprehensible constitutionally speaking. Rule of Law and Part III and Part IV of the Constitution have been totally suspended. This is done by a State government which has no such rights. Look at the rights of the citizen. You have no right to

Press Release:

free speech, no right of assembly, no right of association, in Nandigram. All these rights are denied to the citizens residing in Nandigram and the rights of people outside are completely barred. Barring entry of citizens of other states is unthinkable in a constitutional set up. Nor is suspension of all these rights equally thinkable in a constitutional set up. Freedom of movement is denied by setting up political check posts blocking entry into Nandigram. If this could happen to Medha Patkar what will happen to lesser mortals!

Every one of the Ministers has sworn allegiance to the Constitution in the manner laid down in the in the Third Schedule of the Constitution. Members of Parliament do take such oath and that casts a responsibility on them to act and speak with certain amount of Constitutional Propriety. Collectively or individually everyone of them is accountable for Constitutional misconduct. Their continuance in office depends on their good behavior even if they hold tennorial positions. Their right to continue as Ministers, Legislators, and Members of Parliament can be questioned, which is being done politically now and also constitutionally in Courts.

Sir, the facts are before you and we need not restate the facts. Nandigram people were opposing the globalization process and they have a right to do so. What has been set down in the Directive Principles they are seeking to politically enforce as the State ignored these principles. They were behaving in the manner the Constitution permitted them. It is possible the Maoist entry has exacerbated the situation. But the people are not at fault.

All responsible for allowing the Maoists to enter assume that they

are the answer for Marxists' mis-governance. We are not for escalating the violence nor are we interested in vacating Marxist Government in the State. We are interested in seeing thanks people are restored their fundamental and human rights and restore conditions totally free of violence and a life free of fear.

For working out a negotiated resolution of this problem you appear to be the fit person for you have shown concern from the beginning of the Nandigram problem. Sir, you can take the initiative to call for a Round Table Conference of Legislators, Vice Chancellors of the Universities there, and leaders of significant peasant organizations, and leaders of trade unions for discussing the issue. Kindly do not forget Nandigram people who oppose land acquisition. First there should be suspension of violence, recriminations, persecutions as also prosecutions. Some such negotiations should take the place of this adversarial violent wrangling. Ours is only a suggestion. Sir, you are experienced and you will have similar other opinions around you.

Thanking you and wishing you success in your efforts to resolve the problem. – **K G Kannabiran**, President; **Y P Chhibbar**, General Secretary, November 15, 2007 □

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Human Rights Defender Murdered in Bihar

On 8 November 2007 Ram Naresh Sharma APP in Begusarai who was handling several sensitive criminal cases against high profile politicians was shot dead at his residence. He was a member of the State Council of PUCL, and very active in the district as a human rights activists, besides, being a lawyer with courage and conviction.

A condolence meeting was organized on 10 November by the Bihar PUCL in which most of the members present expressed their anguish and deep concern at the growing incidents of assault on human rights activists in the country. A Citizen's protest march was held on 11 November starting

from Akashwani Bhawan, Patna and culminating at Revenue Building, which converted into a public meeting. The meeting was addressed by PUCL National Vice-President Prabhakar Sinha, State President Vinay K. Kantha, Vice-President Mr. Arun Kumar, and others including Razi Ahmad, Fr Manthara, Prof. M N Karna, Nand Kishore Singh, and Priyadarshi.

Killing of Ram Naresh Sharma was no ordinary crime, as it seems to have been committed with the specific intention of silencing the voice of those who raised their voice against criminality and public wrongs undeterred by the risks entailed. If such a crime goes unpunished, it will have a

deleterious effect both on public life in the state and crime control measures.

PUCL Bihar State Unit demands that the incident of murder be thoroughly investigated by an independent body, possible by the CBI, and the culprits are tried speedily and convicted suitably. – **Vinay K Kantha**

The National PUCL endorses the sentiments expressed by the State PUCL, and the Begusarai PUCL on phone, in appreciation of the dedication of Ram Naresh Sharma of Begusarai, Bihar and supports the demand of an independent investigation of his killing. – Y P Chhibbar, General Secretary, November 11, 2007 □

Update on Dr Binayak Sen:

"Court Orders Police to Hand over DVD to Dr. Binayak Sen"

"Video-Conferencing Has Not Been Ordered by the Court"

The Additional District Judge, Raipur, Shri B S Saluja today ordered the Prosecution to hand over the DVD to Dr. Binayak Sen, which it had failed to do so on the pretext that it was an "article" (property) and not a "document", and as such it could not be given to the defence. Challenging the position of the Prosecution, the counsels for Dr. Binayak Sen had argued on 28th October 2007 that under the amended Cr.P.C. Section 65-B, computer evidence is to be treated as "document", and as such the accused was entitled for a copy of the same. Upholding the position taken by the counsel for Dr. Binayak Sen, the Trial Judge ordered that prosecution should hand over the copy of the concerned DVD to Dr. Binayak Sen before the next date of hearing i.e. 16th November, 2007, which has also been fixed for arguments in framing the charges.

