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## Make Violence Unnecessary Prabhakar Sinha

The P.M. has declared Naxalism to be the greatest internal security threat in the country without realizing that of the various C.P.I. (M-L) parties (popularly called Naxalites), only the MCC is challenging the authority of the State with arms. The Home Minister has vowed to solve the problem within five years. There is no dispute in the country on whether violence should end or not, but it is very much there on how to do it. The approach of the government to end violence by using the much greater force of the State is an old, tried and failed strategy. Ever since the emergence of the Naxal movement in West Bengal in 1969, the state governments have been resorting to indiscriminate killing and detention of suspected Naxalites, but even after forty years of repression there is an upsurge in the fire power and supporters of the MCC and a noticeable expansion in the area of their influence. From a tiny village named Naxalbari in West Bengal, it has now an effective presence in several states like Jharkhand, Chhattisgarh, Andhra Pradesh, Orissa, Maharashtra, Bihar, Karnataka etc. The pertinent question begging an answer is why there is so much support for their 'armed struggle' in a certain section of society.

The government and mainstream political parties should introspect and ponder whether the governance in the country has followed policies to give the downtrodden reasons to believe that the government in this country is of the people (like them) and for the people and not of 'the ruling class' and for 'the ruling class' as alleged by the Maoists. Put in concrete terms, do the police and the general administration treat the poor and the rich alike? Do they serve the common man they are duty bound to do or oppress them? Is our criminal justice system impartial and just or biased in favour of the privileged? Is equality before the law a mere myth for the downtrodden or is it a reality? Is there rule of law in the country or there is the rule of the privileged? The government can easily find the answer and should publish a white paper coming out with the number of people who have been killed in encounters with the police and security forces, in police custody, in police firings and those arrested without a warrant or taken into custody under the preventive detention Acts or other special laws [like the Preventive Detention Act, MISA, NSA, TADA, POTA, Unlawful (Prevention) Act, 1967, the CLA and the other special laws enacted by the State Legislatures] along with their social and economic background since 1950 when India became a Republic. It would reveal that the overwhelming majority of the victims are the downtrodden- the Schedule Castes, the Schedule Tribes, the poor from the other deprived section of the society and the minorities. The report will tell the truth about the reality of the right to life and personal liberty of the poor. Of all the black laws, only MISA was widely used against the mainstream political parties because they had opposed Indira Gandhi during 1974-77.

The State has also reneged on its pledge to give the people economic justice as categorically stated in the Preamble of the Constitution. In fact, it has been moving fast in the opposite direction to what was envisaged and enshrined in the chapter IV of the Constitution containing the Directive Principles of State Policy . Art 38(2) pertaining to 'Certain principles of policy to be followed by the State' makes a solemn promise that 'the State shall, in particular strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities, and opportunities, not only among individuals but also amongst groups of people residing in different areas or engaged in different vocation.' Eliminating any room for ambiguity or uncertainty about the aim and object of the Indian Republic it is also stated ' that ownership and control of the material resources of the community are so distributed as best to sub-serve the common good ( Art.39b) and ' that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment' ( Art.39c).The inequality of both income and status between the rich and the poor, the privileged and the deprived has already become an unbridgeable gulf which continues to widen more and more because of the policy of the State. The ownership of the Public Sector Undertakings including the hugely successful profit making undertakings are being sold to private companies divesting the people of their ownership and transferring them to private parties. Globalisation and liberalization are contributing to concentration of material resources and wealth in fewer hands, increasing inequalities of income and status and pauperization of the masses. The policy of favouring the rich at the cost of the poor continues to be pursued ruthlessly and without shame defying the constitution and betraying the Nation.

Any nation with 37% of her people below poverty line leading a life of semi-starvation, crores of her

citizens without employment even for 100 days in a year, in which a scheme like NAREGA (which guarantees employment only for 100 days in a year at hundred rupees a day) is considered a major achievement should hang her head in shame instead of boasting of a few Indian capitalists making it to the list of richest men of the world..

Development is being touted as a panacea for all problems including the Maoist violence, but the policy of development being ruthlessly pursued is a recipe for more violence and unrest. The 1986 resolution of the U.N. declaring development as an inalienable human right shows the way to peace and welfare of the deprived, but it can be followed only if the policy of the State is reversed to serve the multitude rather than a handful superrich. The U.N. declaration on the right to development (A/RES/41/128/ 4 December, 1986) clearly states that 'the human person is the central subject of development and should be the active participant and beneficiary of the right to development' .It further emphasizes that 'human person is the central subject of the development process and that development policy should, therefore, make the human being the main participant and beneficiary of development. The development policy of the government is just the opposite. The big industries being set up in tribal area, instead of benefiting the inhabitants of the area, is causing them loss of home, land and identity through displacement. They do not have the skill to participate in the industrial projects and are in no way their beneficiary. This model of development is bound to further enrich the already rich and further pauperize the poor.

The policy of serving the interest of the elite at the cost of the underprivileged over the years has considerably shrunk the base of our democracy by gradually excluding the deprived multitude from effective participation and influence. The presence of 300 millionaires in the

Parliament is itself a conclusive evidence of the growing stranglehold of the elite on the system. Even those who come from the deprived or under-privileged sections of society now aspire and strive to join the exclusive club of the rich and privileged forgetting and forsaking their root and constituency . They no more represent the interest of the downtrodden or act as protectors of the deprived they represent. The implication of late Rajiv Gandhi's statement that only 15 paise out of one rupee meant for the people reached them is not only that there is widespread corruption, but more ominously that the small section of the privileged comprising politicians, bureaucrats (from the top to bottom) and the affluent have turned into predators feeding on the common man - India feeding on Bharat. We continue to be a democracy in form but have turned into an oligarchy in reality. In this phenomenon lies the root cause of unrest and violence in the country

Violence as a political weapon can be eliminated not by liquidation and repression but only by making it unnecessary. The only way to achieve this goal is by strict adherence to the rule of law, changing the right to life and personal liberty, equality before the law and other rights into a reality and securing economic and social justice by reversing the present policy of repression and exploitation and sincerely pursuing the economic policy envisaged and enshrined in the Directive Principles of the Constitution. In fact, if the government is sincerely interested in preventing the people from taking to violence or supporting armed action ,it should re-read and follow the Preamble of the Universal Declaration of Human Rights(of which India is a signatory) ,which has the following prescription for elimination of rebellion:

"Whereas it is essential, if man is not to be compelled to have recourse as last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." □

## Cops Gun For Head, Chest in Encounters

Viju B.

While Mumbai police find themselves embroiled in yet another allegation of a fake encounter killing, a Right to Information (RTI) response reveals some interesting facts about encounters that have taken place over the past six years.

There have been 48 encounter killings from January 1, 2004, to August 31, 2009, which works out to around eight encounter deaths a year. Furthermore, in as many as 30 of these killings, those who were gunned down by the police were shot directly in the head and chest or just the chest. The RTI reply comes from the police department itself and says that in only one of the 30 killings was the suspect shot in the legs.

"The data clearly shows that the police are mainly aiming to kill rather than capture the suspect," said Khar-based activist Yogacharya Anandji, who filed the RTI query. Encounter killings are believed to have been initiated in the mid-1990s as a way of eliminating underworld gangsters in Mumbai. However, the police were later accused of staging several fake encounters. Recently, dismissed encounter specialist Pradeep Sharma

was arrested in connection with the November 11, 2006, killing of Ramnarayan Gupta.

The latest RTI response came after Anandji asked for details of how many people were shot in the arms, legs, shoulders, head and chest in encounters over the past few years. Former top cops and judges said that the police are vested with powers to fire at a criminal only if he is trying to overpower them or flee the scene of a crime.

"The intention should not be to shoot to kill. The police manual clearly says that the cops should open fire below the belt if an accused is fleeing. The powers should not be misused," said Y P Singh, former IPS officer and now a lawyer.

According to Singh, many of the encounter killings needed to be re-examined and added that the fact that a majority of the alleged criminals were shot in the chest and head could mean that the shooter was at close range. "It is shocking that only one person was shot in the leg. Also, the fact that none of the police officers died in these encounters or got seriously injured puts a question mark

on the incidents," Singh said. He said ballistic reports of the encounters would reveal from what range the shots were taken.

The former cop maintained that senior police officers of every zone knew about the encounters in their jurisdiction. "The courts need to be told of every killing, and an independent inquiry needs to be conducted into every case," he said.

Former additional chief metropolitan magistrate Holambe Patil said, "The police have been vested with powers to use weapons in self-defence, but firing at a defenceless person can be treated as homicide under the law."

Some lawyers also question the powers given to the police to kill alleged criminals in encounters. "All these encounters should be subject to judicial scrutiny. It is shocking that the police do not even file an FIR but just file an inquest proceeding, which is a formality when an unnatural death occurs in the city," said activist-lawyer Yug Choudhary, who fought custodial death cases in the Bombay high court recently.

