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PUCL Membership

	INDIA
Patron	Rs. 2000
Life	Rs. 1000
Annual	Rs. 50
Students and Low Income Groups	Rs. 10
	FOREIGN
Annual	Indian Rs equivalent of US \$15

Bandh: No Illegality **Rajindar Sachar**

Ever since Kerala High Court Judgement (1997) forbidding the call to *Bandh* and upholding of it by a laconic Order by the Supreme Court (1998, three judges bench) there has been amongst trade unionists and political activists a wave of disappointing indignation at such a view which forbids the fundamental right of citizens of speech and Association. Frustration was added to it because the court held *Bandh* illegal even when it conceded that there was no material to suggest that the sponsors of a *Bandh* ever announced that any citizen not participating in it will be physically prevented or abused if he went to work. But surprisingly the court nevertheless went on to hold that even if there is no express or implied threat of physical violence to those not in sympathy with the *Bandh*, there is clearly a psychological fear which will prevent a citizen from enjoying his fundamental freedoms or exercising his fundamental rights. So it justified its view on the ground of psychological fear of a citizen which view was against earlier 5 Judges decision in Kharak Singhs case that "in dealing with a fundamental right such as the right to free movement or personal liberty, that only can constitute an infringement which is both direct as well as tangible and it could not be that under these freedoms the Constitution makers intended to protect or protected mere personal sensitiveness". Fortunately the court did not forbid Hartal (Urdu word) or general Strike (English) but merely *Bandh* (Hindi). So political parties did not call it *Bandh* and things went on merrily till the recent call to *Bandh* in Tamil Nadu, which has again raised the question of jurisdiction of courts in forbidding a call for peaceful *Bandh* and treating it as illegal.

Supreme Court in 2003 while holding that lawyers have no right to go on strike or give a call for boycott yet conceded that where the dignity, interest of the bar and independence of the Bar and / or Bench are at a stake the court may ignore (turn a blind eye) to protest abstention from work for not more than one day. It also upheld the right of lawyers to peaceful protest marches outside away from Court premises, going on dharna or relay fast etc (emphasis supplied).

Now if a peaceful protest were to be called against the delay by Central government in bringing forth judicial Reform by Bar Council of India and all Bar Associations of the Country on a particular day at Delhi. I have no manner of doubt that thousands of lawyers, their friends. Family members, Clients and public interest litigants will come out on road to support them. And even though there may not be any obstruction by lawyers it will inevitably result in traffic confusion, by total inefficiency and bad management by police. But surely the lawyers cannot be injected at this purported indirect consequence, because democratic rights are made of sterner stuff. (...on page 18)

Jharkhand PUCL Report:

Lynching of Ajay Kumar Barman Allegedly by Public at Golmuri, Jamshedpur

Background: On 12.05.2007 local newspapers in Jamshedpur reported lynching of a 24 year youth allegedly by public enraged by attempt of extortion and loot by the deceased Ajay Kumar Barman at a Jeweler shop named T M Jewellers located at Akashdeep Plaza at Golmuri under Sidhgora Police Station at Jamshedpur.

It was stated through district police that the deceased entered the jewellery shop in the evening (around seven) of the fateful day of May 11, 2007 and asked the shop keepers to show some jewellery, selected some jewellery and refused to pay for the same and tried to intimidate the shopkeepers (T M Jewellers) by displaying Crude Bomb and Revolver. At this juncture the shopkeepers (T M Jewellers) raised the alarm. People present in and around the Akash Plaza, Golmuri assembled, unarmed the youth and beat him up mercilessly. The deceased succumb to his injuries on the spot. Police came later and took the dead body for post-mortem.

In the next succeeding few days the newspapers continued writing stories about the alleged link of the deceased in the previous snatching and loots of jewellery and other related crimes at the instance of Police.

The shop owner (T M Jewellers) also released some footage registered by their close circuit cameras installed in the shop depicting photos of victim, near scuffle with two persons near the door of the shop.

Inquiry: PUCL as per its mandate take *suo motu* inquiry into custodial death and encounters by police. However, this case was different as it was circulated through newspapers as lynching by hundreds of unidentified people. But two issues raised eyebrows: (i) Lynching by people of

Jamshedpur; and (ii) attempted extortion by a single person and that too in a famous mall where hundreds of people are always present. Therefore, we had already taken an in-principle decision to investigate the lynching theory put forth by police when we expectedly received written complaint from the family members of the victim.

In the course of our inquiry we visited the Akash Plaza, Golmuri where the incident took place and met owners and employees of T M Jewellers, Owners and employees of other shops in the premises, resident of Golmuri Plaza, other independent witnesses, security guards of the premise present on the fateful day, home guard Jawans posted for duty on the day of incident, Officer-In-Charge of Sidhgora PS Parvej Alam and Superintendent of Police, East Singhbhum, Pankaj Darad.

Some of the Statements Recorded in the Course of Investigation:

Milan Adesera, Owner of T M Jewellers: He informed the inquiry team that the victim (alleged extortionist) entered the shop and asked to display some jewellery. He selected some and when asked to make the payment for the same he refused to make the payment and instead displayed the revolver and intimidated the owner and employees of the shop, revealed that he also had a Crude Bomb and tried to flee from the shop. The owner raised the alarm first and then snatched his revolver (a brave act!), people surrounded him in no time and then he was beaten to death by the people not known to him or any employee of the shop. He also conceded that he had not seen the victim before and had come to his shop for the first time. He however, refused to give the names and addresses of his customers buying jewellery at the

time of incident and also refused to hand over a copy of the CD supplied to the press and police.

Police Station In-charge of Sidhgora PS Parvej Alam: He informed the team that the previous PS In-charge Sakaldev Ram who was the IO of the case had not submitted the papers and therefore, he had no idea of the status of the report and the police version.

Home Guard Jawan Present on Duty: The Jawan informed the team that dozens of people beat the victim up and he succumbed to his injuries. Police team arrived later and took the dead body for post mortem. *He did not recognize anyone in the public. They were all outsiders.* He snatched the crude bomb from the hand of someone in the crowd and put up the same in a bucket full of water to diffuse the same. He did not see the face of the person from whose hand he snatched the bomb. *When asked how he recognized the bomb in the hand of someone as bomb only and nothing else, he did not respond. Incidentally, his name was recommended for some bravery award as reported.*

Security Guard posted on the day of incident: He informed the team that he did not hear any commotion or scream or noise before the police team reached the spot.

Only after the police took away the dead body he came to know that someone was killed by some people. When asked if he had seen any crowd around North-West corner of the Plaza (the place of incident) he replied in the negative. Incidentally, the same security guard was present in the campus through out the time of incident and was only about 15 yards away from the place of the incident.

Superintendent of Police:

The PUCL team also went to see SP Pankaj Darad to get the official version of the incident. However, SP refused to state anything. He rather wanted to see PUCL's inquiry report.

Other Shopkeepers, Residents and Independent Eyewitnesses: They have been covered in the main part of our investigation. (Names not revealed at present as this is only the preliminary report).

Our Investigation:

Jamshedpur is a small industrial town having an approximate population of 20 lacks comprising mainly of employees of TATA Group companies, ancillaries to TATA Group companies, some independent industrial units located in Jamshedpur and Adityapur Industrial Area, small trading firms and establishments, daily wage earners etc. Akash Plaza is situated in the heart of the city and is an old and well known market place. Akash Plaza in Golmuri is relatively a new construction comprising more than 100 shops for various consumer goods. It is a six storied building including its basement. The shops are mainly located in the basement and the ground floor. First and other floors comprise clinics of doctors, bank, insurance company, offices of business establishments etc. One the North-East side of the Plaza there are some residential units housing around two dozen families. It's a busy and important market Place and has the status of a mini-mall and therefore, during the day time more than 200 people are always available along with a dozen security personnel.

In course of our investigation, we spoke to all concerned (mentioned above), recorded their statements, cross verified the same, analyzed and concluded preliminarily as the investigation is still on. We felt the need of a preliminary report given the gravity of incident and follow up of action

in this regard. The late Ajay Burman worked with Chaganlal Dayaljee Jewellers right from his childhood. In fact he was said to learn his initial lessons of Jewellery making there only. His uncle is still working with the same Jewellers. The victim was said to have left his job on the issue of wage dispute only three months back. There are said to be almost 3000 goldsmiths who are trained in jewellery making and are working with different jewelers scattered in different parts of Jamshedpur city. They have also a functioning union. Almost all of them know each other well as there are not many jewellery shops in the town. It is also understood to have inter-trade rivalry among them and each shop owner is understood to have interest in knowing the internal details of their rivals in the trade. Also the trades not said to have fairest of trades in the country and the same is said to be the case in Jamshedpur too. Incidentally, T M Jewellers also have another unit in Bistupur main Road, a famous market place of the town which is located just on the other side of the road almost in front of Chaganlal Dawaljee Jewellers (Just 20 yards away to be precise). Therefore, the claim of T M Jewellers that they did not know the victim from earlier does not appear to be true. In fact, our sources reveal that they had some business related connection before.

The photographs taken by close circuit camera installed inside the shop of T M Jewellers released to the press was claimed to have clinching evidence against victim of what they claimed to have been an attempt to extortion, as matter of fact reveals nothing. The photographs only reveal movement of victim along with probable attempt to hold the victim by two persons inside the shop. It nowhere reveals any revolver held by the victim or any crude bomb in his possession as claimed by T M Jewellers surprisingly admitted by

the district police apparently without verifying the contents with obvious motive.

The statement of Home guard jawan indicates serious anomaly as he was not able to tell how he came to know that the object was only a crude bomb and not any other harmless object. Moreover he claimed to have not seen the face of the person from who snatched the bomb with obvious risk of getting that exploded and resulting in some serious casualty. Was that person waiting for the bomb to explode?

The statement of security guard's (name not been revealed) assertion is another important indication. He did not listen to any commotion, scream or noise or any movement of people 25 yards away from his duty position before police team arrived whereas the report claimed that hundreds of people assembled, unarmed the victim and then they beat him up to death as if everything happened as a mute film.

