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**PUCL Membership**

Patron  
Life  
Annual  
Students and Low  
Income Groups

**INDIA**  
Rs. 2000  
Rs. 1000  
Rs. 50  
Rs. 10

Annual

**FOREIGN**  
Indian Rs  
equivalent of  
US \$15

**Update on Dr Binayak Sen's Case:**

**The Trial Begins**

The much-awaited Trial of Dr Binayak Sen, General Secretary, PUCL-CG, began today in the Court of Sri B S Saluja, Additional District & Sessions Judge (Fast Track Court) at Raipur.

The prosecution produced one witness, Sri Anil Kumar, who deposed before the Court about search, seizure, arrest etc., of Sri Piyush Guha, a co-accused, who is charged of carrying out three letters from Sri Narayan Sanyal (lodged in Raipur Central Jail), passed on by Dr Binayak Sen. The prosecution was represented by Adv T C Pandya, and from the side of the defense, Sr. Adv Anjanna Prakash and Adv Mahendra Dubey represented Dr Binayak Sen, Adv T C Farhan represented Sri Piyush Guha. Tomorrow, two witnesses will be produced by the prosecution. In all six witnesses are to be produced in four days ending May 3, 2008.

In the morning, Dr Binayak Sen was brought from the Raipur Central Jail, but the two accused, Sri Piyush Guha and Sri Narayan Sanyal were not brought on the pretext that the police had no sufficient security personnel available. This appeared to be a clear-cut case of delay-tactics being adopted by the prosecution the PUCL office-bearers intervened, and took the matter both with the high officials in the police, and also the Court. While the fact of the matter is that in the Order dated 2nd February 2008 itself the Court had directed that the accused should be produced before the Court during the trial, why the State Police had not made adequate arrangements. Thus, it was only around 1:15 pm that the two accused were brought from Raipur Central Jail, hardly a Kilometer from the Court premises.

The Trial proceedings began immediately thereafter, and concluded by 5 pm. An unfortunate incident happened, when during the search, a Swiss pen-knife was found in the bag of Mr T G Ajay, a member of the State Executive Committee of PUCL-CG. Although it was purely "unintentional" and a case of "carelessness" on the part of Mr Ajay, the media has blown the incident out of proportions, and also spread falsehoods like "Mr Ajay was taken into custody by the police", and that "a threatening knife was recovered from his person, while he was trying to meet Dr Binayak Sen", etc. etc.

While the fact of the matter is that the police simply confiscated the Swiss pen-knife, and brought it to the notice of the Court, filing a photograph and a report on the incident. Mr Ajay T G remained in the Court premises till late in the evening, even after the conclusion of the Trial proceedings. He also signed a document stating that the instrument confiscated is only a cutter.

Members of the PUCL, supporters, friends and family members are present in large numbers during the hearing. Prominent among these were Com. Janak Lal Thakur, President, (on page 11...)

# Judgment on OBC Reservation

Rajindar Sachar

The Constitution Bench Judgment on upholding reservation in Higher Educational Institutions has come on expected lines, in the light of Judgment in Indira Sawhney case (1992). Though 27% quota for OBC was loosely challenged, but this plea was an empty one because latest Govt. of India National Sample Survey data (2004–05) shows 41% and 43% constitute OBC amongst Muslims and Hindus respectively.

Of course everybody knew that the real issue was “would court accept govt’s partisan approach (no doubt influenced by higher echelons of OBC political leadership) that the principle of creamy layer amongst OBC should be dispensed with – The court has given short shrift by holding “Thus, any executive or legislative action refusing to exclude the creamy layer from the benefits of reservation will be violative of Articles 14 and 16 (1) and also of Article 16 (4)”.

It is unfortunate that because of partisan politics some are still unwilling to accept this equitable decision and thus put in jeopardy the implementation of this overdue measure for poor segments of OBC. As it is, the partisan approach of higher segments of OBC has already done considerable damage to SC/ST students. This is shown by the fact of how all the parties indulged in conspiracy of silence with regard to the benefit that was to accrue to SC/ST under this very govt. circular from last year.

It may be noted that though the Supreme Court had given interim stay regarding OBC admission, there was no stay regarding SC/ST quota, which could have been filled up but no one spoke about it and it has unnecessarily gone waste for last year. This indifference to SC/ST quota exposes the hypocrisy of many politicians that

when they are talking of uplifting the poor, it is the caste angle which has primacy. It should be noted that the extra seats created for 2007-08 were 12216 of which 9468 were for the OBCs 1832 for SCs and 916 for the STs. Thus it was possible for the Govt. to fill up the quota for SC/ST (a total of 2748 seats). Management of Institution had no objection because they had already made arrangement for filling up 12216 seats.

But surprisingly no effort was made to fill up SC/ST quota last year. This anomaly was felt very strongly by Peoples Union for Civil Liberties (PUCL) which by its letter of May 4, 2007 brought this fact to the notice of prime Minister, Mr Arjun Singh, and others including Ms Mayawati, the Chief Minister of UP, expressing its anxiety and surprise that so far the Government had not taken any steps to fill up the seats reserved for SCs and STs when there was no restraint against them. Unfortunately for reasons not clear no steps were taken – the result SC/ST lost last year’s quota.

Again from the current press reports it appears that some political groups are trying to find ways how creamy layer can be included in the quota (a useless exercise in view of judgment). Again no attention is being paid in this process for the enrolment of SC/ST which is permissible – why has the government not asked the institutions to go ahead with their admissions – whatever the angularities, regarding OBC can be worked out but why should SC/ST be denied admissions in higher institution again for the second year. Why must partisan politics always override equity and fairness to the most neglected? Is it because political leadership is under pressure from the creamy layer of OBC not to let SC/ST take

benefits if the same are not at the same time available to OBC is this social justice—is it not pandering to caste politician devote gathering mechanism. But why SC leadership is not exposing this game – even Mayawati is playing cool on this.

I feel that nervousness on the question whether if an OBC is a graduate, but economically below the guidelines of 2004 (updated to the present inflation index) he will not be eligible for admission in OBC quota is misplaced. Creamy Layer touchstone is not only at the educational level but also at economic level. Thus it would be unacceptable and unjust if a conscientious hardworking OBC poor was to pass graduation by studying even under street lights (instances have actually happened) he should be deprived of the benefit of reservation even when his family income is below the limit. As Court has said about the exclusion of creamy layer “one of the main criteria for determining the socially and educationally backward class is poverty”, and that “Creamy Layer has no place in the reservation system”.

I feel prima facie family income level of 2.5 lakh per year fixed in 2004 (updated by inflation index) can be the upper most limit for being retained in non creamy layer. To call it inadequate would be a mockery considering that statistics show that of OBC Muslims (82%) and Hindus (80%) are below a per capita consumption of Rs 20 per day – as it is even national average of poor whose per capita consumption per day is Rs 20, constitute about 77% of total population.

The Court has also given direction that ‘there must be periodic review as to the desirability of continuing with the reservation, (on page 8...)

## **Dalits in India:**

# **An Insight in their Present Position, Protection, and Future**

**Shradha Baranwal\***

Justice, Equality, Liberty, and Fraternity; these are some very precious virtues recognised, added and adhered by the Constitution makers of India in the preamble of our Constitution. Preamble of a Constitution is said to be the guiding ideology behind any policy making in a state. The basic question is how far the Country has abided by these ideologies, either in practice or in law; it had voluntarily vowed to adhere with? This paper seeks to examine the place of these virtues when it comes to the welfare of 'Dalits' (oppressed, downtrodden people). The study includes the present situation of *Dalits* in India, measures taken to ameliorate their situation and an analysis of those measures, their progress so far, future suggestions etc.

### **Who are Dalits?**

The word '*Dalit*' is little vague in nature owing to the lack of clear definition. It includes Scheduled Castes (SCs), Scheduled Tribes (STs), OBCs (Other Backward Castes) and minority community in certain places etc. but at the same time all these SCs, STs, OBCs may not be included in it. It could be possible that in a certain place the dominant community is from Scheduled caste in such situation oppression of SC is difficult. Owing to this uncertainty the word is said to be vague. It is informally used to refer those who have suffered injustice due to the caste they belong to.

### **1. Dalits in India**

In India, caste system has long been abolished officially but in many parts of the country the problem still persists. In fact the problem has become graver in nature. Instead of gaps being covered up it has become wider.

#### **a) Issues of Protection and Vulnerability of the Lower Caste in the Society**

In India issue of caste and religion are very deeply rooted. Several incidents in the recent past indicate towards the insensitivity of the society towards *Dalits*. These incidents are also a proof of the vulnerability of *Dalits*. Last year a fact finding team of Human Rights activists and social activists has claimed that the majority of children killed in Nithari were from *Dalit* Community. This claim was also supported by the statistical finding which provided that out of 17 deaths in Nithari village, 15 were from *Dalit* Community.<sup>1</sup>

Again on March 1, 2007, a mob of upper caste Hindus forcibly entered into the house of the *Dalits* and destroyed everything and set their houses on fire. The mob was angry on the issue of alleged murder of a person from upper caste by two *Dalit* youths.<sup>2</sup> In short without the offence having been proved suspects were punished, and not only suspects but their community was also punished. In a similar incident 2 yrs ago in Gohana in Sonapat, Jats had burnt down houses of over 50 *Dalits*.<sup>3</sup> Later on *Dalits* launched a huge protest for this. At some places they also turned to violent acts.

Not only upper castes but the Government officers also are badly bitten by the caste parasite. Last year a *Dalit* family ended their life after facing harassment in the hands of police.<sup>4</sup> A 30-year-old poor labour had to suffer because his cousin dared to run with a minor girl.

Upper caste has interest in the oppression of *Dalits*, police also has a reason to react strongly as they work in field and most of the time they have to work under pressure from the majority. But the most shocking thing is that the educated masses and the people in respected professions are also deeply affected by the caste evils.