*Courtesy TOI, 12 January 2010. □*

### Letter:

## Kannabiran's letter to the Home Minister

Dear Shri Chidambaram,

I am presenting the view point of PUCL on the issue separation of Tenganana from Andhra Pradesh and constitute a separate State by that name. We, in PUCL, when Rajini Kothari was the President debated about the formation of smaller States for administration of plural societies in terms of the Directives contained in Part IV of the Constitution. It would be much more easier to govern than the present unwieldy states like Uttar Pradesh, West Bengal, Madhya Pradesh and Andhra Pradesh where the backward regions of the state may not receive the attention that they are eligible to under the Equality Scheme of the Constitution. In fact anticipating such situations the Parliament

enacted the Forty Second Amendment introduced Part IV A, setting out the Fundamental Duties of citizens. Like the Directive of State Policy this may also not be enforceable on courts, these like the Directives cannot be ignored. In assessing the conduct of citizens and in assessing the character of the claim of citizens they set down the permissible limits of governance and citizens claims. Such assessments lead to the evolution of constitutional culture.

We refer you to Article 51 A (e) which reads: "to promote harmony and the spirit of brotherhood amongst all the people in India transcending religious, linguistic and regional or sectional diversities;..." As Brandies J pointed

in one of his judgments "Government is a great teacher" and had the Ap Government and the central Government taken care to implement the understanding on the basis of which the Andhras and the Telengana came together as per the spirit of this Article or taken into account the mandated principle set out in Art.38 (2) viz. "striven to minimize inequalities in incomes and endeavour to eliminate inequalities in status, facilities and opportunities .. as between people residing in the Andhra and Telengana regions they would not have confronted the present unfortunate situation. In all these years of the Constitution we have not developed a Constitutional morality or culture that when issues

of plural societies confront us we are not able to deal with them.

Failure to comprehend the reasons for a separate State for the Telengana is on account of the failure to understand what plural governance is all about. On linguistic ground the Andhra State was formed in 1953. One of the principal grounds for a demand for a separate State was the uneven development of the Andhra region and the Tamil region. This was done without the matter being referred to a State Reorganization Commission. They were so aggrieved by the unfairness and totally unjust governance that the Centre had no time to order enquiries into the justness or otherwise of the demand for a separate State. The restructuring colonial India became evident after the Andhra State was formed. This perhaps provided the model for division of the country into constituent states.

Reorganization Commission was constituted to redraw the administrative and political map of India, and in a way, to sever the connections with what was colonial India. In the process Telengana's merger with Andhra State posed a problem which has been surviving for the past six decades, questioning the decision of the SRC. The members of the Commission were Justice Fazl Ali, K M Panikker and H N Kunzru. The Report was submitted in the year 1955. Paragraphs 369 to 389 deal with the issue of Telengana and its integration with Andhra. The Commission adverts to the claim for a separate Telengana State.

Para 375 Of the Report reads as follows: The case of Vishalandhra thus rests on arguments which are very impressive. The Considerations which have been argued in favour of a separate Telangana State, however are not such as may be lightly brushed aside.

Para 376: ..... The much higher incidence of land revenue in Telengana and an excise revenue to the order of Rs Five crores principally explain the difference. Whatever the explanation may be, some Telengana leaders seem to fear that the result

of the unification will be to exchange some settled sources of revenue, out of which development schemes may be financed, for financial uncertainty similar to Andhra is now faced. Telengana claims to be progressive and from an administrative point of view, unification, it is contended is not likely to confer benefits on this area.

Para 377: When plans of future development are taken into account Telengana fears that the claims of this area may not receive adequate consideration in Vishalandhra. The Nandhikonda and Kushtapuram (Godavarim) projects for example are among the most important which Telengana or the country as a whole has undertaken. Irrigation in the coastal as of these two great rivers is however planned (in) Telengana. Therefore, does not wish to lose its present independent rights in relation to the utilization of the waters of Krishna and Godavari.

378. One of the principal causes of opposition to Vishalandhra also seems to be the apprehension felt by the educationally backward people of Telengana that they may be swamped and exploited by the more advanced people of the coastal areas. In the Telengana Distracts outside the city of Hyderabad, education is woefully backward. The result is that lower qualification is accepted in Andhra for public services. The real fear of the people of Telegana is that If they employ Andhra they will be unequally placed in relation to the Andhras and in this partnership the major partner will derive all the benefits while the Telengana itself may be converted into a colony by the enterprising coastal Andhra.

382: It seems to us therefore, there is much to be said for the formation of a larger state and nothing should be done to impede this goal. (!) At the same time, we have to take note of the important fact, that opinion in Andhra is overwhelmingly in favour of the larger unit opinion in Telengana is still to crystallize .....the unification of Telengana with Andhra, though desirable should be based on a willing and voluntary association of the

people and that it is primarily for the people of Tengana to take decision about their future. "

The States Reorganization Commission (SRC) submitted its report on September 30, 1955 and the relevant portions were taken up for debate in Hyderabad Legislature from November 25 to December 3, 1955. The house was adjourned without any resolution. But the mood of the house was unmistakable. Out of 174 members, 147 participated in the debate and 103 favoured Vishalandhra, while 29 favored Telangana separate state and 15 abstained. This was reported on December 5, 1955, Indian Express.

The Report was placed before the House and debated from November 25 and proceedings terminated without a Resolution this way are that way. Was the Report considered clause by clause the relevant portion of the Report? Was there a waiver of the time given by the Commission to express willingness or otherwise to the merger? Should not there be a resolution advancing the debate on the decision to integrate with Vishalandhra? How can the Ruling Party in Hyderabad place the Report of SRC without waiting for the general elections in 1961 or thereabouts. The obvious intention of the SRC was to give time to canvas for integration as an issue in the election.

It is only to demonstrate the decision even to be binding must somewhere reflect the popular approval in the process or does any consent be spelt out judging from the subsequent manifestation of the consequences of the relationship between the people of these regions. All the apprehensions of the people of Telengana before the commission appears to have come true. The Principles of Governance set out in the Constitution does not permit the operation of the economic system to allow accumulation of wealth to the common detriment.

Another Directive states that the state shall minimize the inequalities in income and opportunities and endeavor to eliminate inequalities in status, facilities and opportunities

among groups of people living in different areas and regions. These were embodied in an agreement which would have regulated colonization with the object of acquisition of assets but they remained unenforced. In the distribution of water resources the Tribunal did not recognize distinct riparian regions and allot specifically to the riparian regions and consequently politics of management was so operated that it benefited the Andhra region. If the Central and State Governments paid any attention to study and understand equality principles in Part IV and the equality Scheme as a whole in the Constitution people would not confronted the situation of reiterating the demand for division of the state and on delay or postponement of decision regarding the peoples claim for separate State will lead to a large social disorder in the State and state repression and violence preceded or followed by yet another by the leaders of parliamentary political parties.

The II Struggle for a Telengana State

has commenced. Chandrasekhar Rao has assumed the leadership and people are responding in large numbers to his call. He was never seen protesting against the injustices in the state and the least vocal among the legislators in the State Assembly until he took up the cause of the ongoing II Telengana Struggle.. As a good student of parliamentary democracy he was tongue tied by party discipline all these days. In the life of a man there comes a time when one has to say 'thus far and no further' When that time came he threw up his position in the Ruling Party and is leading the struggle for a separate Telengana State. His Party Leader being a parliamentary democrat he has not only allowed him to dissent but also facilitating him to hold such mammoth meetings without unleashing his police on him and his adherents. Chandrasekhar Rao's smooth transition from a Deputy Speaker's position to the leadership of a struggle for separate statehood has raised some eyebrows and to bring down the raised eye brows to

their normal level will take some time and some convincing.

But quite a few are of the view that the repeat of repression which plagued the state in the seventies of the last century and the post talks situation of the last stages of YSR may be enacted by accusing that Maoists are responsible for this agitation or that they are guiding this agitation. That will be easy now because the Governor a former IB Chief and DGP appear to be in charge of the State. A recent statement from the DGP indicates the trend. This trend of posting Police chiefs as governors in a politically disturbed states very undemocratic and is destroying healthy political practices. A possibility of the DGP and the Governor taking over governance is a possibility that should be avoided. Retired judges from the judiciary retired civil servants and police chiefs should not expect to be picked up for Governors. Retired people should be allowed to enjoy their retirement.

K.G. Kannabiran □

#### News:

### **Justice Rajindar Sachar's Visit to Dublin (Ireland) from 14th to 16th January 2010 for inquiry into war crimes in Sri Lanka**

Justice Rajindar Sachar, former President, People's Union for Civil Liberties, India, UN Special Rappoetuer on Housing and Member, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities has been invited to participate as a member of Jury of The Permanent People's Tribunal (successor to Bertrand Russell Tribunal), which is conducting an enquiry on the issue of 'War Crimes' and 'Crimes against Humanity' committed by the Sri Lankan security forces during the war against the LTTE during 2006-09 and its aftermath in Dublin (Ireland) from January 14th to January 16th 2010. The panel which is going to hear evidence about war crimes consists of some of the world's leading thinkers, academicians and jurists. It is being organized by the Irish Forum for Peace in Sri Lanka and Irish School of Ecumenics, Trinity College, Dublin. □

#### Delhi PUCL inquiry report:

### **Seventeen Pakistanis Awaiting Deportation from Foreigners' Detention Camp, Lampur**

In the wake of three Pakistani detainees giving a slip to an FRRO Sub-Inspector and running away from his custody after visiting a hospital in New Delhi, PUCL conducted a fact-finding enquiry at the Lampur detention camp in Delhi to learn about the conditions in the camp. Mr. Mahi Pal Singh, General Secretary of Delhi PUCL and National Secretary of the

organisation visited the camp on January 6, 2010. A team of about fifteen FRRO and police officers was at that time present at the camp to strengthen security so that no detainee could run away from the camp, oblivious of the fact that the three Pakistanis had run away not from the camp but from outside and that nobody has so far run away from the camp.