Key witnesses, documents and circumstantial evidences suggest a 'dreaded' theory than claimed by police. It is understood during the course of our inquiry that people who beat the victim up were 'outsiders' and had been positioned there for eventuality. The complainant (T M Jewellers) started beating the victim first with the help of what it appears to be his own men. The insiders had no clue as to what had happened. No single insider appears to have got himself involved in the scuffle. The theory of extortion was propagated later by the complainant (T M Jewellers) and police.

The victim's thrashing started before police came to the spot but actually the real thrashing appears to have started after police arrived at the scene, the police appear to have acted 'negligently' as they did nothing to prevent the people thrashing the victim. He was beaten to death and then police swiftly removed the body from the

spot. The victim was appeared to be fatally hit by a blunt iron rod by some one in the back of his head.

The victim, late Ajay Burman was very much known to the T M Jewellers for long and they also appeared to have some business connection - legal or otherwise. It appears that they developed some differences in the course of their dealings and that resulted into the gruesome murder of the victim.

Conclusion: The police claimed lynching of Ajay Burman, the alleged extortionist and dreaded criminal (not known to the police hitherto!) by people. We were perturbed initially as our impression of the people of Jamshedpur was different. They are by large peace loving and law abiding citizens. In our fact finding enquiry we find enough material to suggest that this is not lynching by the people but a 'planned murder' in connivance with police. To be precise, we are in a position to state that our inquiry does no hint

even culpable homicide but in all probability a "planned murder". District police shamelessly refused to book culprits under section 302 and relevant provision of IPC. The police even went to the extent of ignoring the named FIR lodged by the family members of the victim.

Influenced by consideration other than what should be legally mandated, the police not only abandoned inquiry but indulged into claims of criminal precedents against the victim which under the present circumstances and as per our inquiry appears to be untrue.

Recommendations / Demands:

1. High power inquiry should be instituted by the Government soon to get into the bottom of truth.
2. A departmental inquiry should be initiated against the men in uniform who were present at the place of occurrence and miserably failed to save the life of the victim and also appeared to have denied

identifying any person in the mob who allegedly lynched the victim.

3. Arrange to release suitable compensation to the family of the victim.

Members of the Investigation Team:

1. Baboolal Chakraborty, co ordinator;
2. Abhoy Sharma;
3. Basant Kumar, Advocate;
4. R K Verma;
- 5 Smt. Rita Sharma;
6. Balaram Prasad;
7. Janab Tanwir Ahmed;
8. Kamalesh Shaw;
9. Naresh Lal;
10. Mukesh Chanda;
11. Sanjoy Kr. Ghosh;
12. S.R. Nag;
13. Nishant Akhilesh;
14. S. Bhattacharjee □

S K De No More

Shri S K De, a life member of the PUCL from Surat, Gujarat expired on December 10, 2005 according to a late message from his family. The PUCL condoles his death. – **General Secretary** □

Update on Dr Binayak Sen's Case:

Legal Delays Result in a Standstill at the Trial Court, Raipur

Legal delays form part of the proceedings in Dr. Binayak Sen's case at the Court of the Additional District Judge (Fast Track Court), Raipur, Chhattisgarh.

Although the case is now fixed for framing of charges at the trial court, during the past ten days, the compete evidence material has not yet been handed over by the prosecution to Dr. Binayak Sen, a fundamental right of an accused. The police had been shouting hoarse since inception in this case that the CPU of the Computer seized from Dr. Sen's residence contained material evidence, which was sent for analysis to Hyderabad. However, the final analysis report has not yet been filed in the Trial Court, nor has a copy been provided to the accused.

On 29th September, 2007, an application was moved by the legal

counsel for Dr. Binayak Sen u/s 207 demanding a copy of the DVD (in which the analysis report of the CPU is said to be recorded according to the police). Interestingly, the Preliminary Report of the CPU that the police claims has been received from Hyderabad laboratory is also nothing but a letter acknowledging the contents of the CPU, and not any analysis.

The Trial Court had fixed 3rd October 2007 for the State Counsel to file a reply to the said application. But, on 3rd October, the prosecution lawyer kept informing the Court that the same would be filed late in the afternoon. But, around 3 pm on that day, the Court was informed that they were seeking advice from the office of the Superintendent of Police, Raipur. And, therefore, asked for more time. The Court fixed 8th

October, 2007 for filing the reply or to provide the Analytical Report of the CPU.

Interestingly today again, the prosecution failed to file a reply seeking more time. However, the Hon'ble Court has given the prosecution last time to file a reply and/or provide the report of the CPU to the Court and the accused. Given the holidays in between from now onwards, the date for arguments on the matter is now fixed on 22nd October, 2007. – Raipur, 8th October, 2007. □

Announcement:

3rd V M Tarkunde Memorial Lecture

The *V M Tarkunde Memorial Lecture* will take place in Delhi on November 23, the date on which the Constitution of the PUCL was adopted at an all India Conference at Delhi in 1980. □

Report: Dumka Jharkhand PUCL:

An Enquiry into the Human Rights Violation of Orphan Children in Uma *Anaathalaya*, Koreya-Dumka-Jharkhand

Introduction:

PUCL Dumka, in its urgent meeting on 4th of September 2007 considered the newspapers report on Uma *Anaathalaya* a very serious one. The gathered members deliberated on the alleged plight of the children. The members felt the need to ascertain the facts and find out whether rights of orphan children have been violated or not. From the outset it was clear that the members wished that the orphan children's rights need to be protected and their voice should be heard. In the midst of political and administrative din, the facts relating to the orphanage, its functioning and children's voices were being marginalised. Hence the concern of the members for the facts regarding the rights of children was foremost in mind when they consented for an investigation. The members gathered on this special meeting formed a committee for this purpose comprising of following members: Ms Nirmala Murmu, Arvind Verma, Solomon S J, Mrs Anu and Mrs Kiran Tiwary. The terms of reference were:

(1) To investigate into the alleged violation of children's rights in the said Orphanage.

(2) To find out the reasons for the running away of 10 children from that *Anaathalaya*.

The Methodology:

Our introduction to the problem came to us through Newspapers. According to the Newspapers, on 24th of August 10 children from Uma *Anaathalaya* at Koreya in Dumka Block, were found wandering in the Bus stand of Dumka. They were taken to one of the social workers and later handed over to D.C. of Dumka. Initially hesitation and confusion prevailed in the administration with regard to the run away children. They were taken and kept in

Remand home and later kept with the children of deaf and dumb school by the order of district administration. Later they were shifted to Bharat Sewashram at Pathra in Raneshwar Block. It is to be noted, a nine year old boy, Narayanan Soren, resident of Maslia block, belonging to the Uma *Anaathalaya* died on August 14 in the Sadar hospital. This news got prominence only when the run away children's condition was highlighted in the media and by the newly formed front *Bal Shoshan Virodhi Manch*. It is a well known fact that the secretary of Uma *Anaathalaya* is a prominent political heavy weight in JMM and the political representative of Shibu Soren the MP of Dumka. All these facts indeed were in the mind of the members to take up the case seriously and look at the situation and the rights of the children in the said institute.

The following visits to places and different officials have been helpful in bringing out the report. The team's first visit to the orphanage was on 5th of September, 2007 at about 3.30 P.M. The group arrived in the *Anaathalaya* and interviewed the secretary Mr Krishna Prasad Singh, the President Miss. Sunitha Marandi and the treasurer Jagadish Sharma. The group also met the children and talked to some of the teachers and the cooks.

The team, then on its way back, stopped at the Dumka Muffasil Police station. Devendranath Singh the ASI talked to us very amiably and narrated to us the events from the time of death of the child up to the getting of post-mortem report.

On 6th of Sept. 07, the team had a brief chat with The District Welfare Officer Dasarath Rout in his office. He indicated that Narayan

Soren's death could have been averted, had there been proper timely medical treatment.

On Sunday, 9th of September 07, the team visited the *Bharaat Seva Ashram* in Raneshwar situated about 30 km away from Dumka in order to talk to those children who had run away. The team spoke to the children and the authorities of the ashram school.

On 10th September the team went to the Sadar Hospital Dumka to meet the hospital authorities specially Dr. Anand who conducted the post mortem.

On 12th the team visited Om Prakash Pandey the District Programme Officer. He was not forthcoming in his assessment of the situation. He is part of the team appointed by the D.C. to submit the report on the conditions of the said orphanage.

The team then sat for three sessions to collate the findings and the responsibility for report writing was handed over to Aravind Verma and Solomon.

Findings:

The orphanage Uma *Anaathalaya* is located about 8 km away from Dumka in the Dumka-Pakur road within the boundary of Koreya village. When the team arrived there, Singh, the secretary, Miss Sunitha Marandi the president and Jagadish Sharma the treasurer were present. The team noted the presence of car and a guard standing in attention. K. Singh and the treasurer were seated on the Veranda and Miss Sunitha about to leave. Our introduction about the PUCL and the purpose of our visit, though unnerved the persons present there, their confidence seem to emerge not from the moral right of running an orphanage but from the political connection and the power wielded by the secretary. He arrogantly flaunted in front of the

team that he (K Singh) is the political representative of the Dumka M.P Shibu Soren, NAREGA director in Dumka, Educational committee member, and a member in Central Committee of JMM. He mockingly told that we could conduct any number of investigations and appoint any number of committees but nothing would happen to him or the organization he runs.

Political power, conceited arrogance; attitude of pride should not be demonstrated by a person who manages a charitable institution that too for the abandoned children. The members pointed out this fact.

The officials though gave time to talk to the team, the indifference and nonchalant attitude exhibited by the officials, particularly, the district Programme Officer was not lost on the team members. Below are the findings:

1. The first thing that struck the members was the absence of name board about the *Anaathalaya* at its entrance.

2. When the team visited there were 19 children aged between about 5-12 years. They had just completed the classes and were hanging around. Singh pointed out that there were 30 children before the death and the running away of 10 children.

3. The infrastructure in the campus was minimal and is not built to house 30 children, three teachers besides the cook and the watchman and definitely did not give good atmosphere for the children.

4. We saw thorny bush spread on one side of the campus. The orphanage consists of a four roomed structure and hall containing six sleeping cots (*chouki*). This particular hall does not have cemented floor or doors. The members wondered how children could sleep during the monsoon and winter in the door less room. Only six cots for 19

children. No mosquito nets were found hanging over the cots.