Last year two lawyers were captured in cameras while torturing a *Dalit* youth within the court premises. That incident in Agra witnessed educated masses behaving like the most backward and unsocial animals.<sup>5</sup> Later, on practice license of both the lawyers were taken from them and they were debarred from practising for the next five years.<sup>6</sup>

Interestingly *Dalits* are not only tortured but also debarred from putting their case further for justice. In one such case a man was killed by Gujjar Community (dominant in the area) after his wife refused to withdraw a rape case against a person from the Gujjar Community.<sup>7</sup> Still she is been threatened with dire consequences if the demands of the dominant caste in that area is not satisfied.

These incidents clearly show how insecure the position of the *Dalits* is when it comes to the social security.

#### **b) Education, Representation in Government Jobs and Related Facilities**

Apart from lack of adequate social security, *Dalits* are also poorly represented in various professions like army, judiciary, police, media, business etc. A study provided that 47% of the Chief Justices of India have been Brahmins who constitute only 6.4% of the whole population.<sup>8</sup>

Yet another study provided the high dropout rates of school going SC (Scheduled Caste) and ST (Scheduled Tribe) children. In the year 2003-04 it was 10.4% for the Schedule Caste student and 16.1% for the Scheduled Tribe students.<sup>9</sup>

Apart from the poor representation in Government jobs and poor education, the other available facilities are also not given to these needy persons,

properly. Some bare facts will clearly show the non-implementation of the plans launched by the Government. There are various hostels meant for SCs/STs in many states, which are being used as office place for police, as quarters for government officials, or have been converted into colleges and schools etc. In Haryana in three institutions meant for SCs, 97% of the students belong to the non SC category. A girls' hostel, with the capacity of fifty in Varanasi was being used as home for beggars. Two SC/ST hostel in Bengal were being used as offices of the Sub-Divisional Magistrate and Sub-Divisional police offices. At some places like Punjab and Haryana students are charged fee on education meant to be given free. Interestingly in Gujarat, there is no educational trust known as 'Uttam Gram Vikas Sewa Trust' yet the Government sanctioned Rs 1.89 lakh in the name of this trust during the year 2002 to 2004.<sup>10</sup>

#### c) **Dalits and their Right to Worship in Temples**

In the year 1950 a Constitutional Guarantee was given to the Oppressed in the society against the practice of untouchability. Before independence untouchability was very much prevalent in the Indian society but efforts of people like Vinoba Bhave, Mahatma Gandhi has brought it down to the great extent. Then Dr Ambedkar was made the Chairman of our Constituent Assembly. All these factors helped a lot in inserting the provision like Article 17 in the Constitution. It reads "*Untouchability*" is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of "*Untouchability*" shall be an offence punishable in accordance with law.

In spite of Article 17 being in force still in many parts of the country *Dalits* are denied their right

to worship in the public temples. In one such incident in Orissa, when denied entry in the Jagannath Temple; nearly 200 *Dalits* threatened to embrace Buddhism as a mark of protest.<sup>11</sup> Thankfully the matter was sorted out in a positive manner and *Dalits* were allowed to enter into the temple.<sup>12</sup>

But things do not turn out to be positive in every case. In Rajasthan a tribal youth lost his life over the issue of 'Right to Worship'.<sup>13</sup> There are several laws like 'The Protection of Civil Rights Act, 1955 which ensures the well being of *Dalits*. The Act enforces religious disability on the Scheduled Caste, including preventing their entry into temples as a punishable offence. Under the same Act, "enforcing social disabilities," including preventing *Dalits* access to a sanitary convenience, is a punishable offence. But as it is rightly said no law works in vacuum there should be a strong desire to implement the same.

#### d) **Job Security and Access to Basic Amenities**

There are various things a person needs in life to lead it in a better way. This includes the livelihood, basic amenities, dignity, a positive environment to flourish etc. *Dalits* in India are not debarred from getting any job but working in an environment which is not friendly, is a difficult task. As many as 17 *Dalit Panchayat* presidents in Madurai district admit that caste based discrimination, including the 'two tumbler' system, still exists in their village. A few of them even allege that the vice-presidents, mostly Hindus by caste, occupy chairs at official meetings while they sit on the floor as 'mute spectators'.<sup>14</sup> On the same line there are plenty of cases where students in Government schools refused to eat the food cooked by *Dalits*.<sup>15</sup>

This kind of discrimination also persists when it comes to the sharing of common resources like

water. At some occasions discrimination is done on the ground of caste only and in some cases it is done in the guise of caste to take revenge or to pressurise the other party. In one such case a lady who was using the common tubewell since very long time was denied access to it after she filed a complaint against two youths for assaulting her.<sup>16</sup>

Apart from denying them (*Dalits*) access to water, upper castes also do not let them create their own sources. 48 year old Madhukar Ghatge was allegedly trashed to death on April 27, 2007 by a group of upper caste men Kulakjai village in Maharashtra. All this happened because Ghatge dared to make a well in his own premises. He had also promised to share the water with others. Ghatge's son has not lost hopes and is determined to complete the task of his father.<sup>17</sup>

### **2. Awareness among Dalits**

Though the problems of *Dalits* are multiple in nature, but that does not mean that they have surrendered or they have chosen to remain a mute spectator. In the recent past the oppressed communities have given the sign of increasing awareness among themselves. They not only recognize their rights but also know the way to avail them. When *Dalits* were not allowed to pray in Jagannath temple they threatened the upper caste to change their religion if they were not allowed to worship.

In their fight to justice *Dalits* also get support from various organisations dedicated to the protection of human rights. In Rajasthan, when Government sought to amend section 42 of the Tenancy Act, 1955 which says that a land belonging to SC/ST can be sold, gifted and transferred to the SC/ST only, various organisations including PUCL came in support of *Dalits* on this issue.<sup>18</sup> They also have enough opportunity to reach power houses. In UP be it

opposition or the ruling party *Dalits* are safe because both the Mayawati Government and Mulayam Singh Government are said to be hard core *Dalit* supporters.

One very good sign is that now *Dalits* do not wait for others to come forward for them; they themselves are sufficient to make their position strong in society. In one such attempt in Thadi village, (Dumka), they withdrew their children from government schools as a protest following the discriminative behaviour of teachers. Now they have set up their own school with community help.<sup>19</sup>

In yet another case about 50 *Dalits* caste their vote for the first time in Balia district last year. Since very long these people were been harassed by the dominant Rajput caste, but in the year 2007 it was ensured that these citizens of India do exercise their Right to vote.<sup>20</sup>

### **3. Government Measures Taken for *Dalits***

In India since independence government has remained quite conscious about *Dalit* issues while drafting any policy; though the effective implementation of the same is a moot question. On various occasions Government comes up with new policies for *Dalits*. In an effort to check the progress of *Dalits* in recent years, last year the department of Personnel and Training sent a note to all heads of departments, public sector bank and financial institutions, Quasi Government organisations asking them to make the selection panel more representative.<sup>21</sup>

In yet another attempt, the Union Cabinet on 15<sup>th</sup> of June 2007, approved setting up of a university exclusively for promoting avenues for higher education and research facilities for the tribal population in the Country. Christened the Indira Gandhi National Tribal University, the

institution will seek to promote studies and research in Tribal art, culture, tradition, language, custom, medicinal system, forest based economic activities etc.<sup>22</sup>

In order to make good the loss suffered by the Tribals in India since very long, the Government proposed 'The Scheduled Tribes and other Traditional Forest Dwellers (recognition of forest rights) Rules, 2007. The Act allows Tribals to get possession of land from where they were evicted without due process of law.<sup>23</sup>

Apart from Central Government, state governments are also taking measures for strengthening the situation of *Dalits*. In UP the Government is engaging the private coaching institutions to help students from the SC/ST and minority community to clear competitive exams for the civil services and professional courses like engineering and medicine.<sup>24</sup> These facts clearly show that Government does not hesitate in taking action but it suffers from poor implementation.

### **4. Reservation Policy and the Future of Indian *Dalits***

In France PEA (Priority Education Agreements) programme is slowly and gradually getting popular. This programme is for those who want to get educated but do not have proper financial support for it. This is a kind of affirmative action taken by the state where a poor student gets financial help to continue his or her studies.<sup>25</sup>

This kind of affirmative action is not new in India. Reservation policy as a mode of affirmative action is often considered to be the greatest move for the upliftment of oppressed in India. This not only ensures their well being but also proves to be very helpful in the long run. With the passing of each day the importance of this policy has been increasing. A steep rise has also been noted in the quantum of reservation. Last year the Central Government proposed

27% quota for OBCs in the various educational courses including medical. Not only in education but in job opportunities also the reservation is given quite generously.

Though these affirmative actions are necessary for the oppressed but in the guise of these affirmative actions various other ambitions are satisfied. Initially reservation was given to the "socially and economically backward caste" but now it has become a caste politics. Taking advantage of the reservation policy some states have come up with drastic legislations. In one such attempt the Government of Tamil Nadu passed a legislation known as 'The Tamil Nadu backward classes, Scheduled castes, Scheduled Tribes (reservation of seats in educational institutions and of appointments or posts in the services under the state) Act, 1993. By this legislation Government provided 69% reservation for lower castes in various fields. And since the Act was put in the 9<sup>th</sup> Schedule it was beyond the purview of judicial review. Only recently it has been held that the Act is not beyond the purview of judicial review.<sup>26</sup> Not only in Tamil Nadu but in other states like Orissa, and Karnataka similar laws have been passed.<sup>27</sup>

Apart from states misusing the provisions of reservation for their political ambitions some castes in society have also misused it. Last years Gujjars launched a huge campaign for their inclusion in Scheduled Tribes category in Rajasthan in spite of the fact that in Rajasthan Gujjars are very well placed. They argued that in J&K and Himachal, Gujjars have STs Status and same should be provided in Rajasthan also. Following the huge demand Government constituted Justice Chopra committee and sent its report to the centre for considering the claim of Gujjars. The Gujjar incident proved very emphatically

that in India any community with good lobbying can demand for its inclusion in SC/ST or OBC category. Gujjars, Jats, Meenas are well placed in Rajasthan still they are categorised under the SC/ST and OBC category.