Mr. Mahi Pal Singh was not allowed to see the inmates of the camp for two hours and the FRRO Officers did not allow him even to take the signatures of Mr. M.S. Khan (on the Vakalatnama), one of the detainees lodged there for nearly one year in spite of having completed his sentence for entering the country without valid visa documents, for filing

a writ petition in the Delhi High Court in spite of repeated requests, thus denying the detainee the right to legal aid in gross disregard of national and international laws. It was after more than two hours that Mr. Singh could see the inmates from a distance after the team of officers left the place. He could gather the information regarding those lodged in the camp later in the day telephonically only.

The inmates complained that the conditions at the camp were in no way different from a prison and they were not allowed even to arrange the purchase of sugar and tea from the market. One inmate was so brutally beaten up by the police in the camp that he had sustained head injuries and had to be hospitalised and given stitches in the head. It is perhaps because of such conditions that the three Pakistanis, who ran away from the custody, did not want to return to the camp at any cost, although they were reportedly going to be deported to Pakistan within a week's time.

There are seventeen Pakistani

nationals lodged in the camp, one of whom had approached PUCL about six months ago for help. Delhi PUCL then conducted an inquiry and wrote to the National Human Rights Commission to intervene in the matter and get these people deported to their respective countries but the NHRC did not take any action on the complaint. The detainees have been waiting in the camp from two months to about four years, after completing their sentences for the offences they were charged of committing, to be deported to their country but nobody in the government or the NHRC has cared to listen to them. If we are sensitive to the welfare and rights of our own nationals living or detained abroad, we should also be sensitive to the human rights of foreign nationals living or detained in our own country.

The table given below gives the details of the detainees at the Lampur camp.

In the light of the facts stated above, PUCL demands:

1. that the inmates of the camp at Lampur be deported to their country at the earliest;
2. that a mechanism should be developed for a periodical review of the detainees at various camps meant for the detention of foreigners and they should be deported to their respective countries at the earliest;
3. that action should be initiated against the FRRO officers who were present at the camp on January 6, 2010 for denying a detainee his right to take legal aid in gross violation of national and international laws.

PUCL has also decided to file a Public Interest Litigation (PIL) in the Delhi High Court in this matter because the detainee, Mr. M.S. Khan, was denied the chance to take legal aid (by signing the Vakalatnama).

Sd./-

Mahi Pal Singh, National Secretary & General Secretary, Delhi PUCL

January 7, 2010

### Foreign Detainees Detained at 'Restricted Foreigners Detention Camp, Lampur, Delhi-110040

Sr. No.	Name of detainee	Age	FIR No, PS Arrest	Date of	U/s Entry in camp	Date of release,
1	Mumtaz Sharif Khan S/o Sharif Khan	57	66/08 Jama Masjid	04.09.08	14 Foreigners' Act	04.03.2009
2	Maqsood Ahmed S/o Mahmood Hussain	31	493/01 N.S. Colony	13.09.01	4-5 Expls. Act 14 Forgn. Act	24.03.2006
3	Amzad Saeed S/o Bashir	41	49/96 Karol Bagh	04.02.96	NDPS, 14 Forgn. Act	07.08.2007
4	Muneer Ahmed S/o Mohd. Rafiq	38	295/2000 R.K. Puram	27.03.03	420, 14 Forgn. Act	20.03.2008
5	Mohd. Ejaz S/o Rana Mukhtar Ahmed	42	RMD	Feb-98	Explosives Act	27.11.2007
6	Umer Shehzad S/o Shehzad Hussain	16	From Punjab	10.08.08	Not Given	12.08.2008
7	Mohd. Salim S/o Nagar Mohd	37	304/02 Sect 39, Noida	01.07.02	420, 14 Forgn. Act	07.08.2008
8	Mohd. Riaz S/o Deen Mohd.	30	866/2000 Hauz Khas	23.10.00	Explosives Act 14 Forgn. Act	06.05.2009
9	Kamal S/o Sadiq Ali	37	866/2000 Hauz Khas	23.10.00	Explosives Act 14 Forgn. Act	06.05.2009
10	Mohd. Jameel S/o Mohd. Amin	32	866/2000 Hauz Khas	23.10.00	Explosives Act 14 Forgn. Act	23.04.2009
11	Rizwanul Haq S/o Muneerul Haq	41	866/2000 Hauz Khas	23.10.00	Explosives Act 14 Forgn. Act	06.12.2009

12	Iqrar Hussain S/o Anawal Ali Shah	22	302/08 IG Airport	24.08.08	14 Forgn. Act	23.03.2009
13	Mohd. Tahir Saeed S/o Abdul Latif	25	301/08 IG Airport	24.08.08	14 Forgn. Act	23.03.2009
14	Shaukat Ali S/o Abdul Sattar	52	169/05 Chandi Mandir Panchkula (Pb)	14.09.05	14 Forgn. Act	22.05.2009
15	Mohd. Saeed S/o Vilayat Hussain	52	42/05 Gokalpuri	08.03.05	O.S. Act	08.09.2009
16	Mohd. Ashraf S/o Hakim Ali	30	13//02 H.N. Deen Rly. Station	05.02.02	Pota, 14 Forgn. Act	13.11.2009
17	Irshad Ali S/o Kamaluddin	40	66/07 P.P. Street	23.04.07	420, 14 Forgn. Act	01.05.2009

(Note: This matter was also reported in the Indian Express dated January 10 and the Hindustan Times dated January 12, 2010. Now a Public Interest Litigation (PIL) has been filed by Shri Sanjay Parikh and Shri Abinash Mishra, Advocates on behalf of Delhi PUCL in the Delhi High Court and the petition has been listed for hearing on January 20, 2010.) □

## The Supreme Court Order on Sodi Shambo of Chattisgarh

The Supreme Court today- 7 January, directed the State of Chhattisgarh not to obstruct or create any obstacle in Sodi Shambo coming to Delhi for treatment at St. Stephens Hospital. The court was hearing an application moved by the People's Union for Civil Liberties (PUCL) and the People's Union for Democratic Rights (PUDR). Advocates Colin Gonsalves and Divya Jyoti represented the petitioners.

The application was moved in case of emergency situation that has arisen with respect to Sodi Sambo's medical treatment. Sodi Sambo, aged 28 years, is a tribal woman from village Gompad, in Dantewada district of Chhattisgarh. She has 4 children. Security forces shot her in her leg on 01.10.09.

Her medical situation is precarious. Some 2-3 inches of the tibia bone is missing in her leg.

From 20th October 2009, Sodi Sambo was admitted in St Stephen's Hospital,

Delhi. After undergoing preliminary test, she was operated as an emergency case late at night on that day and rods were inserted in her leg after removing parts of the bone that were crushed in the gun-shot injury.

The doctors at St Stephen's Hospital had instructed Sodi Sambo to return to St. Stephen's Hospital after about around of the end of the year 2009 in order to continue her treatment, which would require more surgical interventions.

On the night of 2nd January 2010, Sambo was put on a bus to Raipur. After police surrounded the bus thrice, those accompanying her brought her back. The next morning when Himanshu Kumar, a noted Gandhian from Dantewada escorted Sambo, a vehicle with policemen followed their vehicle. On reaching Kanker town they stopped for food around noon.

Police accosted them and brought them to Kanker police station. They

were detained there till for the rest of the day till 06:30 pm. When organisations from across the country started making protest calls to the state government, police responded that Himanshu Kumar was free to leave, but that the Dantewada police needed Sambo for recording her statement. A need that the police discovered only when Sambo embarked on her journey to the hospital after staying a month in Dantewada town! Sodi Sambo was taken by the Police after 07:00 pm on 03.01.2010 in the guise of recording her statement, thus jeopardising her health and recovery. Later she was reportedly admitted in a local hospital by the police that did not let anybody visit her. Practically she was put under hospital arrest without being letting her go to Delhi.

Pushkar Raj, Gen. Secretary, PUCL □

### News:

A new unit of PUCL was formed in Khagaria district of Bihar with Praphul Chand Ghos as convenor, Nagendra Singh as co-convenor and Aajad Rajeev Ranjan and Ravi Chourasai as members. □

## Press Statement on Detention of Himanshu of VCA

The PUCL condemns the detention/arrest of Himanshu of Vanvasi Chetna Ashram (VCA), Dantewada and PUCL State Executive member of the Chhattisgarh at Kanker Police Station today 3rd January, 10. This detention has been made on the eve of the Public Hearing that was being organised by VCA on the atrocities being committed by police and security forces in that area. According to the VCA the detention of Himanshu at this stage is to clearly sabotage the hearing.