5. On the other hand, among the four rooms in the main structure only two could be used for purposes other than classes. However, not more than six children could sleep in one room. The first room at the extreme is the office with a cot and cupboards. The two middle rooms are class rooms and the last room is the living room cum store room.

6. In the store room, we noticed one sack full of beaten rice; half sack of rice, some vegetables and a tin Jaggery (Gur). At the right side to the main structure is the kitchen shed with tile roof having one or two cooking vessels. The food is cooked with firewood collected by the children and other workers.

7. When we enquired about the electricity, it was dismissed with a very casual remark on the dismal situation of electricity in whole of Jharkhand. Wiring has been done. There are bulbs. Interestingly neither main switch nor a metre was found installed. Only two bigger fuses were attached to the wall and indeed one of them broken with live wires exposed.

8. Within the campus there is no provision for water supply. A hand pump outside the campus fulfils the need. The cook or water man goes and brings water. The children said that they were made to bring water from outside. What happens when the children have to go for toilet at night? No toilets were found inside except one next to the office used mostly by the staff.

9. The food consists of beaten rice in the morning and rice and *dal* with a vegetable curry in the afternoon and either beaten rice with *gur* or watery rice (*maad bhat*) in the evening. The information was given both Mr K Singh and Mr Jagadish Sharma. The District Programme officer Om Prakash Pandey in the interview philosophised that children who

are healthy will always remain healthy. Looking at the children during his inspection, he stated, he did not find any children who looked as if they had been left hungry. Where as Mr Rout the DSW, thought in his observation the children were not fed well at all. Om Prakash Pandey the DPO did not mention about the calorie intake of the children nor did he talk about their health even when enquired.

10. According to the secretary, school was started on April 2003. A survey was conducted in the blocks of Kathikund and Maslia before the year 2000 on the number of orphan and semi orphan children. When requested for the report of this survey, Mr K Singh could not produce one. There were three teachers; two female and one male. The teachers were reluctant to talk to us. Two teachers had joined the team only a month before. Surprisingly, no teacher was trained nor has received special training in caring for orphan children. This is the most painful part of it. The orphanage with its minimum facilities is just not equipped to facilitate the healthy growth of orphan children.

11. When enquired about children's health, the secretary told that the doctors from nearby primary health centre and a private doctor from nearby village visit off and on. The visits were neither regular nor systematic to over see the healthy growth of the children. No preventive care was provided for the children. No health education, hygienic instructions were given. No where, the team members noticed any First Aid Box kept. When queried about the First Aid Box, the staff members were blinking. One of the team members counted six children who badly needed haircuts and a good bath. They have to wait for visits of the guardians to have their hair cut. This is unusual to say the least. Most of the guardians will be

unable to visit them during the monsoon for three months. They will be engaged in the agricultural operation. It also is possible that guardian is a widow who would have been either remarried or staying alone eking out her living. This is not hypothetical situation. From among the runaway children, Saheb Tudu and Praksh Tudu, Samu Hasdak, Jitan Tudu, and Dipak Kisku have only widowed mothers. Some run away children said that they used to have fun in giving haircuts to each other.

12. Death of Narayan Soren:

On August 14 Narayan Soren, an inmate of Uma *Anaathalaya* was brought dead in the Sadar Hospital Dumka. Unlike other days, Narayan Soren had gone to bed with an empty stomach. On 14th morning when the children got up, they noticed that Narayan Soren was still sleeping and was not responding to their call to wake up. Jagadish Sharma was informed and he in turn informed K. Singh. According to Jagadish Sharma the child was declared dead at the arrival in the Hospital at about 8.30 A.M. According to the post-mortem report shown to the team by the investigation Officer Mr Devendranath Singh, the cause of death was unknown and the time elapse of the death was between 12 to 24 hours. It is strange that the doctors could not determine the time of death of the child. This could be interpreted as death occurring between 5 P.M. on 13th evening to 5 in the morning as post mortem was performed at 5 P.M of 14th. The viscera are kept to be sent for further analysis. The officer complained that Police does not get sufficient fund to get these analysis done and often expected to spend money from their own pockets. Therefore he expressed doubts about the further analysis According to Narayan's Uncle, Kalicharan Soren, the boy used to get stomach ache like any other children.

Narayan Soren was about 11 years old and from the village Chuaha of Maslia Block. His Uncle Kalicharan Soren was present during our visit to the campus. As we were leaving, he came to meet us at the insistence of Singh himself. Kalicharan Soren looked emaciated. He said that he is T.B. patient. When asked why he is staying here he said that he was called and they assured him of some compensation. He informed us that he had not eaten the whole day though he was there from 7 A.M. when asked what he would do with the compensation he told us that he will get treatment from a good hospital. It is ironical that compensation money for Narayan Soren's death will be used for the purchase of life saving drugs for his uncle. One member remarked that Narayan Soren has repaid the debts to his uncle with his life.

On 10th September 2007 the team went to the Sadar hospital Dumka. There we spoke to Dr. Anand Soren, Civil medical Officer, who had conducted the post mortem. He told us that the child must have been brought between 9 A.M. to 10 A.M. When he was called to examine he found that child was already dead. When quizzed on the post-mortem report he informed the team that contents are confidential and if anything needs to be checked we may contact the civil surgeon Dumka. When asked whether confidentiality is part of oath or functional he said that it is related to ethical oath. The team moved out hearing such good explanation.

13. Children Run Away: On August, 24th 10 children from this orphanage were found at the bus stand. Some trade union leaders and social workers made sure that the administration responded in some manner to the plight of the run away children. According to the newspaper reports they were initially kept in the remand home then shifted to *Bharat Seva Ashram* School at Raneshwar.

When asked about possible reasons for children's running away from *Anaathalaya*, the secretary replied that this is due to the jealousy of his political rivals who have instigated the children.

Jagadish Sharma and other staff members said that local people were initially against their starting orphanage but now they are not. When asked for the cause of the opposition he retorted saying "Why do you ask all these questions and what can you do with such report?"

The team members met the children in *Bharat Sevashram*, at Pathra village in Raneshwar Block. The swami in charge welcomed us. They showed us around. There were children doing yoga and later they were all playing various games. The in charge asked the children to be brought. All of us sat on a veranda and talked. From among them one child had been admitted to the hospital within the campus and another child Saheb Tudu was found having ear infection. That child too was admitted when we pointed out to the in charge. Below the names and their village name are provided. In the bracket block name is given.

Murbanga (Kathikund): Sanjith Murmu, Sanjay Murmu (Brothers); **Gopikandhor:** Sunil Hasdak - Talabaria, Praksh Tudu - Polas Bani, Saheb Tudu (Brothers), Dipak Kisku - Kariabari, Jitu Kisku - Baga Bandh; **Kusumba (Kathikund):** Suresh Hembrom, Subash Hemberom (Brothers); **Kalipur Ranga (Jama)** - Samu Hasdak.

a. There were three set of brothers and eight of them said that have widowed mothers.

b. The children talked freely. Anxiety and relief seems to be expressed together.

c. Sanjay Murmu a boy of 11 was the most articulate and fearless boy. He was the first one to talk about all that has happened to them. He said that he had

expressed displeasure over the bad food and cruel treatment. The staff including Sharma and S Singh threatened him to throw him out. Fearing something might happen, he wanted to leave the place. Other boys pointed out that if this could happen to Sanjay same thing also may happen to them so they decided that as a group they would run away.

d. Some children's mothers did not know the children were brought to Bharat Sevashram.

e. They informed us that in Uma *Anaathalaya* food consisted in beaten- rice and salt in the morning and cooked rice with potato gravy for the noon and rice - in- water for the evening.

f. According to Sanjay Murmu there were 10 children for the standard two. But only two books were provided for all 10 children,

g. Only one foot ball was bought and when torn it was repaired three times and given to the children for the games,

h. Though caroms were provided, the children did not organised extracurricular activities though Miss. Sunitha told us that they were taken for picnics to Masanjore and Santiniketan.

Team members observed that children, of course, are relieved and are in a good place. However the question upper most in mind was about their uncertain future.

Official Response:

The team, as mentioned before, met two of the most important officials in the District head quarters: The District Welfare Officer Dasarath Rout and District Programme Officer Om Prakash Pandey. The former gave sufficient time where as the latter was very indifferent and was skirting away the questions.

1) Rout said he does not deal with these projects as it is the responsibility of District Programme Officer. He himself is only one of the committee members constituted by the District Collector to enquire into the

happenings of the Uma *Anaathalaya*.

2) During his visit he saw and observed that the food given to the children is not at all satisfactory. On the day of his visit, the children were given only rice and papaya.

3) On the death of Narayan Soren he stated that the child was suffering for quite sometime. Timely treatment might have prevented the death of the child, he said.

4) On the accusation that the run away children were kept with the deaf and dumb children, he told the committee that he had kept them in his own residence which was misinterpreted by the NGOs. He pointed out that his official residence is within the campus of the remand home and the deaf and dumb school, therefore, the NGOs and political parties could not differentiate between his official residence and other part of the campus.

5) To a question whether political pressure is brought upon him to dilute the investigation, he replied that he would write what he intends to write whether there is political pressure or not.

6) Om Prakash Pandey was busy in his files with another staff when we were ushered in. We introduced ourselves. He answered the questions reluctantly.

7) He pointed out that DPO is meant for the delivery of the fund and monitoring is not mandatory. When queried about the terms and conditions for the delivery he said that particular file is missing. He indicated that there has been no monitoring of the *Anaathalaya* and even if there has been one, there is no such file left by the previous DPO.

8) As he is one of the committee members, during his visit he found out that there is no water supply and electricity. He told the committee that last four years it has been working well. The organisations and political

parties have woken up only when a problem has arisen. He philosophically replied to his own doubt by saying, the situation can be corrected only when there is a problem. Man can correct himself only when he is confronted by the results of his own mistakes.

9) In the same vein he asserted that his observation of the children, their body weight, the glowing light in their eyes did not indicate that they had not been fed. It is possible, he continued, that they may not have received tasty food.

Observations from the team

The team members met three times before the finalisation of the report. The following pertinent observations were given by the members.