Last year when the Government decided to impose 27% quota for OBC in the higher studies, the Government came forward with the half work done. Government forgot to collect the exact percentage of OBCs in society. Government wanted to implement the reservation on the basis of 1931 census as a result the Supreme Court of India put a stay on the decision till the exact percentage of OBCs in the society, is ascertained.<sup>28</sup>

In spite of the flaws in the proposed 27% quota in higher studies various universities like Symbiosis had opened their gates for the OBCs but later on the Supreme Court put a stay on their move, till the pending of the decision. Thus the reservation policy itself is not defective but the manner in which it is implemented is definitely raises some serious doubts. Every community wants to be categorised as ST/SC and OBC because of the facilities and unrealistic reservations in education and job opportunities, but in the long term these things will definitely harm the future of Indian *Dalits*. Reservation policies are not drafted to give the *Dalits* a strong structure to develop them. Instead of becoming self reliant they are arguing for more reservations. All this leads towards even stronger opposition from the upper castes. And thus the gap between the have and have nots is becoming wider.

Current reservation policy is not bringing any change in the attitude of upper castes towards the lower caste. This would be pernicious when there is no more scope of reservation. The Government is providing extra consideration but is not taking

steps to make them strong enough to move without reservation. Thus the whole emphasis is on legislation but the basic requirement is creating awareness in both the upper caste and the *Dalits*.

### Conclusion

Even after the independence we have remained the slave of caste evils. There is only a slight difference in the general attitude towards the oppressed. Still they are subjected to torture but now they are well aware of their rights and they do understand the meaning of having equal status, equal opportunity to justice and enjoying equal respect from the upper community etc.

Though a lot of work has been done to ameliorate the situation of *Dalits* by the Government, they still need clutches of reservation to move. In short we have succeeded in providing equal opportunity to *Dalits* but at the same time we have failed miserably to make them enough strong to leave those clutches of reservation. Caste politics has swallowed all the bonafide intentions of our Constitution makers.

By legislation no respect can be bargained only the social will can change the mind set of the society. In conclusion it could be said that the real issues are never been identified and only temporary measures have been adopted to ameliorate the condition of *Dalits* who need more than temporary solutions to their problem. Thus apart from reservation, attempts should be made to bring social transformation.

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\* An LL. M student of National Law School of India University, Bangalore, worked as an intern in the National office PUCL, Delhi.

<sup>1</sup> '15 of 17 killed were *Dalits*, says NGO team', *The Indian Express*, January 20, 2007

<sup>2</sup> 'Upper caste ransack *Dalits*' house in Karnal', *Hindustan Times*, March 2, 2007

<sup>3</sup> 'A system against *Dalit*', *The Hindu*, March 14, 2007

<sup>4</sup> 'Harassed by cops, *Dalit* family ends life', *The Indian Express*, June 9, 2007

<sup>5</sup> 'Lawyers tonsure, beat up *Dalit* youth in Court', *Hindustan Times*, May 31, 2007

<sup>6</sup> 'Lawyers' licenses suspended', *The Hindu*, August 28, 2007

<sup>7</sup> 'A "reign of terror" in Rajasthan', *The Hindu*, July 12, 2007

<sup>8</sup> 'The Caste System - India's Apartheid?', *The Hindu*, August 18, 2007

<sup>9</sup> 'SC/ST hostels being used by cops, Pvt. Institutions: CAG Report', *Hindustan Times*, August 25, 2007

<sup>10</sup> *Ibid*

<sup>11</sup> *Hindustan Times*, January 6, 2007

<sup>12</sup> 'Orissa a temple row ends', *Hindustan Times*, January 29, 2007

<sup>13</sup> 'Adivasis relent; Rajasthan Town peaceful', *The Hindu*, February 10, 2007

<sup>14</sup> 'caste biased unchecked here', *The Hindu*, April 16, 2007

<sup>15</sup> 'Students denied mid-day meal cooked by *Dalits*', *Metro Now*, August 13, 2007

<sup>16</sup> 'SC family in Orissa denied water access', *Hindustan Times*, July 2, 2007

<sup>17</sup> '*Dalit* death: son to finish work on well', *Hindustan Times*, May 7, 2007

<sup>18</sup> 'Rights group allege bid to rob *Dalits* of land', *The Hindu*, June 26, 2007

<sup>19</sup> 'Discriminated *Dalits* set up own school', *Hindustan Times*, June 11, 2007

<sup>20</sup> '*Dalit* villagers caste votes for first time', *The Indian Express*, May 9, 2007

<sup>21</sup> 'Need to report on minority hiring, all central departments are told', *The Indian Express*, February 10, 2007

<sup>22</sup> 'Cabinet nod for Tribal University', *The Hindu*, June 16, 2007

<sup>23</sup> 'Govt. to give land rights to Tribals', *Hindustan Times*, July 9, 2007

<sup>24</sup> 'UP will help SCs/STs crack job exams', *The Indian Express*, August 17, 2007

<sup>25</sup> 'A French experiment in affirmative action', *The Hindu*, February 3, 2007

<sup>26</sup> *The Indian Express*, January 12, 2007

<sup>27</sup> 'Quota law in Orissa', *Hindustan Times*, March 8, 2007

<sup>28</sup> 'What is the hurry, find out how many OBCs/SCs', *The Indian Express*, March 8, 2007

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## Press Release National PUCL:

### Eve of Completion of One Year of the Arrest of Binayak Sen

- *Release of Dr Binayak Sen and Ajay TG (Unconditionally)*

- *Repeal Chattisgarh Public Security Act, 2005*

- *Distinguish between civil liberties activity and extremist activity*

- *Withdrawal of Salwa Judum*

The PUCL, Vice President, Dr Binayak Sen, was arrested on 14<sup>th</sup> May, 2007 by the Chattisgarh police under trumped up charges of Waging War Against State, Conspiracy, Sedition and under sections of the two draconian laws called the Chattisgarh Public Security Act, 2005 and the Unlawful Activities (Prevention) Act, 1967 (amended 2004) for assisting banned organisations. As hundreds of people take to the streets in protest across the globe on 14 May, 2008 marking the first anniversary of the arrest of well-known health and human rights activist Dr Binayak Sen, the *People's Union for Civil Liberties* (PUCL) calls for his unconditional release by the Chattisgarh Government

Apart from cities and villages in the State of Chattisgarh like Raipur, Bilaspur, Bagrumala, Delli Rajhara where such protests have already begun, people are also planning to mobilise in New Delhi, Chennai, Bangalore, Kolkata, Jaipur, Coimbatore, Pune, Indore, Bhubaneshwar and Mumbai in India. Protests are also planned in ten North American and three European cities including New York, Vancouver, London, Paris and Stockholm. Most of these peaceful protests, organised by members of the Indian diaspora along with global activist groups, will be staged outside Indian embassies and consulates in these cities.

Modes of protest include staging demonstrations, holding vigils, medical camps and even prayers by concerned people for

Dr Sen's well-being. A claim there is little evidence to back up with.

"This is a truly remarkable outpouring of support for Dr Sen across the world and both the Chattisgarh and Indian government must pay heed to the widespread belief that an innocent man is being victimized for his human rights work" said Justice Rajindar Sachar, noted jurist and former President of PUCL addressing the media in Delhi. At the time of his arrest Dr Sen was the National Vice-President of PUCL and its General Secretary in Chattisgarh.

Appeals for Dr Sen's release have been pouring in from various quarters, the latest being an unprecedented move by 22 Nobel Laureates in Science and Economics writing to the President, Prime Minister, and other officials requesting he be allowed to go to Washington on 29 May to receive the 2008 Jonathan Mann Award. Dr Sen is the first south Asian to be nominated for the prestigious award given by the Global Health Council, the world's largest membership alliance of public health organizations and professionals.

Former President of the PUCL, Justice Rajindar Sachar, reiterated the PUCL position and called for the repealing of the Chattisgarh Special Public Security Act, 2005 (*Chattisgarh Vishesh Jan Suraksha Adhiniyam, 2005*) under which more than 35 people had been arrested. He said that such draconian laws, including also the Unlawful Activities (Prevention) Act, 1967 amended 2004, have no place in a democratic country.

Justice Sachar also raised the issue of how the State has been identifying civil liberties activities as extremist activity. This being the case, how would one defend human rights? (How would one prove that human rights activity

has nothing to do with extremist activities and that talking to an extremist is not offence? He also asked should a human rights activist be implicated in the crime if he condemns human rights violations in the process of containing Maoists and other extremists or against apprehended Maoists or against the tribals and the poor who are suspected to be sheltering Maoists.) Should human rights activists not raise their voice against misuse of the powers of search and seizure in the process of pre-emptive raids of the habitats of tribals and other poor people?

What are the guarantees available to the Citizens and groups and organizations that they will not be harassed in their human rights work? He also referred to the "Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to promote and protect Universally Recognised Human Rights and Fundamental Freedoms, 1998 of which the Indian Government is a signatory to the Covenant, which has for some time enjoyed the status of customary law and now has statutory recognition. He demanded the implementation of this Covenant in order to enforce the rights enshrined for the protection of Human Rights Defenders. He also stated that the NHRC must deliberate on this and ensure that Governments don't violate the rights of the civil liberty activists. The letter written to the NHRC by the national PUCL President was mentioned.