Himanshu's detention follows a series of harassment that he and his organisation have been subjected to which include

- Demolition of his ashram outside Dantewada,
- Arrest of Sukhnath on 1st August, '09 and of Kopa Kunjam on 10th December, '09, both senior activists of VCA, under Chhattisgarh Special Public Security Act, 2005, who were trying to implement the SC orders of implementing the Internally displaced people.
- Preventing Himanshu from taking out a padyatra through the villages of Dantewada district, in December, '09
- Intimidation by the police and salwa judum activists to harass women's groups who were prevented from reaching Dantewada on 15 December, '09.
- Illegal Detention and intimidation of the 5 women who were fighting their own cases of rape by salwa judum members. They were forcibly made to sign papers by SPOs and Police when they were illegally detained after 15 December, '09 for 5 days at Dronpal Police Station, that they were not wanting to pursue their cases
- Intimidation by the administration of the landlord who rented the house to Himanshu following which he is being forced to vacate the premises.
- Preventing Himanshu and VCA from even booking rooms at the local Dharmashala including forcing one owner to return the money of rooms he had booked for VCA.
- Today too he was trying to escort

Shambhu to Raipur, a victim of operation green hunt who sustained bullet injuries in her leg and had to get to Delhi for treatment. She was prevented by the Police from undertaking the travel so Himanshu with others boarded the vehicle and were detained at Kanker, Jagdalpur.

PUCL demands that the Chhattisgarh State Government release Himanshu and Kopa and Sukhnath immediately along with ending all harassment of Himanshu Kumar and other members of the VCA who have a right to exercise their democratic rights.

PUCL demands that the State Government implement the SC orders of rehabilitation of internally displaced people which was the main work of Himanshu and the VCA which the local administration and the Government did not like. PUCL also demands Stopping of all operations like green hunt and others that are responsible for human rights violations and letting activists and media to freely move in the areas.

Prabhakar Sinha, President, PUCL; Pushkar Raj, Gen. Sec., PUCL. □

### Letter to all State Presidents & General Secretaries, Office-Bearers, PUCL

## PUCL National Executive Meeting

Dear all

Since some of you have expressed apprehensions in regard to holding one day National Executive meeting, please note that it will now be for two days- 20 and 21 February 2010 in Bangalore.

Please inform Sh Shri Ram Das on phone number 09449399729 and email ramdas\_rao@hotmail.com about your accommodation requirements latest by 20 January. In absence of doing so, it will be assumed that you will look after your accommodation needs yourself.

Further more please send me specific issues that you would like to discuss in the meeting.

Sd./-

Pushkar Raj, General Secretary □

## None of the Above Voting - An Urgent Democratic Need

### Rajindar Sachar

The recent legislation by Gujarat Government to make voting compulsory at Local Election Level has elicited mixed response. There is no doubt that there are weighty reasons against making voting compulsory, and the effective mechanism to supervise makes the task still more difficult. But it is some what surprising that almost no

attention has been paid to the provision of Negative Voting or 'None of the above' right given to the voters by the same legislation - this right means that if a person does not approve of any candidate selected by the party cabal, he should not have to choose the least undesirable or sit at home sulking and cursing the law. In a vibrant democracy the voter

should be able to hit effectively at all the political parties to show that all the candidates selected by them are undesirable.

The principle of 'None of the above' is that whereas the government should secure the consent of the governed, at the same time legitimate consent requires the ability to with

hold consent. It is also recognized that the provision of 'None of the above' in election law will enable and encourage voters to participate in greater number at election time, and thus indirectly assist in the same process as is sought to be effectuated by providing for compulsory voting.

In fact our supreme court in 1993 affirmed "voting is formal expression of will or opinion by the person entitled to exercise the right on the subject or issue in question" and that "Right to vote means right to exercise the right in favour of or against motion or resolution. Such a right implies the right to remain neutral as well".

Thus it is incumbent on the central government to provide effective mechanism for negative voting. As a matter of fact such a provision exists under the Rules framed by Central Govt. since long - though hardly anyone including the presiding officer's act on it.

Thus under Rule 49(o) of conduct of Election Rules 1961 a voter has to inform the presiding officer of his intention not to vote - the presiding officer makes an entry in the remark column in Form 17 and the voter has to sign the form which is also to be countersigned by the Presiding Officer. This right was hardly exercised because it was then ballot voting - and in this process the secrecy of voting could not be maintained - polling agents, and other officers would know about it. Majority of voters do not wish openly to get into conflict with political parties and especially their goons and therefore per force they voted for what they thought was the least undesirable.

But when we switched on to the present system of electronic voting machine, (EVM) it became easier to

provide a mechanism in a manner that the secrecy of voting was not violated by just providing one more slot in the voting machine as 'None of the above'. Election Commission commendably has been writing to the Central Government (which alone can amend Rule and provide for this method) since 2001. But regrettably there has not only been deafening silence from different political parties governments but now even the provocative, undemocratic stand of central government is that even if the present rule violates secrecy, it does not matter because secrecy though desirable is not inviolate and hence there is no reason to amend the rules. This stand of the Central Government flies in face of International Civil and Political Covenant rights and which is ratified by India that secrecy of Voting at the election is part of Human Rights guaranteed to each citizen in a country which calls itself democratic.

Thus though the right to negative voting is provided in election law, it can not be effectuated unless the rules are amended by Central Government. Not doing so, in fact goes against the mandate of the Parliaments Act - a serious breach of constitutional obligation on the part of the Executive - hardly a commendable action.

It is not as if it is a radical untested suggestion. Negative voting is already prevalent in Ukraine, Russia which have only recently adopted democratic elections. It has been in existence for a long time in many of the states of U.S.A. since nineties.

In some states of U.S.A it is provided that 'if none of above' receives the most votes, then no one is elected and a bye election with new

candidates is to be held within 60 days. Imagine what pressure it will put on the parties to avoid nominating candidates with criminal background which in our current elections reaches the minimum of 25% and across all the political parties.

Such a pressure thereof on the political parties may compel them to democratize their method of selecting candidates as against the present one of cabal selecting their own progeny, nephew, nieces, and underlings in the present - even if disgusted voter is annoyed he or she can not prevent one of them to be elected. But if negative voting was there it would give a choice to the voters to loudly say 'None of the above' resulting in a fresh ballot This would be a step in the right direction of further democratizing the elections and give the "small man with a pencil (a phrase use by Winston Churchill and emphasized by Krishna Iyer J. in the time of ballot voting) - but now the little man with a small finger with the power to press the None of the Above" (NOTA) button on the election machine and make democracy more participatory.

I hope this competitive politics generated at Local level election in Gujarat will provoke the Central Government (which alone is the competent authority to amend the rules) to provide for Nota (None of above), as requested by Election Commission. But the opposition can not sit still and blame the central government. If BJP wants to take credit for negative voting provision in Gujarat, it should publically announce its support for amendment of rules to provide Negative Voting at States and Central level which will inevitably put pressure on the Central Government to do so. □

**Jharkhand PUCL:**

## **NHRC Case No.1249/34/6/08-09-Violation of Custodial Rights**

The Dy. Registrar (Law),  
National Human Rights Commission,  
Faridkot House,  
Copernicus Marg,  
New Delhi-110 001

23.12. 2009

Dear Sir,

Ref NHRC Case no.1249/34/6/08-09  
dated 9 December, 2009

Attached please find our comment/  
additional Report on the above case  
of serious violation of custodial Rights

at East Singhbhum, Jharkhand as  
desired by the Commission. The hard  
copies alongwith the other documents  
has been arranged to be sent to you  
through courier services which we  
hope you will receive within 3/4 days.

We have not edited the video version of our enquiry. It contains in some places local languages like Santhal and Bengali. Should you require translated edited version of the same, please inform us. We will arrange it very promptly.

Yours faithfully

for PUCL, Jharkhand,

S.Bhattacharjee, President,  
Jharkhand PUCL

### **Custodial Rights - NHRC**

The Chairperson,  
National Human Rights Commission,  
Copernicus Marg, Faridkot House,  
New Delhi- 110 001  
18.12.2009

Dear Sir,

**Ref: NHRC Case No.1249/34/6/08-09/UC- Violation of Custodial Rights**

With reference to your above letter dated 05.12.09 received by us on 17.12.09,

We would like to state as under:

That on receipt of your earlier letter dated 21.10.09 containing the gist report and the enclosures therewith, we were very much surprised to note the content of the of the police version sadly attempted to deny the serious violation of Custodial Rights in this case.

It is regretted that DSP (SDPO) of Ghatsila Block Mr. Alban Tigga (he has been transferred now) has to fabricate such a false report to prove that there was no violation of Custodial Rights. After receipt of the complaints from the villagers, the undersigned personally informed this matter to Mr.Tigga. The Superintendent of police, East Singhbhum, Mr. Naveen Kumar Singh also did not care to ascertain the fact or discuss the matter with us and simply accepted the Tigga's report and forwarded the same to you.

On receipt of your earlier letter dated 21.10.09 and the copy of other documents, (receipted by us on 27.10.09), PUCL in a meeting decided to visit the village again with a fact finding Committee (included there now senior office bearers and

Law practitioners) to enquire the matter in a public hearing and record the same in video camera.

Accordingly, we took written permission from S.D.O. Ghatsila, informed S.P. East Singhbhum in writing and organized the public hearing at Maheshpur School Football ground on 15.11.2009.