1. The team unanimously felt that this Uma *Anaathalaya*, though noble in intention, has not really lived out the professed ideals of conducting an orphanage. The secretary K. Singh said that according to the Memorandum of the Association of Jharkhand Chotanagpur Parishad both *anath* and *anasrith*, meaning fully orphan and semi orphan children, would be taken up. The team believes that he has not understood fully the functioning of tribal society. Every tribal society is kinship oriented and therefore no child will remain completely an orphan. Some close relative will bring him or her up. Paternal relatives staking a claim to the land usually are forced by the community to bring up the child. The widow may remarry and in that case, the children will be brought by the new parents. How far this fact is accommodated while choosing the children from tribal society to be kept in the orphanage?

2. Orphanages must be equipped in terms of human resources, infra structure etc in order children can truly experience their childhood, get education as insurance for future and feel loved and cared for. Uma *Anaathalaya* is

not equipped at all to provide such care for the children.

3. The Directive Principles of the State Policy in the Constitution, Article 39 (f) requires children to be given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that childhood and youth be protected against exploitation and moral and material abandonment. The state authorities who provide fund to the Institute need to monitor that these principles are adhered to for the greater care of the children. The DPO Om Prakash Pandey's assertion that their responsibility ends with mere delivery of fund reveals bureaucratic indifference and insensitive attitude. His comment that the children's body-weight and glowing face do not show that they have not eaten, must be analyzed. Is an orphanage a place, like a soup-kitchen, where only hunger is relieved and only that amount of food is given in order to ward off immediate hunger? Should we not talk about balanced diet, facilities for the

educational right, playing time for the children etc. for the over all development of these orphans?

4. The violation of children's rights had been found in *Anaathalaya*. The following principles of UN charter have not been followed. The principle 5 of UN Charter of Child Rights on the need for particular attention to the handicapped including socially handicapped ones has not been followed in spirit.

5. Principle 7 of the UN Charter states that such children's education must make them more responsible citizen. They may not be subjected to cruelty, exploitation and labour which demean their dignity. The fact that they thought of running away when really they should have found joy in remaining within the *Uma Anaathalaya* campus indicates the atmosphere of stress and fear among the children. Running away and rebelling at the young impressionable age of 12 will increase the possibility of them becoming more brutalized and criminalized at the later stage. We are

sorry that this may be happening in *Uma Anaathalaya*.

6. The team members hoped that the *Uma Anaathalaya* is not mask for the other activities of power, earning of wealth and glory for oneself. We are sorry to point out that often NGOs use children from vulnerable society to further their own selfish ends lowering the dignity and human value of serving the weak, the poor and the abandoned among the vulnerable people of India.

PUCL Dumka demands an enquiry by a combined team of government officials and prominent civil society members so that the bad situation can be corrected.

The following members of PUCL-Dumka were in the team for the enquiry on *Uma Anaathalaya*: **Nirmala Murmu**, State General Secretary, PUCL Jharkhand; **Aravind Verma**, Secretary, PUCL Dumka; **Solomon S J**, Treasurer, PUCL Dumka; **(Mrs) Kiran Tiwary**, Member, PUCL Dumka; **(Mrs) Annu**, Member-PUCL Dumka □

Press Release:

PUCL Condemns Police Action against Media Persons

The People's Union for Civil Liberties (PUCL) Chhattisgarh has strongly condemned the police action on 14th September 2007 against media-persons on the false report filed by the *Shishu Niketan* School authorities in Raipur. The PUCL considers it to be part of growing police culture which is symbolic of irresponsibility and negligence in performing their Constitutional Duties.

According to the reports, the incident occurred when the media persons had gone to cover the shocking sexual harassment of a girl student by an employee in the *Shishu Niketan*, WRS Colony, Raipur. It was alleged by the media persons that not only the School officials, but a senior police official of the rank of Senior Superintendent of Police (SSP) also misbehaved with them. Although the concerned police official, BBS Rajput, SSP, Urla has been supposedly removed from the Urla region, a magisterial

enquiry has been instituted, which has to establish the seriousness of the ugly incident.

PUCL also considers as absurd and irresponsible the statement of Dr. Raman Singh, Chief Minister, Chhattisgarh in which he insinuated that the media persons should have informed the police before embarking on such investigative journalism. This implies imposing curbs on the Freedom of the Press guaranteed in the Indian Constitution.

Issuing a statement today, Adv Rajendra K Sail, President, Chhattisgarh PUCL said that there has been a considerable increase in implicating social and political activists in false and fabricated cases by the police administration in Chhattisgarh. These acts are politically motivated and are directed at pleasing the politicians in power or to serve the vested interests of the moneyed classes in the State. PUCL has, in the past, drawn the attention of not only the

State Government but the State Human Rights Commission (SHRC). Lack of proper action and criminal silence by the Government and the SHRC on these blatant misuses of Rule of Law process is also symbolic of politicization and criminalisation of the police.

The police action against media persons makes a mockery of the rule of law, and also points towards the growing repressive character of the State by resorting to illegal means by the police in Chhattisgarh.

PUCL has demanded from the government that all false and fabricated cases against the social and human rights activities should be properly investigated by an honest and non-political police official in the State, and adequate judicial process be adopted to withdraw these cases immediately. PUCL is also planning to document such cases and knock the doors of the courts in this connection. – **Rajendra K Sail**, President, Chhattisgarh PUCL, Raipur, 18th September 2007 □

Chakrasen's Village Seeks Justice from UP Government

Vidya Bhushan Rawat

Pratapgarh district of Uttar-Pradesh is basically known for the notoriety of Raja Bhaiya and his supporters. In her last avatar as chief minister of Uttar-Pradesh, Mayawati put Raja of Kunda under the Prevention of Terrorists and Atrocities Act (POTA), which was later withdrawn by Mulayam Singh Yadav who made Raja Bhaiya as a great Thakur icon of Uttar-Pradesh. However, caste politics and violence in Uttar-Pradesh these days are being played at a different way. With growing Brahmin clout, the upper castes are using the micro caste identities to serve their own interest. Caste games in Uttar-Pradesh have become so powerful that the *Dalits* are at the receiving end. It is not because of Mayawati or BSP's government that things are happening. The fact of the matter is that we expect too much from this system which has betrayed the rural poor and used their identities for their own purposes. Caste segregation is actually unable to digest the idea of pluralism and putting them easily in the hands of those who we can simply call middlemen. That is why despite *Dalits* being assertive vis a vis other communities remain helpless in front of their own leadership. The case of the brutal murder of Chakrasen was an eye opener on how our state functions and how those upper caste leaders who have joined BSP have not shed their caste identities and prejudices.

When the issue of serving their caste interest comes, they prefer their caste and not the ideology of their party. And why should they leave their caste identities when it is benefiting a few while exploiting the others. So far Chakrasen's murder, mystery remains unresolved in the police and administrative textbooks but his family and the villagers continue to

receive threatening messages from the powerful Brahmins of Udaiyadh.

How a Bright Scholar Student was Termed as Thief

Chakrasen, 22, belonging to *Chamar* community of *Dalits*, was selected for B.Tech courses in Moti Lal Nehru Regional Engineering College (MLNR), Allahabad. Eldest among his other brothers, Chakrasen's family was virtually landless. His father Babban died of illness in 1992. The three brothers, Chakrasen, Agnisen (pursuing B.Sc) and Shaktisen (pursuing High School) became the responsibility of their grandfather Shiv Murthi alias Sadal who retired from a factory in Kanpur 1999. The saved money helped him to educate all the three brothers who were his life. Shiv Murthi did not have any one in the family and hence his life revolved around his grand children. After retirement the family shifted to this village of Udaiyadh in Patti block of Pratapgarh district. This village is about 6 kilometer away from Prithviganj town. Sadal runs a Public Distribution Shop in his house, which according to villagers were given to him because of the failure of Santosh Mishra, a Brahmin. Since then the Mishras were particularly upset with the family and were regularly threatening them of dire consequences. According to Sadal, quota was not the main issue as they themselves left it and on the request of the villagers, Sadal was given the shop. The fact as Sadal suggest is that they wanted their share of 50-kilogram rice every month from the quota shop for free. Since Sadal, an honest man, refused to do it, they started humiliating him and planned to eliminate him. A proud grand father was running the Public Distribution Shop without any fear but there were problems

being created by the Brahmins. Chakrasen was aware of it and was helping his grandfather to continue with this. He would help his grandfather, whenever, he was in town. Chakrasen was a better student who could understand and speak English. His sincerity and honesty was never in doubt. In fact a few of his upper caste friends who do not want to concede this fact in open now, actually admitted the fact that this entire case of his being a thief is fabricated.

Trap Game

According to Sadal, in the night of July 31st-August, some of the villagers came to their house at Bhadervah village and asked Chakrasen to accompany them. He went along with them and never returned. Later in the morning, a local vender of newspaper informed the family about Chakrasen being caught at Sudemahu village, about two kilometers away from Bhadrevah village. Sadal and younger brother Shaktisen went to find out about Chakrasen to Sudemahu's *Pasi tola*. They were horrified to find that Chakrasen was tied in a thick rope and was being dragged and beaten up by the people. He was simply lying on the ground. There were no cloths on his body, not even his underwear. As Sadal reached near his grandson he named several people who were responsible for this act. They were Santosh Mishra and Akash Dubey. As he was naming people, they were threatened. In fact some of them tried to kill Shaktisen also since he was standing near his brother. They were asked to leave the place. Village Pradhan Raj Mani Vishwkarma informed the police officer Babuchand at 4.30 in the morning but none of them reached the place. A local police constable Pradeep Mishra, who the villagers charge used to stay with the accused and was posted

here, too was informed but he too did not turn up. The police became active only once it came to know around 6.15 in the morning that Chakrasen was dead.

Yet, nothing factually happened. There was a check post outside the village, on the road and the policemen would never think of interacting with the *Dalit* families. Frustrated on the administration's continuous chanting of Chakrasen as being a thief, the villagers of Bhadervah hoisted black flag on August 15th. 'What is this freedom', said a misty eyed Sadal, terming lack of police action and continuous threat to his family. 'I am more worried about my two other grandsons. We live in fear and can not go out and the government is doing nothing. The administration sits silently blaming my son as a thief. It is shocking that the accused are roaming free while we are living on constant fear', said Sadal.