It may be recalled that the police had seized the CPU of the Computer from the house on 19th May 2007, and had sent it for analysis to Hyderabad laboratory.

But, it had deliberately delayed submitting the DVD of the said CPU as evidence both in the Trial Court and to the accused, Dr. Binayak Sen. As it is mandatory that the accused be provided with all the evidence before framing of the charges in the matter, the concerned Court was apprised of this lacunae on the part of the prosecution. The prosecution then submitted the DVD of the said CPU in the Court but refused to provide the accused a copy of the same. Thus, today's Order by Shri B S Saluja, ADJ (Fast Track Court), Raipur is considered a victory of sorts exposing the "delay tactics" being adopted by the prosecution in this case.

Similarly, on the issue of Video-conferencing the concerned Court has clearly stated that it had passed no such orders, but it was the Jail Authorities that were applying for Video-conferencing in lieu of the personal appearance of the accused. Thus, the application moved by Dr. Binayak Sen in this regard was considered pre-mature and dismissed under the present

circumstances. However, the Hon'ble Court has also underlined in its Order today that at the time of framing of charges, evidence, cross examination of witnesses, or whenever this Court felt that the personal presence of the accused was necessary, it would ensure that the accused are definitely present physically and heard personally.

It may be noted that Dr. Binayak Sen had strongly objected to Trial by Video-conferencing, as he was not only denied the fundamental right to be present and heard by the Trial Court, but was kept in an intimidating situation in a room in the Raipur Central Prison heavily guarded by the Jail & Police personnel, that too without the presence and facility of his lawyers, friends and family whom he could consult from time-to-time. It may be noted that on the first day of hearing by Video-conferencing Dr. Binayak Sen had categorically complained that he could only see the face of the Hon'ble Judge, and not even see his lawyers.

The matter was argued on behalf of Dr. Binayak Sen by Adv Mahendra Dubey and Adv Sudha Bhardwaj on 28th October. The Special Prosecution Counsel Sri T C Pandya appeared on behalf of the State.

PUCL Expresses Concern at Delay Tactics

The People's Union for Civil Liberties (PUCL), Chhattisgarh Unit has expressed concern at the deliberate attempts by the State to delay the proceedings in the Court in the matter of Dr. Binayak Sen. Today's Order by the Additional District Judge (Fast Track Court), Raipur ordering the Police to hand over a copy of the DVD of the CPU seized from the house of Dr. Iina Sen (Dr. Sen's wife) as it was definitely a document to which the accused was entitled under the provisions of the Criminal Procedure Code, goes on to establish the "delay tactics" being adopted by the State Police to frustrate and harass Dr. Binayak Sen.

Similarly, the manner in which Dr. Binayak Sen was not brought to the Trial Court during the past four hearings on the pretext that the Jail Authorities had provided for Video-conferencing is a blatant

violation of the fundamental rights of the accused. It may be noted that the Raipur Central Prison, where Dr. Sen is lodged presently, is hardly one Kms away from the District Court. Yet the State authorities are refusing to bring him to the Court on the pretext of "security", while another accused, Sri Narayan Sanyal, a senior member of the politburo of the CPI (Maoist), lodged in Bilaspur Jail (some 125 Kms away) was being brought to the Raipur District Court.

Welcoming today's Order by the ADJ, the PUCL has also appealed to the State authorities to refrain from such "delay tactics" and ensure Fair Trial in this highly sensitive case of a human rights activist being illegally and fraudulently booked under the draconian laws like the Chhattisgarh Special Public Security Act 2005, and the UAPA 2004.