It was not an easy task at all. The present Officer Incharge of Gurabanda P.S Sri Indu Bhusan Kumar. alongwith armed Police forces (meant for Election duty) toured the villages of Dumuria Block for two consecutive days and threatened the villagers and asked them not to attend the meeting of PUCL and to open their mouth. We booked to hire a Mike Amplifier but the police threatened the Mikewala and did not allow him to come to the meeting place and to install the sound system.

Our SUMO vehicle was stopped and checked in different places (mostly in School buildings where Security forces are camping for years) by the police party ostensibly to check the permission of the meeting as the Code of Conduct for Election was in vogue and in the process they deliberately delayed our journey.

We however could reach the meeting place much late at about 1.00 PM and found about 700 villagers braved to come and were still waiting for us patiently to express their views. All the victims with their spouses and family members were present. We conducted the enquiry and recorded the same in video. We are now sending this unedited version of the CD to you alongwith this letter. You will find that complaint sent to you by us was not only fully correct, but also it reveals the situation as grave because of such torturing of innocent people in Police Thana in this region (Also in elsewhere at Jharkhand) has become very common practiced by the police authority with full impunity.

The Video recording of the interviews has also revealed that all the signatures/thump impressions of the victims were taken in the Thana in plain papers under duress to prove that they were released from the

Thana within 24 hours of their detention. Police department in most of the part at Jharkhand has developed this technique to beat the guideline of NHRC on Custodial Rights. They invariably produce a person before a Magistrate or release him from police custody with such fake and fabricated papers duly prepared in the Thana and with the signature of the victims obtained under threat and duress.

Our enquiry has also revealed in detail (in Public hearing) that how brutally these victims have been tortured (KICKING AND BEATING many of them in full view of other villagers) at the time when they were picked up and during the period they were illegally kept confined in the police custody.

Only two persons (Sanjeev Munda & Raju Mahato) informed in the public hearing that they were not subjected to any misbehavior or torture. We could not ascertain whether they bribed the police to buy this "advantage". But Sanjeev's mother immediately informed about the brutality of police with her son. This shows Sanjeev was afraid to speak against police torture.

If you summarize the statements of the victims and other witnesses then you will observe as under:

1. Police party used force and beat most of the victims even though they surrendered without any resistance.
2. Ten persons or more were kept confined in a very small Cell at Police Custody of Gurabanda P.S.
3. They had to perform all the natures call in that Cell only.
4. All were handcuffed to bring to the police station.
5. Some of them were beaten badly after tying their legs and hands and suspending them upside down by Police and used always very abusive languages.
6. Police did not care to inform their family members or relatives about their confinement in the Police custody.

7. In Police custody, no one was provided with any medical facilities particularly when Mangla Munda was seriously ill and down in Malaria, no doctor was called and he was not given any medicine and medical treatment.
8. Police only provided some food to the detainees only one time in the evening during their confinement in the Custody.
9. Victims were threatened, terrorized, tortured and were forced to sign in a blank white papers.

10. Police behaved rudely with the family members whenever they wanted to meet or talk to the victim. Some relatives were "fortunate" as they were allowed to meet the detainees after 2/3 days of their detention in the Custody.

Yours faithfully

For PUCL, Jharkhand

1. S. Bhattacharjee, President

And Other Members of Pucl Investigation Team: 2 Phudan Murmu, Sr. Advocate, State Organising Secretary; 3. Kalpataru, State

Asst. Treasurer; 4. Ratan Kumar Chatterjee, Sr. Advocate, Member; 5. Buran Soren, Member 6. Chandra Shekhar Bhattacharya, Sr. E.C. Member; 7. Ganesh Besra, Sr. Member; 8. Mahesh Besra, Member

Enclosures: Video Recording Cassettes-2 nos, the copies of written statements of the victims & the witnesses, the copies of the permission from S.D.O and he letter to S.P, East, Singhbhum. □

### Information regarding status of prisoners in jails awarded death sentence received through RTI in Bihar

I. Table 1: Jail-wise figures of persons sentenced to death

Sl No.	Name of Jail	Type of Jail	Letter no.	Date	Whether any such prisoner there?	No. of prisoners awaiting death sentence
1	Bikranganj	Sub jail	974/ 1049	11.11.09/ 8.12.09	No	
2	Purnea	District jail	1956	16.12.09	No	
3	Biharsharif	District jail	1488	21.10.09	No	
4	Gaya	Central jail	3770	19.10.09	Yes	3
5	Hajipur	District jail	1904	23.11.09	No	
6	Motihari	District jail	2233	16.11.09	No	
7	Buxar	Sub jail	377	28.10.09	No	
8	Jhanjharpur	Sub jail	784	11.11.09	No	
9	Samastipur	District jail	1660	9.11.09	No	
10	Katihar	District jail	1383	4.11.09	No	
11	Khagaria	District jail	1629	6.11.09	No	
12	Sasaram	District jail	3104	6.11.09	No	
13	Nawada	District jail	1778	17.11.09	No	
14	Patna (Beur)	Model Central jail	5909	6.11.09	Yes	5
15	Patna City	Sub jail	815	16.11.09	No	
16	Madhepura	District jail	1680	14.11.09	No	
17	Jahanabad	District jail	1732	22.10.09	No	
18	Buxar	Central jail	3183	30.10.09	Yes	3
19	Bhagalpur	Central jail	3445	23.10.09	Yes	16
<b>TOTAL</b>						<b>27</b>

## II. Table 2: Names and details regarding prisoners sentenced to death

<i>Sl No.</i>	<i>Jail</i>	<i>Name</i>	<i>Age in Years</i>	<i>Date of sentence</i>	<i>Wh in solitary confinement</i>	<i>Specific crime</i>	<i>Status</i>
1	Gaya Cental Jail	Naresh Paswan	42	11.02.09	Yes, under Rule 912 of Manual	TADA Act, 302, 149 IPC	Appeal pending with Supreme Court
2	do	Bugal Mochi	47	11.02.09	do	do	do
3	do	Byash Ram alias Byash Kahar	48	11.02.09	do	do	do
4	Beur(Patna) Central Jail	Sanaullah Khan	30	23.02.02	No	302, 120B, 201 IPC	Appeal pending in HC, Patna
5	do	Shankar Kanu alias Shankar Sah	21	19.09.08	No	396, 412 IPC	Appeal pending in HC, Patna
6	do	Sujit Kumar alias Lathi Singh	20	04.01.08	No	396, 412 IPC	Appeal pending in HC, Patna
7	do	Arvind Singh	50	04.01.08	No	302, 149 IPC	Appeal pending in HC, Patna
8	do	Manoj Singh	35	04.01.08	No	302, 149 IPC	Appeal pending in HC, Patna
9	Buxar Cental Jail	Krishna Bihari Singh	44	18.06.08	No	Death u/s 364A, 34 IPC; u/s395 IPC ten yrs RI	Appeal pending in HC, Patna
10	do	Jawahar Koiri alias Jawahar Singh	45	18.06.08	No	do	Appeal pending in HC, Patna
11	do	Ramdeo Prasad	35	09.09.08	No	Death u/s 302 IPC; 376 IPC (10 yrs RI)	Appeal pending in HC, Patna
12	Bhagalpur Cental Jail	Md Saheb Jan	40	27.03.09	Kept in high security	302,34 IPC	Appeal pending in HC, Patna
13	do	Chintu Singh alias Vijay Singh	20	28.01.08	do	302,34 IPC	Appeal pending in HC, Patna
14	do	Virendra Thakur	32	19.12.08	do	302,364 A IPC	Appeal pending in HC, Patna
15	do	Kedar Nath Thakur	55	19.12.08	do	302,364 A IPC	Appeal pending in HC, Patna
16	do	Amit Kumar Thakur	19	19.12.08	do	302,364 A IPC	Appeal pending in HC, Patna
17	do	Md Badruddin	27	01.04.09	do	302 IPC	Appeal pending in HC, Patna
18	do	Md Mannan alias Ubdul mannan	40	31.05.07	do	366A, 376, 302, 201 IPC	Appeal pending in HC, Patna
19	do	Md Pipiya	28	18.05.09	do	302,34 IPC	Appeal pending in HC, Patna
20	do	Md Asmat	30	18.05.09	do	302,34 IPC	Appeal pending in HC, Patna
21	do	Md Gulab	32	18.05.09	do	302,34 IPC	Appeal pending in HC, Patna
22	do	Prajit Kumar Singh	34	17.12.03	do	302,34 IPC	Applied for President's pardon

23	do	Sobhit Chamar	62	23.02.96	do	302 IPC	Applied for President's pardon
24	do	Veer Kunwar Paswan	40	08.06.01	do	302, 149 IPC	Applied for President's pardon
25	do	Krishna Mochi	26	08.06.01	do	302, 149 IPC	Applied for President's pardon
26	do	Dharo Singh alias Dharmendra Singh	34	08.06.01	do	302, 149 IPC	Applied for President's pardon
27	do	Nanhe Lal Mochi	55	08.06.01	do	302, 149 IPC	Applied for President's pardon

### III. Is/are any person(s) sentenced to death

- i. under 18 years of age at the time when crime was committed: No
- ii. pregnant woman: No
- iii. woman with dependent infants: No
- iv. diagnosed as having mental disorder: No
- v. non-Indian national :No

Vinay Kantha, President, PUCL Bihar ☐

## PUCL Meeting at Begusarai

A meeting was organized by Begusarai unit of PUCL at middle school of Jayanti village of sahebpurkamal on December 20, 2009. The village is situated far from 30 km of district. 90% villagers are live below the poverty line.