One day before our visit on 16th of September, the Brahmins united again the came to threaten the *Dalit* families to remain in their limit otherwise they would meet with the same fate as Chakrasen. His younger brother Agnisen is a terrified man today and even refusing to meet us. 'People come and go but our condition is worsening. The Brahmins are threatening us daily and police is not taking any action. Today, they came and see the irony; the police have arrested some of our people. Sadal is worried about the safety of his grand children. The police check post is on the road and they have good relations with the Brahmins. The state government seems to be unaware of the fact as the local police are still working on the theme of theft.

Story at Sudemahu Pasi Tola

Sudemahu is nearly two kilometer from the house of Chakrasen in village Bhaderva. We went straight to *Pasi* families in front of whose house Chakrasen was caught and killed. Two women

Gujarati and Rajkumari were standing in front of their house. We informed them our motives to them and asked them as what had happened that night of August 1st.

Rajkumari accused that Chakrasen tried to snatch her earring in the night around 2 am. It rained heavily that night and there was water clogging around the locality. Chakrasen was not wearing anything, his underwear was worn over his head as he approached her and tried to drag her when she made a noise. Amidst all this chaos her husband Babu Chand got up and ran to catch the thief. Chakrasen stumbled after a while and fell on the ground only to be caught by Babu Chand and others.

Daya Krishna is No More

Prof Daya Krishna, a former Vice-President of the PUCL, and a former President of Rajasthan PUCL, breathed his last on October 5 at the age of 84 at Jaipur.

Prof Daya Krishna was one of the founder members of Rajasthan PUCL and was a pioneering figure of Human Rights movement in Rajasthan along with late Ms Hemlata Prabhu.

As Pro-Vice-Chancellor of Rajasthan University, he had created an atmosphere of Rights consciousness in the academic community of Rajasthan. A Philosopher of high repute, he was a unique fusion of Western and Indian Philosophy. He was associated with a number of philosophical and other intellectual bodies. The PUCL has lost a doyen of Human Rights in Rajasthan in his death. – **Y P Chhibbar**, General Secretary, October 7, 2007 □

According to Rajkumari, Chakrasen was a thief and has attacked at least 8 villages that night before finally coming to her

village. A mobile was also recovered from him. He was a 'dirty man' she said. He came with bad intention was the reference made by the two women. Soon, the entire area had got wind of the incident and people started coming in and he was tied in a rope. 'We requested people not to beat him but they did not leave him. Every one was beating him mercilessly. Things were not in our hand'. The rope in which Charasen was allegedly tied has not been taken as an important witness material by the police and it was lying in their house. When we insisted that the family of Chakrasen is not blaming the *Pasis* for the murder but to the Brahmins, the two women were very clear. They were not the Brahmins who killed him, they said. It was the general public who killed him. But did he come to steal something from their home? Why would he come to steal from your house? What was there to steal? Why in the mid night when every body else remain in the home. Why would any body go to steal something without wearing anything? Nobody is killed such merciless way for stealing things?

The Medical Report

When the news of lynching of Chakrasen reached the *Dalit* village of Udaiyadih and Bhaderva, people came out in large number. The police officers tried to calm them down but the villagers knew that the police have already been supportive of the murderers. The BSP MLA, a Brahmin called Rama Shiromani Shukla was of no help to the people. As the news of *Dalit* protest traveled across the districts and people sat on the street with the dead body of Chakrasen, determined to take the body to Lucknow for medical check up, the administration swung into action. 'They wanted to force us dispose off the body, said Sadal. We have not cremated him but buried him so that in case the police need any further investigations, the body would be made available, as we

want the culprits to be hanged, said Sadal, whose misty eyes along with that of his daughter in laws cries make every one in the village cry for justice. It is a shame that a bright student was 'made' thief and murdered in a public view and the police have not been able to do justice.

The dead body was taken for postmortem to district hospital. Post mortem was conducted at 3.50 pm on August 1st, 2008 which says, eyes closed swelling present surrounding both eyes. Cause of death due to strangulation, wrote Dr Santosh Tripathi. It means that the report and rumors spread by the upper castes and the administration that Chakrasen died of mob lynching are not true. Of course, he was beaten mercilessly but the fact that the post mortem report suggest death due strangulation is a matter which police must look into and investigate.

The two accused were roaming free. Santosh Mishra and Akash Dubey and their well-wishers including the BSP's Brahmin MLA had the power to deny people a right to even the protest.

Local Opinion about Chakrasen Comes According to Their Castes

While all the villagers of Udaihadih blamed the Brahmins for the murder of Chakrasen and felt threatened now, as police remain mute, the women and young people we spoke in Sudemahu openly said that Chakrasen was a thief. The women did not have a high opinion of him. Similarly, speaking to journalists, pradhans and other upper castes, it looks they share the same opinion of his being a thief. Some people indicated another angle to it, which was 'love affair'. There were two girls in the *Pasi* family who Chakrasen knew' said a local Brahmin. 'How can anybody would tolerate a person eyeing to one's mothers and sisters, indicating that there might

have been an affair for which Chakrasen was punished so mercilessly. As we came out of the *Pasi bastee*, I asked this question to many youngsters of the village, tell me was he a thief? The village boys had dubious answers but one man who brought tears in our eyes was Chhote Lal Yadav, a former village Pradhan of the area. I simply asked him: "Please tell me about this boy Chakrasen". Chhote Lal Yadav had nothing to do with the boy. He did not even know and at the time when the social relations of Chamars and Yadavas remain at the lowest, Chhote Lal Yadav's word have soothing affect. Tears rolled from his eyes when he said

'This boy cannot be a thief. He cannot be a thief.' He was murdered though he said that he came to know about the incident pretty late. It is these kinds of voices that give us hope in the otherwise caste republics of Uttar-Pradesh, which has virtually forgotten to appreciate your honesty and innocence if you do not belong to similar caste groups.

Administrative Goof-ups

Police are still investigating the case as if Chakrasen was a thief. There are certain very disturbing questions which the police need to answer and respond. Why has it not taken into the custody, the rope in which Chakrasen was tied? It is still lying at the house of the *Pasis*. Secondly, whether it was an act of theft or love affair, what gives people moral authority to kill a person of another village? Why police did not act when it was reported to them as early as 4 am in the morning. What was the conspiracy when the local police constable Mishra who knew this but did not followed it up? What is the conspiracy as Chakrasen's family and others in the village openly and with confident charge the Brahmins (Mishras) for the murder of Chakrasen while the *Pasi* women deny their hand. Will police check this relationship

between the various accused. One of the accused was absconding at the house of BSP MLA Rama Shiromani Shukla when the police arrested him from Shukla's house, informed Shaktisen. The *Dalits* have no faith in him. It was shocking how this MLA went to *Dalit bastee* when the people were adamant on taking the dead body of Chakrasen to Lucknow. After placing Rupees Five hundred (Rs 500/-) on the dead body asking the people to close the case as it would not help them and that the law would take its own course. What course the law is taking? Sadal and his grand children Shaktisen and Agnisen are now being threatened by the Brahmins. They came attacking in the village and the police did nothing. Instead, the police arrested some of the villagers. Shakti Sen informs how he is continuously under the threat in the school he goes where the children of Mishra also study. These children threaten him with the same consequences as his brother was meted out.

Investigate Impartially

There are various points for police to not only understand but also investigate and the most important should be who killed Chakrasen. The police can not keep hiding under the pretext of mob violence when Chakrasen was grandson of a PDS shop owner in a village, which was just 2 kilometer away. We all know how the relations in the villages are and that it would be highly unlikely if people do not know to a person who was living with in two kilometer.

Secondly, Chakrasen was not dead when his grand father and brother met him. He was allowed to die in four hours period when the police failed to intervene. Whether it was deliberate need to be investigated.

Third, the police theory of Chakrasen being a thief is absolutely fabricated and false. Was Chakrasen a proclaimed

thief? Was there any record of crime in his name? He was student of Allahabad University and was there any bad entry of him in the University? What would a boy from a city university go to steal from the families of virtually landless people, in this case, the *Pasis*?

Fourth point, does any one come in the village in the midnight with out wearing underwear or why would any thief wear underwear over his head as being suggested by the *Pasi* women? If he had bad intentions (which was actually the intention of the woman we interviewed) than why he came in mid night? Was he caught with some one else?

Fifth point, it might be the possibility that the Brahmins caught hold of him outside his village in the night thrashed him, forced him to run and take shelter in the village of *Pasis*. He might have entered the village to save his humiliation when he was caught as a 'thief'. There are many things which each of the villagers are hiding. Police need to investigate this relationship between different accused. The two which it has arrested from the *Pasi* families and the two Brahmin accused which Chakrasen's family is accusing openly.

Sixth, Investigate the entire issue as why the threats are continuously being made to Shaktisen and others? Why the Brahmin goons came and attack the village of the *Dalits* on 15th September in the broad day light.

Seventh, that Chakrasen did not died of mob lynching but because of strangulation as per medical report. Did police lift the fingerprints of the accused?

Eighth, how many accused have been arrested so far? What is done to save the family of Sadal.

Conclusions: It seems that Chakrasen was murdered in a very calculated way. If the Brahmins are directly involved then they would face SC-ST atrocities act but if they are in the back, it make things

easier for them to push one *Dalit* community against the other. So *Pasis* and Chamars are at the loggerhead and the Brahmins are enjoying their meal. By getting the *Pasis* into the act and making it a case of theft or love affair, the villagers are still ignoring the thing as who killed Chakrasen. This is the crude reality of the Indian village system that while every witness to all the gory act of butchering of an innocent boy, none of them dare to come forward. By taking a moral high ground on the issue of relationship, these villagers forget that they have violated law of the land. One thing is clear, he was murdered and police did not act. Another thing is certain that he was the first year student of B.Tech and no doubt a bright young boy. Third thing was also clear that he and his siblings are educated and their grandfather is running a PDS shop successfully which the local Brahmins could not.