"Binayak's arrest, under the charge of helping the Maoists', is a clear case of how guilt is sought to be established against human rights activists, health workers and journalists merely by their association with certain people in the course of their professional duties," said Dr Iliana Sen, wife of Dr Binayak Sen and herself a well-

know scholar of gender studies and a State Executive member of the PUCL in Chattisgarh. She also stated that Binayak faced the ire of the Chattisgarh Government as he had exposed the ugly reality of *Salwa Judum* where tribals were being armed to kill other tribals. He had also been very critical of the forced evacuation of the villagers from their homes to camps. Today the PUCL Chattisgarh stand has been vindicated by both the Supreme Court of India and the Planning Commission. The Supreme Court on the 16th of April, 2008 ordered that the NHRC independently examine the allegations of violations of both the *Salwa Judum* and the *Naxalites*.

She also stated that in the latest Report of an Expert Group to Planning Commission, Government of India, titled the "Development Challenges in Extremist Affected Areas", has stated that "The strategy of security forces to curb violence has also encouraged formation of tribal squads to fight *naxalites*, with a view to reducing the security force's own task and risk. This has promoted a fratricidal war in which tribals face the brunt of mortality and injury. Those tribals who are unattached to either the *naxalites* or those opposing them, become victims of violence by all agencies - *Naxalites*, squads formed to fight them and the security forces. This approach to the movement is devastating the local tribals and causing hopelessness and despair. A change in policy perspective and strategy to deal with the movement is essential to create a positive image of the Government in the local people, remove their sense of alienation and wean them away from its influence.

"Encouragement of vigilante groups such as *Salwa Judum* and herding of hapless tribals in makeshift camps with dismal living conditions, removed from their habitat and deprived of livelihood

as a strategy to counter the influence of the radical left is not desirable. It delegitimizes politics, dehumanizes people, degenerates those engaged in their 'security', and above all represents abdication of the State itself. It should be undone immediately and be replaced by a strategy which positions an empowered task force of specially picked up responsive officials to execute all protection and development programmes for their benefit and redress people's grievances. This is the best strategy to eliminate the influence of radical left groups. "

Now that Binayak's position had been vindicated, not only should he be released immediately but also the State of Chattisgarh should take cognisance of the Planning Commission Report and stop the gross violations of Human Rights of the tribal people, she said.

Speaking on the occasions, PUCL National Secretary Kavita Srivastava said that the Arrest of Durg based Ajay TG, an independent filmmaker and an executive committee member of the Chattisgarh PUCL, under the Chattisgarh Public Security Act, is a sign of desperation on part of the Chattisgarh government to divert attention from its inability to back up its charges against Dr Sen with solid evidence and its effort to finish PUCL in Chattisgarh.

In a letter written to the Prime Minister Dr Manmohan Singh soon after the arrest of Ajay TG the national president of the PUCL K G Kannabiran has called upon him to issue clear instructions to the law enforcing agencies in the country to 'learn to distinguish between human rights activity and extremist activity'. He further said that if the government was interested in containing the Maoist or *Naxalite* movement it should resort to sane and civilized methods of governance, uphold human rights and ensure social, economic, and political justice.

The PUCL has called upon people from all walks of life to join the global day of protest against Dr Sen's unjust detention on 14 May and resist the silent emergency being imposed upon the country. – **Justice Rajindar Sachar** (Former President, PUCL); **Ms Iina Sen** (State Executive Member, Chhattisgarh PUCL); **Ms Kavita Srivastava** (National Secretary, PUCL), 13 May 2008 □

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(from page 2..) and suggesting possibly five or ten years'. With respect it seems to me that this direction is hasty, considering that the directive of Article 45 of the Constitution (now made a Fundamental Right) that the State shall provide free and compulsory education until the age of 14 years remains woefully a distant dream, coupled with the fact that according to Census of 2001, national literacy (which in reality only means writing your name) is 65%.

Bhandari J. suggestion that legislators should be outside the ambit of reservation is sound both in principle and equity. Legislators who proclaim their first loyalty to the common man must show their genuineness by making this voluntary gesture – as it is they are certainly for above the limit of social/economic backwardness.

Another fear expressed is that if creamy layer is excluded the quota for OBC will remain unfilled. I would therefore suggest that if after filling up from non creamy OBC, any seats left out should be filled up from economically weak and backward non creamy segment of non OBC. If still quota remains unfilled, those vacancies could be filled up by creamy layer of OBC, but not otherwise.

The Court has rightly not given any direction regarding Minority Institutions. But does not equity demand that these institutions on their own provide proportionate quota for non creamy OBC amongst its own Minority on the same terms as for non Minority institutions. – **Rajindar Sachar**, New Delhi, 21.4.2008 □

## Kannabiran Writes to PM on T G Ajay

To  
Mr Manmohan Singh  
Hon'ble Prime Minister of India  
New Delhi

Dear Mr Manmohan Singh,

The State of Chattisgarh and the Central Government appear to be having a common strategy in the state for containing the spread of Maoist movement and seem to have suspended all human rights enlisted in the various International Covenants to which your Government was a party. The strategy your governments have adopted under the caption *Salwa Judum* the Chief Justice described as abetting murder. He would have been much nearer the point if he had described it as organizing murder. Contrary to the assurances extended from time and in gross violation of International Covenant on Civil and Political Rights and other Covenants securing liberty and Right to life and 1998 Declaration of the Rights of Human Rights defenders your Governments have arrested our elected General Secretary of the Chattisgarh branch without any rhyme or reason. I have about his arrest written a detailed letter recently. Again you have arrested T. G. Ajay a young man again without any rhyme or reason. Your Government has the record of arresting and/or eliminating human rights activists and defenders. In my State they the police were eliminating human rights activists quite brazenly and globalization came into full swing the Government privatized the killing and entrusted the task of killing to accused who is being tried for killing a police officer. This hiring killer escaped during the trial from the court trying the case and he is roaming around Scot free. The same tale of killing and torture is now replayed in Chattisgarh. Now they have arrested a member of the state committee of PUCL. The facts are set out below. .

Ajay T G was working with Professor Jonathan Parry who is a world renowned social anthropologist at London School of Economics and Political Science, and who was being assisted in his research on industrialization in Bhilai. Since then Ajay has been working with Murli Nataraj as his research assistant (during his doctoral research work conducted in Durg/ Rajnandgaon/ Raipur on traditional artisans) too. After his research period ended in 1996, he has been in touch with the researcher Murli and latter assures us he has continued to remain part of his work. Says Murli, "Ajay is extremely good at qualitative and quantitative research such as doing interviews, conducting surveys, generating kinship charts and aiding in all kinds of translations from Hindi and Chhattisgarhi. In September 2005 Ajay started an organization that I helped him set up that is now registered since January 2006 as *Drksakshi* which is primarily designed to provide a dignified educational environment for young girls from extremely impoverished families who live in an urban slum in Bhilai, and which also provides a nutritious mid-day meal for 25 girls currently". Ajay has been the Director (very irregularly paid) of this organization which also works on generating a livelihood for the older students. Over a period of barely 2 years, Ajay has almost single handedly changed the complexion of this slum (approx. 150 households) by winning the trust of the residents who now are willing to send their girls to school regularly. By providing the nutritious meal and regular health check-ups, Ajay and his small team at *Drksakshi* have given back some dignity and positive vision to all the children.

Sir, this is the record of the person who has been detained. He is of course a member of the PUCL and that I understand from

the Schedule to the Unlawful Activities (Prevention) Act 1967 as amended by the Amending Act 2004. Your Governments by these methods are in fact enlarging the constituency of the sympathizers of these movements. I see clearly the repetition of the Andhra Experience. If your Chief Minister prides on his suppression of the Maoist movement he is mistaken and if you believe him the top leadership in your party has no political sense. It is only after the failure of talks that *Naxalites* transformed into Maoists and expanded to areas in the north and south. Their presence was not so visible when they were *Naxalites*. If your Government wants to contain this movement you have to retrace your steps to sanity and civilized methods of governance. That should be the first step. Secondly the human rights component (which is next to nothing now) in governance should be 100% and that is not negotiable. Thirdly there is a Part in the Constitution which sets down your Fundamental Obligations. After Independence and the Constitution coming into being there appears to be no tradition or convention of submitting a Report to the Parliament the progress made year after year on the extent of enforcement of these obligations. If, Sir, personally you wish leave a better India before you demit your office you will have to work out and enforce these obligations. The first of the Governments obligations is to ensure that justice social, economic, and political shall inform all your institutions of governance and among this political justice is the most important. That is what has been absent through out in Chattisgarh as well. The needless arrest of now T G Ajay, the second of the human rights activist in that area is an issue of political justice. I do call upon you, as the political head of the Indian State, to issue clear instructions to the law

enforcing agencies in the country to learn to distinguish between *human rights activity* and *extremist activity*. Sir, it is in the process of crime detection and intelligence gathering, investigation and apprehension of the accused that human rights violations take place. The offender may be held in illegal custody for long periods, which the Constitution does not permit, subjected to torture, may be coerced to confess or the accused may be coerced to confess planted recoveries. These are the areas in which the Human Rights activists operate. And when we operate in these areas your law enforcing agencies see us as an impediment

to be put out of the way, which they have no right or authority to do. It is this failure to issue clear guidelines in terms of human rights and the various Covenants that is causing great political injustice to many. With a view to silence criticism and produce results (it is the productivity ethic that governs) that police very often end up framing persons on suspicion. When the Government employs the police to control political dissent you are training the police force into a political force. Sir, I have been functioning in this State for over five decades against this ideologically trained police force. When Hindu Communalism came

to the fore they bared their anti-minority claws and fangs. You had occasion to witness this grand display in Delhi, Mumbai, and Gujarat. You are witnessing their vindictiveness as against left extremist politics as well.