The meeting was inaugurated by district vice president Mr. Mahesh Bharti. He explained the working style of PUCL. Vaidhnath Singh gave the welcome speech.

Addressing the marginalized gathering Bihar PUCL general secretary and Editor of Manwadhikar

Patrika Mr. Ramashray Prasad Singh stated that human rights establish boundaries between individuals, society and the state. The assertion of a human rights is a claim on protection from threats from people, groups or public authorities.

Mr. Singh explained the International covenant on Economic, Social and Cultural Rights and International covenant on civil and political rights, 1966 and said that Human Rights are held only by human beings, but equally by all they do not flow from office, rank or relationship.

PUCL opposed the amendment of role

of RTI Act 2005 which was passed by Bihar cabinet.

Social activist Phulene Singh, Avocate Virendra Sah, District Secretary of PUCL Mr. Prabhakar Maharaj, District Vice-President Mr. Ramesh Singh, Ramlalit yadav, Subodh verma, Kailasnath sharma, dhirendra kumar sharma, Ashoka sharma, Manoj Kumar, Dularchand yadav and others addressing the meeting.

The meeting was presided by village chief Uday Singh and organized by kishorechand Bharti.

Niraj Kumar ☐

## A Fact-Finding Report on the proposed eviction of Dalits and others from Tannirbhavi, Mangalore, in Karnataka

Tannirbhavi is a most enchanting place with the Falguni (Gurupur) river flowing on one side and the Arabian Sea on the other side, with casuarina trees all along the sea shore. It provides shelter to the fishermen and is a picnic spot for merry makers as well. The word Tannirbhavi at once flashes back childhood memories of picnics and outings which in our times of 40s, 50s and 60s we used to call as "Trips". School-going children of

Mangalore and the rest of the district never used the word "Picnic". It was "Trip" all the way and all the time. Tannirbhavi at the same time serves as a solid natural guard against sea erosion. Unfortunately it has become fashionable for some of our Ministers to waste public money on foreign jaunts for acquiring so-called know-how for fighting sea-erosion, instead of following what our forefathers taught us.

"Dalits at Tannirbhavi Being Evicted" was the headline of a news item that appeared in 'The Hindu' of 14th June, 2009. We were shocked to read that the Karnataka Industrial Area Development Board (KIADB) was initiating steps to evict residents from a plot which KIADB has reportedly sold to a certain industrialist. We decided to visit the site in order to ascertain the facts in the background of serious allegations against KIADB,

which is accused of earning exorbitant profits through land dealings, though the avowed purpose of its creation is to develop plots and provide them to small industries on a no loss-no profit basis.

A fact-finding team was set-up with the following members: P. B. D'Sa, President, PUCL Mangalore; Prof. Pattabhirama Somayaji, Academician and Social Activist; Suresh Bhat B. - Member, PUCL, Mangalore; C.N.Shetty - Industrialist, Thinker, Social Activist; Damodar Jathanna - President, Janapara Vedike, Udipi

Rasool Barkur - Secretary, Janapara Vedike, Udipi; Shekhar Shetty - Vice President, Janapara Vedike, Udipi

### **God's Own Land**

Some facts about this place called Tannirbavi are in order. Tannirbavi literally translates into 'Cold Water Well'. It is on the northern part of a narrow finger of land which juts into the Arabian Sea and is situated on the western side of the mainland of Mangalore. Between this strip and the mainland flows the river Falguni also known as Gurupur river. With the Falguni River on one side and the Arabian Sea on the other this entire strip of land is a scenic spot and fit to be called as God's Own Land. The Falguni along with a second river Netravati joins the sea at the rivermouth located on the southern end of this strip called Bengre. By land Tannirbavi can be approached from Panambur which is about 12 km from Mangalore. After crossing the Kular bridge on the Falguni river one has to take a detour to the left near the Kudremukh Iron Ore Company Ltd., plant and proceed about a couple of kilometers to reach Tannirbavi. Tannirbavi has been a fishing village for hundreds of years. Till recently it also used to be a very popular tourist destination for the young and old alike and was one of the most favorite picnic spots for school children.

### **Development at What Cost**

Hundreds of acres of land where the

monster industries such as New Mangalore Port Trust, Kudremukh Iron Ore Company Ltd., Mangalore Refineries Private Ltd., BASF and the Mangalore Special Economic Zone are now located was one of the most fertile lands in the entire undivided district of South Kanara. A conspiracy amongst the unscrupulous politicians, industrialists and the IAS lobby is responsible for the enormous and unpardonable crime of destroying this green belt. All this for the greed of a few at the cost of the common people of the district. Highly polluting large industries unsuitable for the topography of the region have been allowed to mushroom in this area. In fact industries banned and thrown out from developed countries have found place in our district which is considered as the home to largest varieties of Aurvedic Plants. It is nothing but rape of pristinely pure, virgin earth by a gang of brutish crooks and anti-nationals. This shameless loot which started in the year 1960 has attained enormous proportions today. The people living on the outskirts of MRPL are facing the serious problem of contamination of their water sources. The discharge from the plants is polluting the sea to such an extent that the fish catch has been on the decline, allege the fishermen. Though the authorities always try to brush these off, it is significant that such problems never existed before the setting up of MRPL and similar other industries. Price of fish has sky rocketed, thus taking it out of the reach of common man.

Some species have disappeared. Selfish and foolish man is continuously raping the mother earth in the name of "Development" conveniently forgetting that "Human species" itself will disappear from the face of the earth in a matter of few decades if he persists with this so-called, suicidal "Development".

Members of the fact-finding team (except Prof. Pattabhirama Somayaji who could not join due to

ill-health) gathered at Suratkal on the morning of 20th June, 2009 and had their first meeting with the noted environmental activist Upendra Hosabettu. The following is an account of what emerged during the team's discussions with Upendra Hosabettu.

### **Upendra Hosbet Says**

Around 124 acres of land was acquired by KIADB in the year 1960 for the purpose of constructing the New Mangalore Port at Panambur. This includes a part of the Tannirbavi which was acquired ostensibly for the port. Compensation was paid to all the fishermen living at Tannirbavi and they were relocated to Chitrapur, a few kms further north. Some had been relocated to Katipalla. It is interesting to note

that these fishermen who live in Chitrapur now still retain their old place identities and have named some localities there as Kular, Kodikal etc. This shows their sentimental attachment to the mother earth. Some of them were provided with jobs in the New Mangalore Port. Some Tamilians and people from North Karnataka have built residences within the Tannirbavi acquired area.

Later in the 1990s the barge-mounted GMR POWER COMPANY came up in about 40 acres of the acquired land in Tannirbavi. Two other barge-mounted power projects (BMPP)'s namely SMITH CO-GENERATION near Bengre and Euro-Canara in Tannirbavi (on the river itself!!) were to come up but had to be abandoned after public hearing and massive protests. In the case of the GMR Project, no public hearing of any sort was conducted. At that time the people living there were evicted reportedly after payment of some compensation. These could be the same earlier occupants who might have come back. Or these could also be new settlements since NMPT did not use this area anyway. A true picture is not available.

## Coastal Regulation Zone

Area upto a distance of 500 meters from the sea comes under the Coastal Regulation Zone(CRZ). Area upto a distance of 100 meters from the high tide line on the western side and 150 meters from the river bank on the eastern side was classified as CRZ-1 because of the existence of a thick mangrove forest. No construction is allowed in CRZ-1. But even in the next zone, i.e., CRZ-2, no polluting industry is allowed. Some time back Tannirbavi has been classified by the government authorities as CRZ-2 by manipulation of records, with malafide intentions.

CRZ-2 is from 100 meters line to 200 meters. CRZ-3 is from 200 meters line to 500 meters. In this zone some development is permitted. No industry is allowed, if there is a river within 150 meter of the high tide line. Only certain specific types of industries are permitted to be established. 200 meters from the high tide line, is a "no development zone". As a rule the entire 500 meter stretch is classified as CRZ-2 or 3. Beyond 500 meters industries such as SEZ or thermal power plant are allowed to be set up subject to environmental and other clearances.

## Karnataka Industrial Area Development Board

The team next visited the office of KIADB at Baikampady Industrial Estate. They first met S.Krishnamurthy, special land acquisition officer who informed the team that the matter is handled by the Development Department. He also said that all policy decisions were taken at their Bangalore Headquarters and the local office does the implementation part of the work. The team then went up to the office of the Deputy Development Officer. But since he was away, the team met with one of his assistants. The following information was gathered during the discussions:

In 1960 the government had acquired

around 120 acres of land around the Tannirbavi area from the original owners. These are in survey numbers 40 to 49, 53 to 57, 66, 68 and 71. All original owners had been compensated by the government. These original owners were absentee-landlords. Hence actual occupiers or those in physical possession of these lands were not compensated, violating norms laid down by the supreme court. Later in 1968 all the acquired land except that in possession of New Mangalore Port Trust was transferred to KIADB.