The government of Uttar-Pradesh must hand over this case to Central Bureau of Investigation and suspend the police officers for dereliction of duty which allowed the murder of a young boy. Uttar-Pradesh government has given Rs 70,000/- to the grieving family of Chakrasen. It is equally shameful for the government authorities to measure the life of a bright young student in such a meager amount. The police are trying to shelter the criminals as one of the accused was actually arrested from the house of local BSP MLA, the family alleged. The role of police, the political leader must be investigated. The mystery of this killing can easily be unearthed by the police if it works impartially. At the moment, the impartiality of the Uttar-Pradesh police is in question. They are working 'unbiased' as with each accused i.e. Brahmin arrest, they are equally arresting the *Dalits* also. Already, poor *Pasis* are arrested as accused while the Mishras and Dubey are roaming

free, threatening the family of Shiv Murthy. In the 75th year of Poona Pact, we remember Baba Saheb's warning of what kind of leadership will we elect on the upper caste Hindu votes. UP's case is an eye opener. BSP can not shed its ideology for the sake of '*Sarva Samaj*'. UP need a Bahujan Samaj government which can protect them and honour constitutional provisions, promulgate SC-ST act in the cases of violence against *Dalits*. *Sarvjan Samaj* can not be bigger than the Bahujan Samaj. One hope the government will act and save the people from further frustration. □

Holding the Nation to Ransom

Frequently, the proceedings of the *Lok Sabha* and the *Rajya Sabha* are disrupted by members belonging to one party or the other. The practice is assuming alarming proportions. Efforts are being made to find a solution to the malaise. One suggesting is that members who indulge in such activities should be made to pay for holding the house (and thus the Nation) to Ransom. We give below some interesting figure in this regard, culled from the Press:

1. The budget session, 2006: *Lok Sabha* lost 18% of its allotted time; *Rajya Sabha* lost almost 14%. The Monsoon session, 2007: *Lok Sabha* lost more than 39% and the *Rajya Sabha* more than 49%.

2. The 12th *Lok Sabha* lost 7 question hours; the 13th *Lok Sabha* lost 65; and the 14th *Lok Sabha* lost 57.

3. The loss of work in Parliament costs the exchequer Rs 34,500/- per minute. – **Chief Editor** □

Course of the Law on Riots and Terror: Tyranny of Labels

Iqbal A Ansari

Given that people are now ready to see how the denial of justice to victims in periodic communal violence, especially since the 1980s, has provided a fertile ground for home-grown terrorism, a fresh perspective on the administration of justice that motivates civil society to mobilise for reform of the judiciary and the police is overdue. Muslims should no longer be made to feel that they are up not only against the police but also the judiciary.

In the wake of the conviction and sentencing of the accused in the Mumbai serial bomb blasts case of March 1993, which had taken a toll of 257 innocent lives, the lack of punishment of the instigators and organisers of the riots of December 1992-January 1993, and of the 31 officials indicted by the Krishna Commission, whose connivance caused the killing of more than 900 innocent persons, is being widely discussed in the media and civil society. It is also being hammered home that the findings of the commission established a cause and effect relationship between the two series of events. As a side issue, Sanjay Dutt's conviction is also being debated.

Given the signs of hope that people are now ready to see how the denial of justice to victims in periodic communal violence especially since the 1980s, has provided a fertile ground for home-grown terrorism, a fresh perspective on the administration of justice that motivates civil society to mobilise support for reform of the judicial system and the police system is overdue. This attempt can be treated as part of a wider project of restorative justice and transformation for peace in the subcontinent.

Spreading Hatred, Inciting Violence

It is likely that Sanjay Dutt's conviction and sentencing, prescribing rigorous imprisonment for six years, will be treated as an example of the judiciary's determination to make even the cynics believe that the maxim "howsoever high you be, the law is above you" is a reality. But is this really so? What did the Bombay

High Court and subsequently the Supreme Court do to the petition of some concerned citizens who approached the courts for direction to the government of Maharashtra to prosecute Bal Thackeray for spreading hatred against Muslims, and inciting his "boys" to commit violence through his editorials in *Saamna*, during the time when Mumbai was burning in the communal fire? In the editorial of *Saamna* of December 5, 1992, Muslims were called "traitors who partitioned the country and haven't allowed us to breathe ever since". On December 8, 1992 Muslims were simply terrorised by holding out the threat that they "should draw a lesson from the demolition of Babri Masjid, otherwise they will meet the same fate as Babri Masjid". On December 9, 1992, the entire Muslim community (whose number was given as 25 crores) were called one of Pakistan's seven atomic bombs, who will stage armed insurrection on behalf of Pakistan. On January 8, 1993, Shiv Sainiks were directed to shoot on the spot the Muslims of Bhindi Bazar, Null Bazar, Dongri and Pydhonie (the areas called mini Pakistan). It is this organised hate-gang of Shiv Sainiks that played a leading role in the bloodbath in Mumbai in December 1992-January 1993, which drove some frustrated Muslim youth to desperation. They committed acts of terrorism in March 1993 as they had lost all hope in the system.

The Bombay High Court took two years to give its decision on September 21, 1994, dismissing the petition of J B D'Souza and others seeking direction to prosecute Bal Thackeray on the ground that the editorials did not

violate the law as in their lordships' view the reference was only to anti-national Muslims and not all Muslims and that in their view "25 crore Muslims" appeared to be "typographical mistake". Moreover they were of the view that any prosecution of Bal Thackeray would cause the "raking up" of old wounds. The special leave petition in the Supreme Court for direction was dismissed on January 6, 1995 on the ground that it was not wise, nor in public interest for the Supreme Court to give direction, overruling the Bombay High Court. This decision of the apex court was strongly deplored by leading jurists. H M Seervai expressed the opinion that a clearer violation of Sections 153A and 153B was difficult to imagine. He called the interpretation of 25 crore Muslims as a typographical error, absurd and perverse. In his view the government of Maharashtra was determined not to prosecute Thackeray, though its affidavit clearly established that the government knew that the passages, complained of, violated the provisions of Section 153A.

Here was a case of hate speech with malicious intent that aggravated the communal tension and caused bloodshed, fit for successful prosecution, which would have sent the message that Muslims, a vulnerable group, enjoyed equal protection of the law, which is an essential requirement of secularism. But collusion between the Congress government, which flaunts its secularism, and the Shiv Sena, that claimed responsibility for demolition of Babri masjid, and an overindulgent view of the learned judges of the higher judiciary made

the hate leader enjoy impunity. While reporting the events in Mumbai in the *New York Times* Rosenthal had commented that "Shiv Sena could have been put down in hours. The state and national governments behave like Weimer reborn – disorganised, frightened, gutless." Having failed to protect Muslims, the Congress government exerted its utmost to save their oppressor from the clutches of law.

Subverting Justice

Since 1949 the course of the law in general but particularly since Ayodhya – which is the mother of most retaliatory Muslim acts of terrorism within India – does not inspire the confidence of a beleaguered minority, which has been demonised for perceived wrongs of history. Has the law been influenced by the political calculations of the executive? The Bharatiya Janata Party's (BJP) White Paper on Ayodhya and the Ram Temple Movement considers that this is so (April 1993, p 152). Expressing satisfaction over the role of the judiciary in the opening of the gates in 1986, the BJP's White Paper observed: "... When the government is not against, such things can, and do, happen. Even the courts respond." It has also been confirmed by Swami Swaroopananda Saraswati, who claimed during the Mahakumbh Mela of January 2001 that it was at his behest that prime minister Rajiv Gandhi got the locks opened for political considerations (The Times of India, January 22, 2001).

Hearing of the Best Bakery case and petitions for reopening of more than a thousand closed cases made the apex court pronounce that the course of law in Gujarat amounted to subversion of justice by biased investigation, collusion between prosecution and defence and vulnerability of victim-witnesses, who could be threatened and lured. Because of the wide electronic media publicity of Gujarat, it has been generally

taken as a unique case of the state's complicity and denial of justice to victims, whereas all the components of the course of law subverting justice in Gujarat can be found from Jabalpur 1961 till date. The most glaring example of such denial of justice is the case of Hashimpura Meerut and Maliana killings of Muslims on May 22-23, 1987 by the Uttar Pradesh's Provincial Armed Constabulary (PAC). This was not a case of people getting killed by police firing during riots. Innocent people were picked up from their homes and taken near the upper Ganga canal-Hindon river in Muradnagar (Ghaziabad), where more than 40 young Muslims were shot dead, whose bodies were thrown into the river water. The candid founder-editor of Mainstream, Nikhil Chakravarty compared the event with the "Nazi pogrom against Jews, to strike terror and nothing but terror in a whole minority community". Eminent citizens, including I K Gujral, Rajindar Sachar and Kuldip Nayar demanded trial of the guilty PAC personnel for treason. What really happened in the case is unprecedented even in the history of Indian judiciary. UP's Crime Branch of the Criminal Investigation Department (CBCID) took seven years to complete the inquiry in February 1994. Of the 66 PAC personnel indicted in the report, cases were filed against 19 – all of lower ranks – in the court of chief judicial magistrate (CJM) Ghaziabad on May 20, 1996. All of them, charged with conspiracy, murder and concealment of evidence, continued to be in the active service of the PAC. However, they were never produced before the CJM court between January 1997 and April 2000, though six times bailable and 17 times non-bailable warrants were issued against them. When they surrendered after public and media pressure in June-July 2000, the district judge considered it a fit

case for bail – and the public prosecutor was too willing to extend full cooperation to the defence. The court did not even inform the victims, who were pursuing the case. Having watched the course of law in Ghaziabad from 1996 to 2000, I took the initiative to get the case transferred by the Supreme Court to Delhi on September 27, 2002. Issues related to procedural law about the appointment of the public prosecutor succeeded in delaying the trial, which started in July 2006. During the whole year just three witnesses have been examined. It will continue for many more years. Three of the accused have died. The remaining 16 are enjoying freedom. Officers, including the one who ordered firing by the PAC at Maliana on May 23, 1987, which took a toll of 30 lives, are enjoying promotion.