Sir, Ajay is young, and is self educated person with a concern for human rights and you may call for the records of the case and examine his matter and avoid prolonged incarceration and trial. We are requesting you to do what is right. We are not asking for compassion. We are asking you to respect his right as a citizen. Yours truly. – **K G Kannabiran**, 5 May 2008 □

## Kannabiran's Letter on Binayak Sen

To  
Justice Sri Rajendra Babu and  
his Colleagues in the NHRC  
National Human Rights  
Commission

Faridkot House, Copernicus  
Marg, Delhi

Respected Sirs,

This petition is presented to you by Peoples Union for Civil Liberties, an organization founded by late Sri Jayaprakash Narayan having its office at 81 Sahayoga Apartments, Delhi and is represented by its National President K G Kannabiran, Senior Advocate, residing at Hyderabad, Andhra Pradesh. This Petition is concerned with arrest and prosecution of our General Secretary of our Chattisgarh branch, for being a committed human rights activist. By Profession he is a doctor with a distinguished academic record and a dedication to serve the rural poor and tribes in Chattisgarh. He passed out of the Vellore Medical College and has been practicing in Chhattisgarh for around twenty five years. He was part of a team led by late Shankar Guha Niyogi who was killed for his unrelenting work for the unrecognized workers of the Chattisgarh Area. Dr Binayak Sen along with other trade union

leaders and human rights activists of that area established a workers' hospital at Dalli-Rajhara and for all the "bare footed doctors" in that area. There are very few of them recognizing the poor as a person treats them. He was supplying to the ailing poor what is not available to in the public health system — humanity and human dignity. Chattisgarh has come to the limelight after the *Salwa Judum* episode. There is a Maoist Movement in that area and that movement believes in overthrowing the exploitative order which is dominating every aspect of the country's life. Such movements arise because there has been no constitutional governance in the country. Formal structures listed in the Constitution are there but they have nothing to do with equality, justice in all its facets, with no possibility of social transformation leading to the improvement of the living conditions of 80% of the population. The growth rate advertised has nothing to do with the living conditions of the poor. Under these conditions movements of varied sorts arise. The Communist parties are very much present and those that are not willing to come to an

arrangement are also there. The state treats this as law and order problem and entrusts it to the police and its intelligence wing and have sanctioned them enormous impunity. Impunity can only be defined as total immunity for all the violent deeds. *Salwa Judum* is a logical consequence of the grant of impunity to the law enforcing agencies. Unfortunately Andhra Police has become the Role Model for the centre and other States wherever left extremist politics is present. We are raising the issue of containing and eliminating impunity in the field of governance. This Hon'ble Commission alone is competent to take up this issue. To Focus the Problem we are bringing to your kind attention the case of Binayak Sen.

Sirs, As you are aware, human rights issue in the country came to the fore during the 1975 Emergency. Past sins of governance were brought out post Emergency. There was tremendous magnitude of Human Rights violations. Arun Shourie, who was then with us, was a great campaigner for human rights. From then on human rights groups have been working in the human rights field. The embarrassing record of human rights violations

led the Government of India to undertake to create an independent human rights commission to look into the human rights violations. A human Rights Commission was set up under the Protection of Human Rights Act 1993. The Commission's first Chair Person enquired into some of the encounters in Andhra. The commission held its Sittings in Hyderabad. When the Commission held its sitting in Warrangal and Nalgonda, Balagopal and the undersigned were beaten up in his presence. Such was the welcome to the Chairperson. We were branded as front men of *Naxalites*. From 1968 this left extremist movement was present in the state in which I live. Some eminent concerned Citizens requested the under signed to join them and after hectic effort we succeeded in bringing about peace talks and that talk lasted for a week and they decide to meet again. While the peace talks were going on the Police mapped out their hideouts and later broke the possibility of peace talks and resumed their physical liquidation.

Sirs, the question is if the State identifies civil liberties activities as extremist activity how would one enforce human rights? The centre signs the Covenant, which has for some time enjoyed the status of customary law and now has statutory recognition, how is one to enforce them. Sirs, human rights and criminal justice are intertwined how does one effectively bring about integration between the two? None of the judges, to my knowledge, perceived this problem by deliberating on this issue. It is in the process of crime detection, investigation and apprehension and production of the accused that human rights violation take place. Should a human rights activist intervene, he is implicated and jailed. How does this Commission

### **Arrest of Defenders of Human Rights:**

set up for guaranteeing the human rights discharge its obligations? How does this Commission ensure that the International Covenants which are now statutory are respected and by what principles it is to be integrated with the criminal justice system? We are not interrogating you. We are fully aware of the difficulties to unload a lot of baggage inherited from our indigenous authoritarian tradition and the colonial legacy we have been faithfully carrying. This Commission is not intended to carry this baggage. It is only on account of this we are raising these issues.

We are enclosing the Charges framed but we have copied the first charge to understand the difficulties faced by us:

"1. On 06.05.2007 or before it, you along with accused Narayan Sanyal and Piyush Guha, hatched a conspiracy at Railway Station Road, Raipur, Chhattisgarh or Central Jail, Raipur, Chhattisgarh or Central Jail, Bilaspur, Chhattisgarh or Katora Talab, Raipur, Chhattisgarh or Hotel Geetanjali, Raipur for war against the Government of India or State Government or making an attempt of war or made abetment for war, which is punishable under section 121 (a) of Indian Penal Code and cognizable under the jurisdiction of this Court."

This is an unofficial translation of the charge. We will our unit at Chattisgarh to place before the Commission the Hindi version of the records.

How does one prove that his activity has nothing to do with the extremist crime and talking to an extremist is not offence?

Should a human rights Activist be implicated in the crime if he condemns human rights violations in the process of containing Maoists or against apprehended

Maoists or against the tribes and the poor who are suspected to be sheltering Maoists or as pre-emptive measure raid their habitats misusing the powers of search and seizure?

What are the guarantees available to the Citizens and groups and organizations they will not be harassed in their human rights work? We would refer you to the "Declaration on Right and Responsibility of individuals, Groups and Organs of Society to promote and protect Universally Recognised Human Rights and Fundamental Freedoms, 1998. which is linked to separation of powers.

This requires, we believe, an authoritative conceptualization of this Hon'ble Commission. And the issue raised by us is of considerable public importance and we do hope a well deliberated Report from this Commission will bring about the necessary changes in law, justice, and administrative decisions.

The Commission may communicate with our General Secretary at 81 Sahayoga Apartments Mayur Vihar, Phase I, Delhi and our Vice President Ravi Kiran Jain, Senior Advocate based at Allahabad, who will appear before you whether for clarification and if you require argue the matter. This petition may be expeditiously disposed of. I may not be able to attend as I have spent more than fifty five years in the profession and have become a tottering old man. Thanking you. – **K G Kannabiran**, 1 May 2008 ☐

(from page 1...) Chhattisgarh Mukti Morcha, Kavita Srivastava, Secretary, National PUCL & General Secretary, Rajasthan PUCL, Ms Shahana, PUDR, New Delhi, Sidhdhartha Narain & Usha from Alternative Law Forum, Bangalore, Com Sheikh Ansar, Vice-President, CMM, Rajendra K Sail, President, CG PUCL, Dr Ilina Sen, Adv Sadiq Ali, Ajay T G -- all members of CG PUCL. – **Rajendra K Sail**, President, Chhattisgarh PUCL, Raipur, 30.4.2008 ☐

# Illegal Detention of Ajay T G, Member, State Executive, Chhattisgarh

Dear Friends,

Greetings from Chhattisgarh PUCL!

This is specially written for three reasons:

The State Police and a section of Media in Chhattisgarh is deliberately indulging in “vilification” campaign and spreading “falsehoods” against Ajay T G (Member, State Executive Committee, Chhattisgarh PUCL). Remember, they had done the same immediately after the illegal detention of Dr Binayak Sen, General Secretary, Chhattisgarh PUCL.

The Police briefings in the Police Control Room every evening during that particular period carried out a systematic campaign spreading falsehoods about Dr Ilina Sen, Member, SEC, CG-PUCL (and wife of Dr Binayak Sen), to the extent of providing insinuations that Dr Ilina Sen herself was “neck-deep involved with the Naxalites” and that “police had enough evidence to arrest her”, but they were “not doing so because they cared about the family”.

When Dr Ilina Sen, filed an application for “Anticipatory Bail” in the District Judge, Raipur, the State filed an affidavit that they had no case whatsoever against Dr Ilina Sen, and they did not want her in any matter. Thus, the application for anticipatory bail was not taken up.

1. The similar pattern is now being followed by the State Police with a section of the Media obliging them without any concern for the professional ethics of journalism. So much so that the “version” and “denials” issued by the PUCL are not published in a section of the Media.

2. The Media in Chhattisgarh (especially the capital city of Raipur) has taken a position that

Mr Ajay T G is a “fake media person” and that he has no credentials whatsoever as a “journalist” or “film-maker”. That the Media in Chhattisgarh hardly knows about Mr Ajay T G. This is not the first time that a section of the Media has taken such a position with regard to some of the journalists/media persons who do not chose to toe the official/establishment line. Cases of police harassment of “media persons” is not highlighted or defended by the “mainstream media”, if I may be permitted to use this term for limited use of this letter!!

3. I strongly believe that a time has come when we must counter the “vilification” campaign and spreading of “falsehoods” both by the police and a section of the press. The PUCL is being “branded” and the BJP Government is, to a great extent, succeeding in managing media to serve their draconian designs (fascist agenda).

## **Well, the Real Story is about How the Police Manages Media!**

Let me give you a concrete example!

On 24th May, 2007, I was arrested by the Chhattisgarh Police in the evening when I was returning from a day-long Dharna protesting against the illegal detention of Dr Binayak Sen, General Secretary, CG PUCL. The police conveniently used a warrant issued by the MP High Court at Jabalpur in a two years old case of Supreme Court ordering 7 days simple imprisonment in the Contempt of Court Case (related to my comments on the MP High Court judgment in the Shaheed Niyogi Murder Case, when it had acquitted all the accused in June 1998). Even the warrant was dated February 2007, but the Chhattisgarh police found it politically beneficial to serve the

same on me almost three months later, while it was all this while lying on the table of the Superintendent of Police, Raipur.