In the 1990s around 40 acres comprising survey numbers 43-part, 44-part, 45-part, 46, 66-part were sold to the barge-mounted GMR

Power Company. Though there were some "illegal" occupants there

still they were paid some compensation. Team members put some questions: Why have you not been checking the acquired lands for illegal occupation? Why was not the boundary clearly defined/marked at the spot? The only answer from KIADB was: When KIADB officials had gone for a check in 1992, they had found a majority of local persons and a few Tamilians living there. KIADB says in 2007 it had written to the Mangalore City Corporation asking it not to permit residences in about 80 acres around the barge-mounted GMR project. Presently all the residents here are found to be in possession of voter ID cards and ration cards. Adverse possession for certain continuous period of time, without any disturbance also gives certain rights and legitimacy to the occupants. Glaring example is the zopadpatties all over the country which are legalized by the government as India is a welfare social state. While zopadpattiwalas have occupied precious Govt lands in cities for 20/30/40 years a place like Tannirbavi has been occupied by Adivasis, Tribals, Dalits etc for generations, which could be called as no man's land as no government or

governance existed when they first occupied such places. In fact these occupiers have preserved the forests around and planted trees and protected the sea shore from getting eroded without any assistance from any source.

Recently around 3.5 acres has been sold to a certain Mysore Mercantile Company which reportedly proposes to set up a storage facility for imported edible oil. Though edible oil is not in the list of hazardous materials which are not allowed to be stored in CRZ areas, the pertinent question here is: while there is enough land available, for example in the nearby Baikampady Industrial Area, why authorities are insisting on Tannirbavi? Why not let Tannirbavi remain a "no industry zone" and a tourist spot? This is what the public would like to know. In 2002 when Clifford Lobo, a resident, wanted a 20x40 plot for a tourism-related business, it was refused.

## Tannirbavi and Its Rape

The team proceeded to Tannirbavi. It must be mentioned here that the approach road has become very difficult to negotiate because of the hundreds upon hundreds of overloaded ore-carrying trucks from the notorious Bellary Mines.

The team went to the Fathima Church and met Fr. Sunil. But since he is a newcomer to the Church he arranged for a parishioner to meet the team. In the meanwhile another local Clifford Lobo who is the President of Tannirbavi Nagarika Vedike also arrived. Clifford Lobo said Tannirbavi Nagarika Vedike started functioning around 30 years ago. He also said his house too falls within the acquired land. He gave the names of three companies to whom land has been sold recently by KIADB. They are M/s Goldfinch (of the Goldfinch Hotel group), M/s Aqua Park and Mysore Mercantile. While M/s Goldfinch has purchased 45 acres, Aqua Park has bought 15 acres and Mysore Mercantile 3.5 acres. Compensation

paid in 1960 for the total acquisition (124 acres) was Rs. 14,39,644, but the KIADB, which is supposed to make no profit, is earning exorbitant profits by selling same lands @Rs. 14 lakhs per acre . There are some Tamilians and others living in the area but they are tenants paying monthly rentals.

There are in all 218 families living here. Out of them around 50% are Dalits, 20% Christians and Muslims and the rest 30% belong to various other communities. Felix D'Souza who is the Parish Secretary said that he has been paid compensation by GMR Power Co. He says he and his forefathers have been living here.

### **A Second Visit to Tannirbavi**

A second visit was made to Tannirbavi on 23rd June by P.B.D'Sa and Suresh Bhat. The team met Felix D'Souza, aged 58, at his residence cum shop. He runs the local ration shop no: 218. Felix said his father Augustine had settled in Tannirbavi sometime around 1935. During the take-over in 1960 Augustine was no more and his wife, i.e., Felix's mother was paid compensation for their land and was allotted a plot in Krishnapura but she did not want to shift. When the GMR project came up in Felix's land, he was paid some compensation. Presently they have applied for occupation certificate or allotment of alternate plot. There are about 130 families living in the land acquired by KIADB including some 30 -50 families of laborers from North Karnataka who came here a few years ago. Nearly half of all the 130 families are in favor of getting some compensation. Which is justified on the basis of several Supreme Court orders on rehabilitation of displaced persons.

Ramabai, aged 63, belongs to Billava community. In 1972 she with her family shifted from Bolor in the mainland and settled in Tannirbavi. According to her, her plot is in land belonging to the NMPT. Local youth of all communities living in Tannirbavi are members of a Youth Sports Club.

The Club building situated on the river bank was constructed in 1988. Exemplary communal harmony exists in this area even today. Youngsters of all communities are members of this youth club.

The Gowsiya Mohiuddin Jumma Masjid here is said to be around 70-80 years old. There are about 40 houses of Muslims in the vicinity of this masjid. Rashid Khan, age around 50 years who is one of the residents, is a fisherman by occupation. His father Hassan and also grandfather Hyder Khan both lived here. He neither pays any rent nor any tax to any authority. His wife is a member of one local committee that arranges for distribution of free textbooks donated by GMR. Rashid Khan said he has not heard of the Tannirbavi Nagarika Vedike. They are living in a blissful world of their own, knowing, not what calamity awaits them.

### **Parks Playgrounds and Open Spaces**

The team next proceeded towards a large sports ground close to the NMPT guest house. A few persons belonging to Muger community were sitting under the shade of a tree. Vasu, Karunakar and Ramesh informed us that totally there are some 40-50 houses here belonging to Dalits(Mugeras), Poojaris (Billavas) and Shettys (Bunts). They and their forefathers have lived in Tannirbavi for years and years. When they had shifted to the present location from the port area no one had objected nor asked them to shift. There are 19 families living inside the 4.5 acres now proposed to be taken over. They had protested 2-3 years ago when some people had come to conduct a survey but the latest survey was carried out under police protection. In 1960 their parents had received some compensation. Now they too want compensation to be paid to them. Earlier, i.e., prior to 1960, they were going fishing along with the local Mogaveera and Billava fishermen. After the take-over of land in 1960, all fishermen shifted to new colonies

at Chitrapura. Today they go fishing either by themselves or accompany the Mogaveeras and Billavas operating from Chitrapura.

The playground is existing since about 100 years. The Karnataka Parks ,Play Fields and Open Spaces "Reservation and Regulation" Act 1985, Karnataka Act No 16 of 1985 prohibits use of such places for any other purpose for which they were used on the date from which the Act became effective as per sections 4,5,6,7,8& 9 of the Act. These sections also prohibit construction of any building or any structure likely to effect the utility of the Parks, Play Fields or Open Spaces or any other encroachment of any type on these play fields etc. KIDB cannot touch the entire area as it attracts protection under "Karnataka government Parks [Preservation] Act 1975-Act of 23 of 1975.

### **Question**

It is being claimed by the Vedike that if acquired land is not developed/used within 13 years, it becomes void and must be returned to Govt or to the original owner. Since no such thing was done by the government it has obviously lost any claim on those lands and the present occupiers have better claims because of continuous, peaceful possession of the said lands over a long period of time.

### **Suggestions**

It is suggested that government should honor the various environment protection Acts and Directives of the Supreme Court of India and utilize the place for environment friendly, tourism friendly activities as well as export oriented fisheries activities and rehabilitate the minimum required populace giving them a fair and just package.

P.B.D'Sa, Prof. Pattabhirama Somayaji, C.N.Shetty, Suresh Bhat, Damodar Jathanna, Rasool Barkur, Shekhar Shetty

Prepared by PUCL Dakshina  
Kannada ☐

## Press Release

The various Human Rights and Social-Political Groups including PUCL, PUADR, Samajwadi Jan Parishad, Lok Rajniti Manch and prominent individuals, in Delhi have raised concern over growing apathy of various governments towards the life of human rights activists. The incidents of attack on the life of Human Rights Activists are hardly taken to their logical conclusion. Citing the case of Shamim Modi, a noted social & political activist, Vice President of Samajwadi Jan Parishad & presently Assistant Professor with TISS, Mumbai, they all demanded that the Central leadership of the Congress should intervene and ensure fair investigation by the CBI in the matter.

The facts revealed so far are sufficient enough to prove that there has been a larger political conspiracy to eliminate her and the local police have a definite role in the attack. Though Shamim has named the Former Revenue Minister of M.P., Kamal Patel, his business associates and the President of Saw Mill Owner's Association, Natwar Patel in her statement, the consecutive investigative agencies of Maharashtra, earlier the Maharashtra Police and now Mumbai Crime Branch, CID have failed to name them in the FIR. Since it was suspected that the local police itself might be a part of the whole conspiracy since they have doctored Shamim and her husband Anurag's statement and earlier registered the case under section 397 of IPC only, for attempting dacoity, an impartial CBI enquiry was demanded by activists from all over the country. A delegation had met the then Home Minister of Maharashtra and he had promised to order a CBI inquiry.

Since the government did not take any step in that direction, Shamim made a plea to the Mumbai High Court for a fair inquiry. The High Court took notice of the matter and after slapping section 307 of IPC (attempt to murder), ordered Mumbai Crime Branch CID to conduct an inquiry into the case and submit its report within three months.