Label of Terrorism

Now visualise a similar scene, wherein instead of an armed constabulary the killers are a masked armed gang of Muslims. This will get instant publicity as an act of terrorism which will make all organs of the state's law enforcement system extra-alert and overactive. Sections of the media too will lend full support by publicising government handouts based on conjectures as proven facts. Hundreds of people even unconnected or remotely connected with any of the suspected terrorists will be detained, tortured and humiliated and on the basis of flimsy, even forged evidence and/or forced confessions, will be charged under draconian provisions of anti-terror laws, and kept in jail for years as undertrials and treated as enemies of the nation. The trial court will be too willing to respond to the "collective will of the society", by convicting as many as possible and awarding very harsh punishments.

Though both sets of events, involve loss of life, limb and

property of uninvolved innocent persons, including women, children, aged, worshippers and places of worship, their treatment by all the organs of the state, including the judiciary, as well as by the civil society, especially the majority community, presents a study in contrast, the reason for which lies in the tyranny of labels – one is called “terrorism” and the other “riots”/“disturbance”.

The contrast gets illustrated by the treatment of the Patel and Jaffary case in a Prevention of Terrorism Act (POTA) court. On July 21, 2003 justice S N Dhingra of the designated POTA court, New Delhi, held two young Muslims Mohd Yaseen Patel and Mohd Ashraf Jaffary guilty under Sections 20 of POTA and 124-A of the Indian Penal Code (IPC) and sentenced them to five and seven years of imprisonment for waging war against India and disturbing communal harmony. They were alleged to have been associated with the banned organisation Students Islamic Movement of India (SIMI) and were apprehended by the police while they were allegedly pasting posters on May 27, 2002 on the walls of Jamia Millia Islamia University Library, New Delhi at about 1:50 pm, which read: “Destroy Nationalism, Establish *Khilafat*”. According to the statement of Farhana Jaffary, wife of Mohd Yaseen Patel, the police had raided their house during the night of May 26-27 and arrested Mohd Yaseen Patel and her brother Mohd Ashraf Jaffary, who was staying with them in her house in Zakir Nagar. The allegation of pasting of posters on JMI Library wall was called a pure fabrication. The police did not produce any independent witness under the plea that people did not want to be involved in criminal cases to avoid harassment.

Judicial Bias

In another judgment delivered by the same learned judge, S N

Dhingra on August 27, 1996, in case No 34/95 State vs Shyam Vir and others arising out of riots of Tirlokpuri, Delhi in 1984, he had observed that the police and the entire criminal justice system was subservient to the political masters. However, the same justice Dhingra held a diametrically opposite view about the role of the police in this case, as independent, conscientious and dutiful servants of society dedicated to upholding the rule of law. What inference can be drawn about the role of the courts according to his lordship’s own observations? In the course of the present judgment, while dealing with the issue of whether the accused were “learned persons”, who would not normally paste a poster on the wall but would get it done by others, the learned judge observed that the two accused had received their education at a *madrassa* and were educated basically about Islam, insinuating thereby that they could not be accorded the status of “learned persons”. Does it not betray his lordship’s bias against an indigenous educational scheme, if not against Muslims per se?

The learned judge interpreted the content of the poster to mean that “nationalism must give way to clergy rule under an international Islamic Order”, which he took to mean destruction of the Indian nation by waging war, although the slogan meant nothing more than what is implied by the establishment of Ram Rajya or Kingdom of God on Earth. There can be no better commentary on the mindset of the POTA court than justice Dhingra’s own pithy remark in the 1996 judgment that “the law enforcement agencies are more favourably inclined to the strong and powerful to the detriment of weak and powerless”.

Contrary to the fast track summary trial of the two accused Muslim youth and their conviction for pasting slogans against

nationalism, the learned additional sessions judge of Meerut granted permission to the government of Uttar Pradesh led by chief minister Kalyan Singh of the BJP to withdraw the cases related to communal killing of 19 Muslims at Nigar Cinema of Meerut in 1991. Besides charge of murder, the accused were also charged with arson and looting. Charges had been framed and the trial had started. Records show that on December 11, 1998 the government of UP had declined to withdraw the case; but subsequently at the last stage of Kalyan Singh’s chief ministership, an order for the withdrawal of the case was issued on December 12, 1999, without assigning any reason that prompted it to revise its earlier decision. The withdrawal appears to have been politically motivated, as the accused were associated with the BJP.

Reporting about the role of the judiciary during Moradabad riots of 1980, the academicians Satish Saberwal and Mushirul Hasan observed that: “various organs of administration including, alas, the judiciary, appeared to act in a way supportive to the activities of the local police and the PAC” which were partisan; and further that the “Judicial action on the granting of bail and the like were generally such as to let the Hindus off lightly and to come down hard on the Muslims. Clearly the Muslims were up not only against the police but also the judiciary.”

Even while accepting that biases in the individual members of the bench are not alarming and are not the main cause of denial of justice in riot-related cases, it is obvious that the judicial administration has not taken steps to develop any policy perspective and mechanism to deal with communally sensitive hate speech and crime cases, including those seeking award of relief, compensation and rehabilitation to ensure fairness and speed. For

example, why has the apex court not considered constituting a Red Bench to deal with communal violence, like it constituted a Green Bench to deal with pollution? And while deciding these cases, the apex court can easily treat norms of international human rights law – which are in the nature of multilateral treaties – as applicable, as it did in Vishaka and several other judgments. Alas, with the only exception of Gujarat, the contrary has been the practice. These cases, including the case of Hashimpura, have been given routine treatment, and on occasions more than the usual indulgence has been shown to moves aimed at delaying a final decision. Let judicial activism once asserted in the Best Bakery case become the norm.

In physical terms, communal riots, pogroms and genocides have caused immensely more loss of life, limb, property, dignity and honour of innocent women, men and children and have caused greater displacement and consequent loss of shelter, livelihood, health and education of vast numbers – mostly from poorer and deprived sections of minority communities than has been the case in terrorist killings. In both types of violence the victims are always uninvolved innocent persons, who suffer grievous losses, just because of imagined community affiliation or just because of their easy access as soft targets. Both should cause equal outrage. But communal violence leaves behind more lasting inter-community ill will and bitterness which may cause longer and deeper social cleavage. Moreover communal incidents generally make members of vulnerable minorities feel too insecure and alienated to plan for the education and careers of their children, and develop modes of thought appropriate for roles of common Indian citizenship.

Wide Disparities

In spite of these realities, the official policy perspective, media and civil society's majority viewpoint treat terrorism as the greatest enemy of the state, and society, whereas communal carnages – which are generally called riots/disturbances – are unfortunate happenings whose victims are largely "others". Further, being manageable, these riots/disturbances can ostensibly be taken in our national strides, treating them, like the three thousand innocent Muslims killed in Nellie (Assam) in February 1983, as a bad dream. One reason for communal massacres easily being forgotten, is the fact that the victims generally, though not always, belong to poorer sections of minorities who have almost accepted the status of less than equal citizens of the country, irrespective of the majoritarian style of the Muslim leadership's mobilisational politics over ethno-religious issues. It is this Muslim alienation and acceptance of inferior status which has made the masses reconcile to lack of adequate compensation for losses suffered during riots and neglect of their rehabilitation – which has been made an issue for the first time in Gujarat by the National Human Rights Commission (NHRC), and the national and international NGOs.

Instilling a sense of second class status into the Muslim mind by the official policy and its acceptance by the weaker sections is made palpable by the wide disparity in the payment of compensation to sufferers of riots. Its most glaring recent example is provided by the *ex gratia* award of Rs one lakh compensation for each loss of life (mostly Muslim) caused by the bomb blasts in Malegaon in September 2006 by the same government with secular pretensions which awarded Rs five lakh *ex gratia* compensation for the loss of each life (mostly Hindu) on July 11, 2006 in Mumbai, though

the government claims that both incidents are terrorist violence of a similar nature. Neither NHRC nor the National Commission for Minorities (NCM) has cared much to address the issue of wide disparities in payment of compensation to victims of violence.

L M Singhvi Passes Away

Dr L M Singhvi, an eminent jurist and a former Indian High Commissioner to the UK, passed away on Saturday October 6, 2007 in Delhi at the age of 76. Dr Singhvi had become a life member of the PUCL in 1988 and was an avid reader of the *PUCL Bulletin*. He was a member of many international bodies and had distinguished himself as an Advocate General for seven years in 1970s.

The PUCL has lost in his death a committed Human Rights activist. – **Y P Chhibbar**, General Secretary, October 7, 2007 □

The rising Muslim educated middle class from which terrorists are recruited, which has not accepted its inferior status as citizens of India, has been nursing a feeling of frustration with the course of law in its community-related cases. They feel betrayed by the apex court in two most crucial cases of the Aligarh Muslim University in the Azeez Basha case (1968) and in the Ayodhya cases, especially in 1990 and 1992. Did the judiciary lack the will to deliver justice? Why did it not heed the warning for stopping L K Advani's *Rath Yatra*? Why did it not heed the warning on the permission for *Kar Seva* on December 5-6, 1992? It is obvious to every one that politicians including Rajiv Gandhi and Narasimha Rao and Sudhakar Naik lacked the will to enforce the law for the protection of Muslims, for fear of losing Hindu votes as

had been frankly admitted by the Congress Party and government leaders, when the question about direction to the police not to be tough on rioters in Ahmedabad in 1969 was put to them by Ajit Bhattacharjea. But what made the judiciary lack the requisite will to prevent “the act of national shame” and to treat the case of demolition of Babri masjid as the greatest act of terrorism in independent India?

Restorative Justice

In our search for restorative justice that may herald lasting social stability, it is time to remind the judiciary to review its

functioning at the subordinate as well as higher levels to identify the sources within the system of delay, distortion and denial of justice in cases related to hate speech and mass hate crimes. There is a need for NGOs and groups involved in promoting police reform to seek supplementary direction from the Supreme Court in its order of September 2006 for implementation of reform measures required for prevention and control of communal violence, which was dealt with by the National Police Commission in chapter VI (1981) and the NCM report, some of which are already incorporated in the Model Police Act (2006) prepared by the Police Act Drafting Committee

headed by Soli J Sorabjee, including the recommendation on socially diverse composition of all wings of the system, ensuring adequate representation to minorities.

It is time the judiciary developed a policy perspective on the socially diverse composition of the justice administration system in its entirety, along with institutional measures for neutralisation of biases. But most significantly, it needs to show greater judicial statesmanship while deciding cases having a bearing on issues related to nationhood, culture and religion, the best guides for which will be international human rights norms.