When I was being taken from Raipur to Jabalpur (some 300 Kms away) by road in the night of 24th May, 2007, and the police officials escorting me had asked me to go to sleep in the back seat of a luxury car in which I was being taken to Jabalpur, I heard very interesting conversation being made on phone!

One of the police officials was talking to some media person on his Mobile: *Kyaa Heading Lagaa Rahe ho? Aare Sayal Saheb ke liye kyaa heading lagaa rahe ho?* (What is the heading you are using? Oh! for Mr Sail what heading are you selecting?)

He called about half-a-dozen newspapers around 10:00 pm, while I kept listening to this interesting conversation lying down in the back seat of the car.

The manner of authority and confidence with which this police official addressed these media persons (obviously the newspaper people), it was crystal clear that they were hand-in-glove with each other.

It is now a common knowledge that a section of the Media only publishes the “police version” in such cases where not only the human rights and social activists are being illegally detained but also targeted to corrode their credibility. PUCL is definitely on the BJP Government’s anvil!

Against the backdrop of these developments and facts, I am circulating two documents here related to Ajay T G.

1. Background information about his life and work. Please note that he has been associated with many prestigious and progressive organisations and committed to the cause of the

fundamental rights of the poor and oppressed;

2. His letter to me detailing how he was being harassed by the police.

I appeal to all to mobilize support for Ajay T G, especially from amongst the Media Persons, Film Makers, Intellectuals, Politicians etc., and send protest letters demanding his immediate release.

Please send your letters to:

1. Shri E S L Narsimhan, Governor, Raj Bhawan, Raipur, Chhattisgarh - 492001

2. Shri Raman Singh, Chief Minister Chhattisgarh, Sachivalaya, Dau Kalyan Bhawan, Raipur - 492001

3. Shri Ramvihar Netam, Home Minister-Chhattisgarh

Please mark a copy to us also for follow-up!

This comes with good wishes,  
In Solidarity,

Rajendra K Sail, President,  
Chhattisgarh PUCL

To:

Shri Rajendra Sail,  
President, Chhattisgarh PUCL  
Dear Shri Rajendra Sail,

As you kindly suggested on the 'phone, I am sending you herewith a short account of the seizure of my property by the police on 22nd January, 2008 from my residence at Pradeep Nivas, 48 Ayyappa Nagar, Bhilai. Though they have offered no evidence of any kind against me, the police and the courts have still not returned the items taken from my home on that date. Since this includes film equipment and other materials on which I rely for my work, I and my family are effectively deprived of our source of livelihood.

Briefly stated, the facts are as follows:

On 22nd January, 2008 I left my Ayyappa Nagar home early in the morning on my way to attend a PUCL meeting in Raipur. Half way there, I happened to phone my wife – alone in the house with our

small son – to find her in a state of considerable distress. A large party of armed police was in the house while others were surrounding the whole area. They demanded my immediate return. It later transpired that they not obtained a search warrant and that no women officers had accompanied the party, though my wife was required to remain in the house with them until my return.

The situation seemed sufficiently alarming for me to consider it prudent to inform a couple of lawyers involved in the PUCL movement (Adv. Sudha Bharadwaj and Adv K Bose Thomas) of these unaccountable developments. They insisted that they should accompany me back to Ayyappa Nagar, where we arrived at about 2.30pm. At that stage the police appeared unable (or were perhaps simply unwilling) to say in what connection this raid had been made. A little later, after the police had been in our house for perhaps five or six hours, we were informed that it was case number 14/08 under the Arms Act.

A thorough search of the house was then conducted, causing major disruption, but nothing incriminating was found. The police nevertheless insisted on taking away the computer on which I edit my films and do a lot of my other work, a monitor, my camera manuals and some other film equipment, master copies of many of my films, research notes, a collection of newspaper cuttings, papers and books, and a pile of receipts for small incidental research expenses (for which I am now unable to claim reimbursement since I cannot account for my outgoings).

At that time I was told that these items were being taken for inspection and that I would be able to reclaim them the next day. In the meantime I was interrogated about persons whom I learned to be part of the *Naxalite* movement – persons with whom I have never

had any connection and whose names I had not even heard until then. Nor have the police subsequently been able to produce a shred of evidence that I have ever been in contact with any of them.

After the raid on my house and lengthy interrogation in Supela Thana I returned home. At about 10.0pm that night, four policemen appeared at my door and demanded my signature on a document stating that I had willingly given them permission to search my house. I later learned that that morning, before coming to Ayyappa Nagar, a large party of police had raided the house of my elderly parents in Supela Purani Basti, as well as the nearby house of my sister – apparently under the misapprehension that they would find me there. Further, my sister's husband was taken to Supela Thana where he was kept for six or seven hours without any explanation being offered to him.

Over the two days immediately following the police raid, I was required to spend the whole day at Supela or Chhauni Thanas while CSP Rajnesh Singh read through all of my emails (about 400 of them) and examined other materials on the hard disk of my computer. For several subsequent days I was required to make myself available at the Thana for periods of several hours which the inspection continued. Nothing incriminating was found. I was nevertheless required to provide 108 specimen signatures in Hindi and a further 108 in English script, as well as a long sample of my handwriting.

I have made repeated requests for the return of my equipment to the police, who initially reassured me continually that I would get it back 'soon'. Subsequently, however, I was informed that it would only be handed back to me on the order of the court, and that the court could not rule on this until a charge sheet had been drawn up

against the defendants in some case with which I have absolutely no connection.

This charge sheet has subsequently been made available to me and my lawyer, and what it reveals is that:

- I am not an accused in any of the cases it frames
- Nor am I a witness in any of them
- Nor, further, am I or any of my seized possessions even mentioned on the charge sheet
- In the some 650 pages of documentation supplied, there is no reference to the raid on my house or to my seized property, and none of it is shown as such. Its present whereabouts is unknown

to me as it is not lodged with the court.

On 26<sup>th</sup> March, 2008 I applied to the court in which charges under case 14/08 are being preferred against others for the return of my property. The Honourable Judge refused this application on the ground that the Government lawyer had objected lest some information valuable to the prosecution case be yet obtained from it. Since the police have had access to this material for now more than two months, since it has been already extensively scrutinised by them, and since nothing of the slightest relevance to the charge sheets framed against others has been

discovered, it is extremely difficult to understand what justification the state has for retaining it.

In the meantime, and as I pointed out at the beginning of this letter, I and my family are deprived of our means of our livelihood. I naturally feel that a considerable injustice is being done to me – especially since I have absolutely no idea why the police should have raided my house in the first place and I have never been offered an explanation for their actions. Yours sincerely. – **Ajay T G**, Member, State Executive Committee, Chhattisgarh PUCL, Pradeep Nivas, 48 Ayyappa Nagar, Bhilai, Dist. Durg, CG ☐

## Protest in Chennai:

### Unconditionally Release Dr Binayak Sen

Dr Binayak Sen, an eminent pediatrician and human rights activist based in Chattisgarh was arrested on May 14th 2007. He was arrested under the draconian Chattisgarh Public Security Act (CPSA) and has been in jail since then.

After finishing his post graduation in pediatrics from Christian Medical College (CMC), Vellore he chose to work among the miners, *adivasis* and development displaced communities. He ran clinics in remote areas, helped establish hospitals for mine workers, trained health workers and did research on topics affecting the common man. His work led him naturally to confronting poverty, inequity, and injustice - the ultimate causes of all ill health. He thus took up the issues of the vulnerable and marginalized. He is a member of various groups / networks like the Medico Friends Circle (MFC), Jan Swasthya Abhiyan (JSA), National Alliance of Peoples Movement's (NAPM) and the People's Union for Civil Liberties (PUCL) of which he is the National Vice President.

For this work, on the one hand the nation and the world over have recognised him and honored him with awards including the Paul Harrison Award, The Kehitan Medal and the Jonathan Mann Award, on the other hand the BJP government in Chattisgarh has branded him a *naxalite*!!

His arrest is a reflection of the deteriorating human rights situation in the country and the rapidly shrinking space for raising issues and concerns of the common man.

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## Protests in Pune

Dear All,

More than a dozen organizations in Pune came together after the Ilina Sen lecture here on 19th March to form the Release Binayak Sen Committee Pune. On behalf of this committee the following programme is being organized on 14th May:

- A *dharna* from 4.30 to 6.30 pm at a prominent place on Jangli Maharaj Road, which is one of the

main roads in Pune. A *patrak* has been printed and will be distributed at the *Dharna*.

- A scene showing a prisoner (to be enacted by an activist) inside a prison (built around a hand driven card) will be in place. A couple of activists wearing prison clothes and chain around the body will also be there.

- A procession would be taken out from 6.30 pm towards the statue of Senapati Bapat, a freedom fighter.

- The programme would end with candle light vigilance of about 100 activists at 7.30 pm.

- About 100 signatures of prominent personalities in Pune from different walks of life, on a letter addressed to the President have been collected and more will be collected from ordinary people on 14th May.

Sincerely yours. – **Anant Phadke** and **Abhay Shukla** (On behalf of **Release Binayak Sen Committee**, Pune, Sathi-Cehat)

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## Protest in Kolkata

A convention demanding immediate release of Dr Binayak Sen will be held on May 14, 2008 at 5 p.m. at Medical College General Common Room, in the Administrative Block. The

convention is being organized jointly by Medical College Democratic Students' Association and Shramajibi Swasthya Udyog.

Anusuya Sen, Binayakda's mother, will attend the convention.

Health professionals and human rights activists are likely to attend the convention in large number.

I request MFC members of West Bengal to attend the convention. – **Punya Brata**

## Protest in Bangalore:

### Candle Light Vigil in Solidarity

In the post neo-liberal era of free market economy and globalization the onslaught on the human rights of all the marginalised and subaltern communities has increased. Corporate led globalization in connivance with the State has attacked the natural resources and habitats of the communities leading to the looting and plunder of the land, water, trees, forests, rivers, mountains, living space like slums and villages alike in the name of development. While on the one hand the atrocities by the State have continued on the people by using police force, on the other hand the human rights activists/defenders who have raised voice against these atrocities have also been targeted and intimidated systematically. Among many such human rights defenders languishing in jail under false charges and without any substantial evidence and scope for fair trial is Dr Binayak Sen of Chattisgarh.