The PUCL has also convened a meeting of its State Executive Committee on 11th November 2007 at Raipur to take stock of the present human rights situation in Chhattisgarh, plan its future action to demand the repeal of Black Laws, and formulate the

representation on behalf of the people of Chhattisgarh to the United National Human Rights Council meeting later in the year. – **Rajendra K Sail**, President, Raipur, 2nd November, 2007 □

UNICEF Shame

The *PUCL Bulletin* had published in the July 2007 issue a report on page 18, titled: "International Shame: Sexual Harassment". It is now reported (the Hindustan Times, October 24, 2007) that an informal enquiry by the Women and Child Development Minister, Renuka Chowdhary, found evidence against Cecilio Adorna, the UNICEF Chief in India. So called Diplomatic Immunity of UNICEF Chief was all along cited as a hindrance in any action against him; now it is reported that the External Affairs Ministry has been requested to withdraw this immunity.

The victim has fought courageously against assault on her dignity by a top official of a UN body. The fight is still continuing for taking it to its logical end. – **Y P Chhibbar**, General Secretary □

Letter:

A Successful Attempt to Remove Untouchability

Sir,
The *Vichar* Society of Sagar, Madhya Pradesh, runs a project called *Jana Sahayoga Kendra*. This *Kendra* collects the problems of public and forwards them to the District Administration, or the State Government, or others as required by the case. The Sagar District Administration has provided facilities for this purpose. The *Kendra* has 15 sub-centers in the city as well as the rural areas. It also organizes public Complaints Collection Camps. It has a mobile van equipped with a computer, a digital camera, a mike

speaker set, and other necessary accessories.

In one such complaints collection camps at village Shahpur Ms Shobha Maheshkar, Dr Archana Jain, Ms Hemlata Pawar, and Ms Snehlata Arjariya came across a complaint of untouchability being practiced against the Basor *Harijan* community. People belonging to Basor community were not allowed to take tea from teashops. This was a big blot for *Harijans* of Shahpur. When the *Jana Sahayoga Kendra* took up the matter with the police the Superintendent of the Sagar Police

brought about joint meeting of the *Harijans* and the teashop owners. It was decided that all the shops will use disposable glass for everyone and there will be no discrimination. – **Kapil Malaiya**, *Jana Sahayog Kendra*, Sagar. □

Letter:

General Secretary Writes to Prof Juzar Salehbhai Bandukwala

Prof J S Bandukwala, President, Gujarat PUCL, J-3,

Vikram Bagh, Pratap Ganj, Baroda, Gujarat.

Dear Shri Bandukwala,

I have seen in the newspapers that you were conferred the *Indira Gandhi National Integration Award* by the Prime Minister Professor Manmohan Singh and the UPA Chairperson, Ms Sonia Gandhi, on Wednesday, October 31, 2007.

Kindly accept my felicitations on behalf of the PUCL. We all highly appreciate your views on communal harmony and peace. Warm regards, Sincerely yours, – **Y P Chhibbar**, General Secretary, November 3 2007 □

(from page 3...) held by police, politicians, and members of the public, the impediments to change are enormous.

There is an imperative need for rigorous internal inquiry mechanisms. Urgent reform is needed to police laws and manuals that include categories of offences by the police with penalties for offences graded according to the level of their gravity and specifying the authorities competent to take action based on the rank of the errant officer. Offences that are departmental related matters such as cowardice, neglect of orders or disobedience should be distinguished from major offences that constitute violation of citizens' rights and deserve harsher punishment. All serious complaints against the police such as encounter killings should be referred to an independent body competent and mandated to conduct a time bound inquiry and with binding powers.

The Supreme Court, in its historic judgment on police reform in September 2006, directed governments to set up independent police complaints authorities composed of members selected through a transparent process and with binding powers to look into serious complaints against the police. This directive, if

implemented with integrity can curb the growing tide of the 'encounter culture'.

In its eighth report, the National Police Commission recommended "protection available to police officers should be withdrawn under Section 132 and 197 of the Code of Criminal Procedure, which provide protection to various categories of public servants from prosecution for acts they commit in the course of performing their duties. Any new police laws that are enacted must not include any clause requiring "prior sanction" for prosecuting police officers, as this has formed a major impediment to swift remedial action."

The disgraceful practice of rewarding encounter killings through bravery medals and fast-track promotions must cease. No such police action must be applauded until credible internal and independent inquiries into any encounter killings establish the use of force as legal and justified.

And finally being a democratic set up it is the prime responsibility of the political leadership to ensure highest standards of respect for life and dignity as enshrined in the constitution of the country. In a democracy political leadership gives direction to civic life with its commitment to certain basic values. By unequivocally disapproving trigger happy trend in police force the political leadership must send clear signals to police force that encounters are unacceptable. By doing so they would be doing a great service to cause of a rule based society that retains essential values of civilized living. □

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