□

(...from page 1) As a matter of fact English Court have held that the organizers of the protest march would not incur liability merely because some unruly members of the assembly commit a breach of conditions. So how can a ruling political party in the state calling *Bandh* be held to be acting illegally in support of its demand for immediate implementation of a public project, (even though many may be against it) – that is the beauty and excellence of a democratic state. John Stuart Mill put it pithily, “If all mankind minus one, were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person than he, if he had the power, would be justified in silencing mankind”. I can understand if State govt. was to call *Bandh* – it could certainly be objected because state can not stop functioning – if it does, it is like heart stops beating and you are dead.

I can even understand the court insisting and even supervising through neutral all party agency that no force is used to observe *Bandhs* on unwilling citizens - obviously state cannot shut down by its order bus movement, or compel by law or force the closing of shops, mills

and business – forcible work stoppage would be constitutionally impermissible.

Strange that in the year of celebration of Birth centenary of Bhagat Singhs and his martyrdom, which was the culmination of events pursuant to a call of *Bandh* throughout India given by Gandhiji against Simon Commission leading to the martyrdom of Lala Lajpat Rai at the police brutality, the call for *Bandh* should be a forbidden item.

The latest instance is unfortunately bound to sharpen the cry that the Courts are snatching at power which it does not possess. Stating it in such extreme phraseology is to misappreciate the constitutional power and privileges of all the instrumentalities of state, the executive legislature and judiciary. There can be no denying that in general it cannot be said that there is any issue outside the purview of the Courts. But equally the Courts must appreciate that matters which are mainly political and which generate understandable concern to large number of citizens and heated controversies, are by their very nature not capable of being studied, much less solved in the cool atmospheres of the courts. Political life is too tenuous and can only be controlled and regulated by the real sovereign in the republic i.e. “We the people”.

I know *Bandhs* many a time will cause grave inconvenience to the public – many would be opposed to it – it may even be that *Bandhs* called by parties and especially if they are ruling parties, can seriously dislocate the life of an average citizen. But then these are the inevitable and acceptable hazards of an open society in a democratic state. If these antics of the political parties start pinching the citizen, he/she will react – in a democratic state like ours, he has the power to show the door to any such irresponsible party. Is it not best for all concerned that any response to (if there is any irresponsible action) by a political party, is left to the anger and reaction of the civil society and the electorate rather than the court getting embroiled in an unnecessary controversy.

There is in this approach no victors or vanquished. ‘Our Supreme Court has recognized it when it said “While exercise of powers by the legislature and the executive is subject to judicial restraint, the only check on our own exercise of power is the self-imposed discipline of judicial restraint”.

Frankfurter, J. of the U.S.A Supreme Court said with apt irony which courts must ponder over “All power is, in Madison’s phrase, “of an encroaching nature”. Judicial power is not immune against this human weakness. It also must be on guard against encroaching beyond its proper bounds, and not the less so since the only restraint upon it is self-restraint...”

□

Letter to Editor:

Sethu Samudram Project Controversy

In a petition challenging the legality of the *Sethu-Samudram* project the Supreme Court called upon the Archeological Society of India (ASI) to file an affidavit stating whether the Ram Sethu below water in the Palk Straits was man - made or a natural phenomenon. The ASI relying upon its expertise stated in their affidavit that the Ram Sethu was not man-made, but was the result of natural forces of sandstone accumulation over more than a lakh of years. It further gratuitously added/volunteered that Ram and other characters in Ramayana were myths and did not exist in reality. One does not know at whose instance this statement was made. It was totally irrelevant for the matter before the Court and uncalled for. It provided a ready made opportunity for political parties and other organizations to jump in. The real question is "Is the Sethu-Samudram Project economically viable and eco-friendly"? The renowned

Economist Swaminathan writing in his iconoclastic column of The Sunday Time of September 23, says "The Suez and Panama Canals save ships thousands of miles that makes them profitable. Sethu-Samudram is not remotely comparable. It's designed for small ships. The Suez and Panama were dug through land corridors that did not face sand inundation from the sea. But Sethu-Samudram will be a furrow in the sea-bed, at the constant mercy of currents bearing sand". The State, in addition to the initial heavy costs will have to bear recurring expenses of clearing the sands. Will this project be self financing? Karunanidhi and his followers, who swear by rationalism of the Periyar, should consider this problem dispassionately and not be parties to disturbances of peace among the people. In a democracy when there are differing points of view/beliefs, surely opposing parties can express their points of views in a sober fashion

and with maturity and dignity and without trying to degenerate and ridicule the others point of views/beliefs. – **M A Rane**, Mumbai ☐

Justice Sachar Delivers Lecture at The Hague

Justice Rajindar Sachar, former Chief Justice of Delhi High Court and a well known Human Rights Activist was invited from India to speak in the "International Conference on Countering Radicalization – Perspectives and Strategies from Around the Globe", hosted by Government of Netherlands, at The Hague, from October 22nd to 24th, 2007.

Justice Rajindar Sachar presented a paper on it at the conference. ☐

Press Release:

Third Nani A Palkhivala Award

The Nani A Palkhivala Memorial Trust has pleasure in inviting nominations for the Third Nani A Palkhivala Award for preservation of Civil Liberties in India. The objective of the Award is to honour individuals and organizations who have displayed extraordinary initiative in the preservation and defence of Civil Liberties in India. The Award carries a cash prize of Rupees

One Lac and a Citation in each category.

The last date for receipt of nominations is 10th November 2007. The Awards will be given in January 2008 in Mumbai.

Panel of Judges: **Justice M N Venkatachaliah** (Retd.), former Chief Justice of India (Chairman); **Mrs Justice Sujata Manohar** (Retd.), and **Justice Sam Variava**

(Retd.), both former Judges of the Supreme Court of India.

Details of the criteria for the Award may be had from: Miss S. K. Bharucha, Member-Secretary, Nani A Palkhivala Memorial Trust, C/o Forum of Free Enterprise, Peninsula House, 2nd floor, 235 Dr. D.N. Road, Mumbai 400001. (E-mail: fe@vsnl.net Website: <http://www.forumindia.org>. Telefax: 022 - 22614253). ☐

Letter to the Editor:

To, The General Secretary, PUCL, Delhi.

Dear Sir, Greetings from Umakanta Mahanta, AZAD, Dhenkanal, Orissa.

I am a regular reader of *PUCL Bulletin*. The *Bulletin* is very informative, powerful and it helps us for our work. We get lot of information's and knowledge through your esteemed bulletin.

Kudos to PUCL Bulletin

Many states PUCL teams are very active and they are doing wonderful job. I am very sorry to inform you that we are living such a state our state PUCL is not reaching to the poor people of the grass root level. Orissa is a tribal dominated state, and the political people, police, forest dept. personnel, contractors, religious fundamentalists, and the mining

companies and mafias always harass the tribal and the *Dalit* people. You know very well how police fired and killed innocent tribal people at Kalinganagar. I am not lawyer or well-known activist and economical I am not sound. But I am living in the Asia's largest Chromates zone areas. Here the Minister of Finance (...on page 20)

The Third Nani A Palkhivala Award for Civil Liberties

Objective: To honour an individual or individuals (including public servants) and/or organizations who or which have displayed extraordinary initiative in the preservation and defence of the civil liberties of our citizens.

Criteria for and process of selection: (a) The nominee should have demonstrated sustained commitment to the cause of the preservation and defence of civil liberties as embodied in the Constitution of India; (b) the nominee should indicate specific areas and instances of activism enhancing awareness, of civil liberties, and build and promote solidarity against injustice. The quality of activism should have the effect of enhancing the tone of respect for Civil Liberties culture; (c) mere conducting of Seminars and Conferences, though relevant and important in themselves, will not be accorded undue weight, as the path of protection of civil liberties is through the world of solid action.

Panel of Judges: Justice M N Venkatchaliah (Retd.), former Chief Justice of India, (Chairman); Mrs Justice Sujata Manohar (Retd.), former Judge, Supreme Court of India; and Justice Sam Variava (Retd.), former Judge, Supreme Court of India.

Nominations: In the case of individuals, nominations should be made by persons other than the nominees, but organizations can apply directly. Nominations must be accompanied by adequate details and proof of work done by the nominees. No Award will be given if, in the opinion of the panel, no nominee is considered worthy of the Award.

The nominations should be sent, **in triplicate**, to: Miss S.K. Bharucha, Member-Secretary, Nani A Palkhivala Memorial

Trust, C/o Forum of Free Enterprise, Peninsula House, 2nd floor, 235 Dr. D.N. Road, Mumbai 400001. Email: fe@vsnl.net. The last date for receiving nominations is 10th November 2007.

The Award: The Award carries a cheque for Rupees One Lac and a Citation in each category and will be presented on the occasion of the Fourth Nani A Palkhivala Memorial Lecture to be delivered on 11th January 2008 in Mumbai. Travel and other expenses will be reimbursed by the Trust. □

Earnings of Women

According to figures culled from the Press the relationship between women and cash income is as follows:

⑩ 12.7 percent of country's active work force earning cash income are women.

⑩ Those earning up to 25,000/- rupees per year 16.28 percent; those earning between 25,000 and 1,00,000 55.73 percent; those earning above one lakh 28 percent.

⑩ 68 percent of women graduate do not have any form of income.

⑩ 35.4 percent are agricultural wage labours.

⑩ 5.2 percent are private salaried employees. – Chief Editor □

(...from page 19) is controlling all mining ore activities. Even he is sacrificing human being. Two years back that was great news, also I informed to you on behalf of her parents. But there is no response from the civil society organization or from the government. Therefore I am requesting on behalf of the poor tribal and Dalit people of Orissa, kindly do something for our state, otherwise the private companies and the political party will loot all our natural minerals and we will remain underfed, poor and underdeveloped and will become beggar. Wishing to get your favourable action for the betterment of the poor and marginalized tribal and Dalit people of Orissa.

With regards, Yours Sincerely, –
Umakanta Mahanta, AZAD,
Dangapal., Kankadahad-P.O,
Dhenkanal, Orissa, 759028

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