Dr Binayak Sen, paediatrician, public health professional and civil liberties activist (PUCL) has been in jail since his arrest on May 14, 2007. He was arrested under the draconian Chattisgarh Special Public Security Act 2005 (CSPSA) under false charges that he has waged war against the state and that he has supported Maoists.

#### Who is Dr Sen?

Dr Binayak Sen, alumnus of the Christian Medical College, Vellore, has devoted a lifetime to

the healthcare of the tribal population of Chhattisgarh. Along with the legendary trade union leader Shankar Guha Niyogi, he founded the Shaheed Hospital in the mining town of Dalli Rajhara, an institution that till today continues to provide accessible and rational health care to the people in general and to mine workers in particular. For the last fifteen years, Dr Sen has worked in remote tribal areas treating those afflicted with chronic malnutrition, endemic malaria and other infectious diseases. He has contributed immensely to the public health field in Chattisgarh. He has also worked on issues of food and livelihood security, and has been the general Secretary of the State Unit of the Peoples' Union for Civil Liberties (PUCL), as well as the National Vice President of the organization. In this latter capacity he has been a vociferous critic of police excesses carried out by an unaccountable state, and of the state sponsored '*Salwa Judum*' in Chhattisgarh (a group of youth who are illegally provided arms by the state in the name of self-defence from the *naxalites*) that has led to near civil war conditions in large parts of southern Chhattisgarh. Along with *Salwa Judum* the government has burnt *adviasi* villages and has ghettoed people in so called 'camps' in the pretext of protecting them from Maoists. Camps have been virtual prisons for tribals without any freedom to move out and have to live on the meager ration provided for them by the police. This has led to malnutrition and death especially among women and children.

Armed youth of the *Salwa Judum* have indiscriminately brutalized and killed adivasis saying they are supporters of Maoists. The only "crime" of Dr Sen is that he relentlessly exposed these atrocities!

Dr Sen has earlier received the Paul Harrison Award from his alma mater for his contributions to 'redefining health care in a broken society', and the RR Keithan Gold Medal from the Indian Academy of Social Sciences for 'a fresh and radical interpretation of Gandhiji's core concerns...' He has recently received the prestigious 2008 Jonathan Mann Award for Global Health and Human Rights from the Global Health Council (to be awarded on 29<sup>th</sup> May, 2008).

All over the country and also Karnataka in particular, human rights violations by the state authorities directly or with the tacit support of the state have increased sharply in the recent past. The minority communities, the tribals, *Dalits*, women, sexual minorities, the farmers who agitate against the SEZ, those who work for communal harmony have been the target of violence. The human rights activists/defenders too have been targeted by the state machineries in various ways.

#### Pledge and Demand:

- At this candle light vigil we pledge to work and struggle for the human rights of all, especially the marginalised and oppressed communities.

- We demand that Dr. Binayak Sen be released immediately.

We demand that the state should respect and protect the human rights activists and defenders and stop from intimidating them. – **Committee for the Release of Dr Binayak Sen**, Town Hall, Bangalore, May 14 2008 □

PUCL Reference Library

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**Clippings from newspapers published from Delhi  
for the last more than five years  
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***Nominal charges***

**Contact:**

81 Sahayoga Apartments, Mayur Vihar I, Delhi 110 091

Phone: 2275 0014

**PUCL Mizoram's Letter to CM:**

**Imprisonment of Dr Sen in Chhattisgarh**

To,  
The Chief Minister,  
Mizoram  
Sir,

As you may be aware, the first anniversary of the arrest of Dr Binayak Sen, a social activist and National PUCL Vice President by the Chhattisgarh Government will fall on Wednesday, May 14, 2008. In this regard, PUCL Mizoram is taking part in a world-wide movement to have Dr Sen freed from the trumped up charges that have been placed against him under what are called "Black Laws" viz The Chhattisgarh Special Public Security Act, 2005 (CSPSA) and the Unlawful Activities

(Prevention) Act, 1967 that was amended in 2004.

For your information, a broad coalition of 37 organizations from US, UK and Canada have come together to demand the immediate release of the jailed human rights activist who was recently awarded the prestigious Jonathan Mann Award by the Global Health Council, Washington DC. The coalition consists of human rights groups such as Amnesty USA (which has declared Dr Sen a Prisoner of Conscience), health rights groups such as the People's Health Movement, antiwar groups such as the ANSWER Coalition and the Boston Mobilization, student groups from Harvard and

Berkeley, local peace and justice groups from a number of cities, as well as a large number of diasporic groups based in US, UK and Canada.

Also for your information is that Dr Sen is a renowned pediatrician, public health specialist and the general secretary of the People's Union for Civil Liberties (PUCL) Chhattisgarh chapter. Dr Sen is an activist with a lifelong commitment to the issues of community health and human rights, who was arrested on false charges of sedition last year, joining dozens of other human rights activists in Indian jails, charged under repressive "Black Laws." Dr Sen earned the ire of the government

for opposing *Salwa Judum*, a private militia movement armed by the Government to combat 'Maoist insurgency'. *Salwa Judum* has led to a spiraling increase in violence, which has displaced over 100,000 indigenous people over the last 3 years.

With Mizoram having a stake in the law and order situation of Chhattisgarh with the Mizoram 2<sup>nd</sup> Indian Reserve Police Bn deployed there, it is felt that Mizoram, with its history of blatant rights violations by the security and armed forces during 1966 – 1986, should have something to say on the arrest and release of Dr Sen who is the Brig. T. Sailo of Chhattisgarh.

It is, therefore, PUCL Mizoram's earnest request to you as head of the state government to contact your counterpart in Chhattisgarh and to request the release of the renowned social worker whose only guilt was to oppose the *Salwa Judum*, an

organization that has added to the woes of the down-trodden of Chhattisgarh, an organization formed of adivasis by the Chhattisgarh government to fight *Naxalites* and the members often also used as a human shields to form the outermost security rings in the camps; these adivasis were made to turn against their own fellow adivasis for the monetary gains of a regular salary and hopes of promotion to the regular police force.

Dr Sen had not only been the champion of the down-trodden, but is also an advocate of the non-violence creed of the Father of the Nation the Mahatma M.K. Gandhi and had been the force in Chhattisgarh to stop violent movements both by the state and the *Naxalites*. It is, therefore, unthinkable that Dr Sen would have helped the *Naxalites* in their movement as alleged by the Chhattisgarh Government. If at all he had helped the *Naxals*, it would

have been as a social and rights activist with the sole object of preventing human rights violations and to protect the innocents.

In ending this appeal, PUCL Mizoram again request you to become part of a movement that seeks to restore the rights of the people as guaranteed by the Constitution of India by contacting your counterpart in Chhattisgarh to advice him to use caution and discretion while fighting the *Naxal* menace and not to put the people of Chhattisgarh into the same situation that the people of Mizoram found themselves in when army and security personnel tried to quell the Mizoram National Front independence movement during 1966 to 1986. Yours sincerely, **David M. Thangliana**, President, Mizoram PUCL, 12<sup>th</sup> May, 2008

**Copy to:** 1. The Governor of Mizoram; 2. President, National PUCL, Delhi ☐

## Serious Concern of UP PUCL

UP PUCL, in an urgent meeting held on 07.05.2008 at 1/1, Akashpuri Colony, Hastings Road, Allahabad, strongly condemned the tirade, which Chhattisgarh administration is carrying out against PUCL activists and its attempt to arrest its office bearers and executive members by making bases less allegation regarding their involvement with *naxalities*. This is an outright attempt to malign the whole institution and its

members. UP PUCL strongly denounce it we have resolved to hold a general meeting on 10th of May, 2008, to protest the continuous detention of Dr Binayak Sen, on completion of one year of his arrest. In the said meeting, the issue of arrest of Ajay T G will also be agitated.

We have also resolved to send representations to President of India, Prime Minister of India, Governor Chief Ministers of

Chhattisgarh and Chairman NHRC. – **R B Mehrotra**, President UP PUCL; **Ravi Kiran Jain**, Patron; **O D Singh**, Secretary; **K K Roy**; **Sunit Singh**; **Dr Reeta Sareen**; **Khursheed Naqvi**; **Prof Shri Vallabh**.

**Copy to:** K G Kannabiran, Prof Y P Chhibbar, Kavita Srivastava, Rajendra Sail, and Rajindar Sachar ☐

## Lawyers and Clients' Trust:

(1)

### An Open Letter to the Hon'ble Chief Justice of India

I have the honour to submit the following with reference to the News published in *Hindustan Times* dated 1-4-2008 by Mr Harish V Nair under the head 'High Court: Blaming Lawyers won't do, keep track of your case'.

The Hon'ble Judge of Delhi High Court admitted that in many

cases the Lawyers betray the trust of their clients and in certain other cases Lawyers are being made scape-goats for the irresponsible and reckless conduct of the litigants themselves. This observation is true, but the former case will take place 85%. Ordinarily the clients concentrate

on their cases because of their attempt to secure success in the litigation, whereas the lawyers normally after the fee for their service.

In The Hon'ble High Court of Kerala the Lawyers collect details of the cases to file O.P-s, W.P-s, Cr and Civil Misc petitions etc.,

and take the total fee towards the expenses of Advocate fee, Advocate Clerks fee, process fee etc. and argue the cases and get and send the order copy to the clients. On giving the *vakalathnama*, fee, documents etc. the work of the client is over. The client normally can not keep track of his case in High Court. The above case is different, as the case is appealable one from a judgment from MACT. The petitioner must have kept track of his case, being this court is a lower one. He must have been thought that the lawyer must pass information regarding the judgement. Normally after filling such cases mentioned above in High Courts the lawyers and their clerks in certain occasion forget to enquire the posting date subsequently the cases is dismissed on default. Here the lawyers are responsible for their deficiency of service. It is impossible for an ordinary man, though he is educated, to keep track of his cases in Hon'ble High Court. There are several cases in Kerala High Court unattended by the lawyers and finally dismissed. In certain cases the lawyers withdrew the cases of their clients without their knowledge.

Recently I noticed some information from Computer Centre of the High Court that "the case dismissed as withdrawn". But it is surprised to note that the client has not withdrawn the case. The lawyer must have done for the benefit of the opposite party in this particular case.

The lawyers who were given *vakalathnama* are supposed to do the needful to conduct the cases in order and pass information to their clients in time keeping the record. It is the duty related to professional ethics of the lawyers. Order XX Rule 5A states 'Court to inform parties as to where an appeal lies in cases where the parties are not represented by pleaders'. It can be presumed that the court must have given order copy to the Lawyer, who did not pass it to his client in time. In the above case a Review petition under order XLII R-I will be admitted in case the facts of the case are submitted before the Hon'ble Court. I refer Chapter II R-22 of Kerala High Court Rules and practice in which it is mentioned that 'A party who has retained a Lawyer in any proceeding shall not be heard in person, unless he first withdrew his *vakalath*'. So, Lawyer is responsible in the recent case of Delhi High Court.

In Chapter IV (Ethics of Legal profession) in the Book "Legal Ethics Accounting for Lawyers and Bench Bar Relation" written by Dr Kailas Rai the Duty of lawyer to client, been specifically mentioned (Refer Rule 11 to 33)" R 12 provides that an Advocate shall ordinarily withdraw from engagements without sufficient cause and unless sufficient and recent notice is given to his client.

"If an Advocate accepts the brief of a Cr. Case he must attend the Case Day to Day (i.e., if he fails to attend the Case) he will held liable for Breach of professional duty" Hon'ble 'SC' held in AIR 1984 SC 1755".

Hence, lawyers who accept *vakalathnama* is alone responsible to conduct the cases smoothly and fairly till he send registered letter to the client declining his undertaking. If the Hon'ble Delhi High Court does not modify the above judgement, the same will affect adversely to the poor litigants through out India. In the interest of Justice such grievances of poor litigants may please considered by the judiciary. – **Vijayan M Iyer**, M.Com, LL.M PUCL, State Convenor, 17.4.2008

(2)

## Open Letter to Bar Council of India

Sir,  
Human Rights activists engage lawyers to file Public Interest Litigation in Hon'ble High Courts through out India. One of our PUCL members, namely V Laxman filed such a petition in Kerala High Court No.OP/20123/01 in 2001. It was dismissed on 7/2/2006. The petitioner came to know of this decision from the computer cell of the Hon'ble High Court. We collected the order copy through an advocate clerk giving Rs 200/- on 4/2/2008. The petition was filed in 2001 and was dismissed in

2006. The dismissal came to knowledge of the petitioner in 2008. There is a recent judgement from the Hon'ble High Court that the delay condonation petition, under Section 5 of the Limitation Act, is not acceptable, if the petitioner is not able to file the restoration petition within 30 days of the dismissal date.

The judgement order dated 7/2/06 is as follows: "Counsel for the petitioner is absent and there is no representation also on his behalf. The petitioner also is absent. In the result I dismiss this

original petition for default" - Judge.

Who is responsible for this fault? The Counsel only is responsible for it. Really the petitioners are not aware of such facts because of their lack of knowledge of law and of court procedures. The counsel must inform the petitioner the date of hearing. The petitioner asked the lawyers to file restoration petition immediately and the advocate promised to file. In case it is not accepted on file, who is the persons responsible to compensate the petition? If the

advocate belongs to a poor family, can not the Bar council of India compensate the petitioner? The condition of certain advocates in India is preying upon the mind of

public spirited person rendering them complete mental wrecks.

The Bar Council of India may interfere in the case to restore the above public interest petition or ask the lawyer to file a fresh one at

the advocates own expense and to get immediate orders and deliver them to the petitioners. – **Ijayan M Iyer**, PUCL Kerala, Unni Niwas, (Madathil), Pavaratty P.O. Thrissur, Kerala - 680 507 ☐

## **J&K PUCL: Press Release**

### **Lapse in Security System**

Balraj Puri, Convenor PUCL J&K State, has condemned the militants for killing six innocent civilians in Samba including an eminent photo journalist Ashok Sodhi and a peace activist couple Hoshiar Singh and his wife Shashi Bala. It has exposed the fissures in the security system, he said, which allowed militants to move deep

inside after crossing the border, into a town, unchecked, and indulge in killing civilians. The conflicting versions of various security agencies about lapses responsible for the tragedy, was a matter of serious concern, he added. Puri expressed deep sympathies with the bereaved families and demanded adequate

compensation to them by the government, including introduction of free insurance cover for the journalists covering hazardous assignments. – **Balraj Puri**, Director, Institute of Jammu and Kashmir affairs, Convenor, J&K PUCL, Jammu-180005 ☐

## **PUCL Coimbatore:**

### **Press Release on the Reported “Encounter Death” at Kodaikanal**

The following is the Press Note, released by PUCL, Tamil Nadu and Puduchery, after holding its State Committee meeting on 19.04.2008, at Coimbatore.

#### **Press Release:**

The State Committee meeting which was attended by Dr V. Suresh, Advocate and President of PUCL, Tamil Nadu and Mr S. Balamurugan, Advocate and General Secretary of PUCL, Tamil Nadu and various Executive Committee members, including Mr M. Mohd. Abu Backer and Mr Pon. Chandran, representing the Coimbatore Unit, passed the following resolutions, unanimously:

1. While the State Committee was holding its meeting, the news of the “Encounter Death” of Mr Naveen Prasad, reported to be a Maoist killed today in the Encounter, in the jungles of Kodaikanal, has come as a rude shock.

2. Considering the notorious record of Tamil Nadu Police, particularly in the recent past, with regard to the so called “Encounter Deaths”, which were invariably found to be “fake encounters”, we have all the reasons to suspect the very cause of death.

3. While the media claims that the Maoist was killed and four escaped in the “exchange of fire, between the militants and the police, for more than an hour”, the police claim that “they only returned the fire in the direction from where they were shot by the militants, while they were on rounds. Subsequently the police found a body of a Maoist shot dead”.

4. It appears that the police “rounded up the militants” after a tip received about the militants hiding themselves in the jungle. In case, the Police had encircled the militants, one wonders how the others could escape from their encirclement?

5. Well, it is a typical story of the police, in all encounters, which were proved to be fake, eventually during our earlier Fact Findings of such encounters.

6. In the given context only an impartial medical/forensic report only would reveal the exact cause of death.

7. In view of the “criminal record” of Tamil Nadu Police, in such instances, PUCL, Tamil Nadu-Puduchery, demand that a Judicial Inquiry is ordered forthwith to investigate into the cause of death and to know the whereabouts of those who have reported to have “escaped”, since we understand that an Habeas Corpus writ petition has been already filed to produce Viswanathan and four others,

who were alleged to have been taken into custody by the STF.

8. In the meanwhile, we condemn the action of the State, to scuttle the political opposition by resorting to illegal and violent means, using its machinery, without rhyme or reason.

9. Finally, it is urged that the State refrains to look into the “militant dissent”, as a mere Law & Order problem but to tackle it from a broader socio-economic perspective. It is needless to emphasize that such violent means and killings by the State will only breed further counter violence, which is a desperate manifestation of the deeply rooted socio-economic evils in the society.

10. The other organizational and other resolutions passed in the State Committee meeting will be advised separately. – **M Mohammed Abu Backer**, Coordinator, PUCL, Coimbatore, 19.04.2008 ☐

## **Patna University Affair:**

### **Letter to the Chancellor**

To  
Shri R S Gawai,  
Governor, Bihar  
& Chancellor Patna University,  
Raj Bhawan, Patna-1

My dear Chancellor,

May I draw your attention to the Report of the Inquiry Committee set up by the Bihar PUCL under the chairmanship of Dr Prabhakar Sinha, National Vice President of the PUCL, on the recent suspension of Prof N K Choudhary, head of the Department of Economics, Patna University?

As an old boy of the Patna University, I am appalled by the findings of the Committee. Apart from the Choudhary affair, the Committee has reported that as Chancellor you have appointed one Shri Krishna Kumar as an OSD who conducts sudden raids on colleges, calls Vice Chancellors and other University officers directly and recommends action. This is an extra-legal and even illegal procedure because the Patna University Act, 1976, and the Bihar Universities Act, 1976 does not empower the Chancellor to appoint an OSD to inquire into the affairs of the Universities and colleges, or to inspect them. Apparently, he is acting under your authority as the Chancellor.

As for the Choudhary case, the Committee has recommended that his suspension be revoked immediately and the Chancellor should act within the limits of the statute and desist from day to day intervention in the administration of the Universities. It has also recommended that the OSD acting on the behalf of the Chancellor should not be empowered to interrogate of the officers, teachers and other employees of the Universities or inspect their offices.

Finally, the Committee has suggested that the state government should constitute a group of Experts to recommend appropriate measures to restore the health of the universities in the state.

The report has been published in the *PUCL Bulletin* of April, 2008. However, for ready reference I am attaching a copy.

I request you to take suitable action so that the high office of the Chancellor is not dragged into unbecoming controversy. With kind regards, Yours sincerely, – **Syed Shahabuddin**, 24.4.2008

**Copy to:** Shri Y P Chhibbar, General Secretary, PUCL 81, Sahayoga Apartments, Mayur Vihar-1, Delhi-91 ☐

### **Organisational Queries**

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the *Life* members and *Patron* members as compared to *Annual* members.

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