During the CB CID inquiry it further came to light that the Senior Police Inspector of Manikpur Police Station has manipulated vital forensic evidence. But since CID is also part of the State police apparatus, despite repeated requests with the Chief Minister of Maharashtra and various police authorities of the State, it is not interrogating the local police officers whose involvement in the case has been very unprofessional and their collusion with the attacker(s) is very much probable. With the attacker(s) nowhere in sight, only the interrogation of the local police can shed some light on the matter and that is possible only when a CBI inquiry is conducted

Shamim holds an M. Phil. degree in Social Sciences from the prestigious Tata Institute of Social Sciences, Mumbai. She also holds a degree in law from Barkatullah Univ., Bhopal and an M.A from Lady Shriram College, New Delhi. Under the banner of Shramik Adiwasi Sanghtham Shamim and Anurag Modi have been organising tribal, dalits and unorganized workers in Harda, Khandwa and Betul districts of M.P. for the last 15 years. They were also actively involved in electoral politics through their political front Samajwadi Jan Parishad. She has taken up many issues like Ex Revenue Minister of MP Mr Kamal Patel son's

involvement in a murder case in which a CBI inquiry has been ordered by the M.P. H.C., exposing the corrupt nexus of politicians and mining mafia by way of filing various PILs, and raising the voice of tribals and unorganized workers. In last 5 years around 7 false cases have been registered against Shamim, ranging from dacoity to kidnapping, and two against her husband Anurag Modi. The couple also has been served with the externment notice by the Harda DM to be externed from 6 districts of their work area. Shamim was also jailed on trump up charges.

Shamim was attacked by the watchman in her rented flat at Vasai, Mumbai on 23rd July. In all she sustained 118 stitches. It was her sheer courage and presence of mind plus timely medical aid that saved her. Since the police tried to make it look like a simple robbery case, while in reality it was a well planned attack to kill her by Kamal Patel, the local BJP MLA and Former Revenue Minister from MP and Natwar Patel, President of Saw Mill Owners Association of Harda, Madhya Pradesh where Shamim has been politically active in mobilizing saw mill workers, Hammals and contested elections against Kamal Patel. She also filed various PILs concerning tribal rights and exposing the corrupt nexus.

Signed By: Surendra Mohan, Kuldip Nayar, People Union for Civil Liberties (PUCL), People Union for Democratic Rights (PUADR), National Alliance for People Movement (NAPM), Delhi Solidarity Group, Samajwadi Jan Parishad, Vidyarthi Yuvjan Sabha, Lok Rajniti Manch. □

## Crossed and Crucified

### Parivar's War against Minorities in Orissa

*(This report by PUCL Bhubneshwar & Kshipur Solidarity Group, Delhi, is being serialized in the PUCL Bulletin from the July 2009 issue onwards. Here is the sixth & last part of the Report- Editor.)*

#### 2.8 Politics of Reservation

There have been caste and ethnic tensions in Kandhamal in the recent past. It is alleged that Panos,

identifying themselves as Kuispeaking (Kandho speak the Kui language), are demanding ST status and privilege. According to the press note (dt. 26 September 2007) of the

Phulbani Kui Jan Kalyan Sangh, "In 1980- 81, when the Kuis were registered as Panos on revenue documents, there was protest. Consequently, the Government of

Orissa wrote to the Government of India, recommending inclusion of Kuis in the list of tribes. This recommendation has become a Presidential Order since the last 23 years."

The Presidential order of 2002 accorded tribal status to the Kuis, and it was subsequently notified in the Orissa Gazettee (12 June 2003). Following this, the Kui Jan Kalyan Sangh moved the Orissa High Court praying that the revenue records wrongly mention Kuis as Panos, and this may be corrected. The High Court granted them relief, asking the Orissa Government to make corrections in the revenue records. But, which community in Kandhamal should be called Kui became a controversial issue. Kui Jan Kalyan Sangh states that Kui is the name of a tribe that is different from Kandhos and others. The KCC states that Kui is the self-reference of the community referred to variously as Kandho, Khond, Kond, Cond by the Britishers in the 19th century. That means Kandhos are Kuis. Kui is also the name of the language spoken by the Kandhos. KCC alleges that the Kui-speaking Panos, in the desire of cornering the reserved government jobs and land for the Kandhos, want the ST status for themselves by being named Kuis. The administration did not resolve the issue and the KCC agitated and the atmosphere became tense. The National Minority Rights Commission had suggested the government to resolve the issue after the 2007 riots as mentioned in the beginning of this report. Baliguda, we mentioned earlier, was under the administrative jurisdiction of the Madras Presidency. In that presidency, administrative records do refer to some "hill tribes" and Panos are included in it. Till 1950, the Doms and Panos of the Kandhamal district were included in the list of Schedule Tribes (The Kondhs: A Handbook for Development, R.K.Nayak, Barbara Boal, Nabor Soreng). In 1951, by a presidential order, they were included

in the list of Schedule Castes, along with the implementation of the reservation policy.

The problem actually lies in this reservation policy. Although public sector jobs are reserved for both STs and SCs, religion has been added only to the schedule castes. If members of SC convert to Islam or Christianity, they lose their SC status and become ineligible for reservation benefits. People of SC remain religiously discriminated in a policy of positive discrimination. At the national level though, many organizations are demanding recognition of Dalits across religious communities. In Orissa also, Dalit organizations are making similar demands. The National Commission for Religious and Linguistic Minorities, in its report of 2007, has recommended SC status for Christian and Muslim Dalits. In Kandhamal, Kui Jan Kalyan Sangha raises the issue as one to set right a historic treachery. KCC, on the other hand, thinks the meagre government jobs and other benefits under reservation policy becomes less if another community is added to the list of beneficiaries. Two most disenfranchised communities are at loggerheads because of the reservation policy. This kind of conflict is also witnessed in other parts of our country. Since the 1990s, under the new economic policy, the employment opportunity in public sector is becoming lesser by the day. On the other hand, the serpentine queues of the educated unemployed people in front of government offices are becoming longer. Kandhamal is also witnessing this, despite the fact that education is not that widespread in Kandhamal. Even going by government records, by the end of 2003, there were 4648 unemployed educated among the Advasis and 3077 amongst the schedule castes. (District Statistical handbook). Given the state of the economy, it is not surprising that the recognition as STs or 'grabbing' of caste becomes a volatile issue.

Forged caste or tribe certificates have added to this social conflict. KCC complains that Panos, are cornering the benefits meant for the Advasis by using fake caste certificates. The Pano Kalyan Samiti also states that if there has been such a case of forgery, the culprits should be booked but the entire community of Panos should not be slandered. After the August-September 2008 riots started, the government announced appointment of 10 police inspectors to look into the alleged cases of certificate forgery. According to newspaper reports so far, 801 cases have been brought before the special inspectors, who are investigating the matter. (Samaj, 10 March 2009)

The Sangh Parivar has made efforts to capitalize on the situation. It has used even this contentious issue for anti-Christian campaign. The Organizer (13 January 2008) used the following headline, "The demand for reservation benefits by converted Panos is the root of the problem."

After presenting an account of the Kandhamal violence and examining its historical roots, we raise the following points:

First, in Kandhamal, people have been opting to follow Christianity since 1914. But, conflicts along religious lines took place only in the 1980s, after a decade of Laxmanananda's activities and when Hindutva was raising its venomous head in national politics. The rise in population of any faith or religious group does not by itself lead to communal conflict. Had it been so, shouldn't the districts of Gajapati and Sundergarh in Orissa have witnessed anti-Christian violence because the Christian population in these districts is higher than Kandhamal in terms of absolute numbers? It is our belief that social division or difference, be it caste or religion, does not lead to communal strife. Rather, strife happens when that difference is manipulated to create an atmosphere of hatred against the perceived 'other' community, exactly as Hitler and his

followers targeted the Jews in the 1930s. Isn't there a frightening similarity between these two?

The state government allowed Laxmanananda's funeral procession to pass across the district when Section 144 was imposed and allowed Pravin Togadia to participate and make inflammatory speeches in the funeral rites. However, neither the Central Minister of State and opposition leaders of the state were allowed into the district nor was relief by NGOs and others allowed in. The state not only abdicated its responsibility of protecting the lives and belongings of the people, but also gave a free hand to anti-Christian elements to further their heinous agenda of Brahminical Hinduization and hatred. What transpired is not a saga of failure of the state but its connivance in the butchering of Christians. As this report is going to press, the coalition of the BJD and BJP has broken down. And the Secretary of the BJD has made a public statement, "As per its hidden agenda, the BJP sowed the seeds of hatred in Kandhamal, Gajpati, Sundergarh and Mayurbhanj and the Kandhamal riots are a consequence of this... Being part of the cabinet of ministers, the BJP leaders put pressure on the government not to arrest the perpetrators of violence." (The Samaj 21 March 2009). This statement only reconfirms the connivance of the government in the violence for over two months.

Second, the violence was so methodical and organized that the so-called "spontaneity" is nothing but a lie. This theory tries to rationalize the violence as a spontaneous reaction to the murder of a very popular saint. This was largely mouthed by the right wingers of all varieties. Before an attack, a meeting of the perpetrators was held in nearby schools or anganwadi centres and the violence was carried out as planned. Houses of Christians were selectively destroyed and their belongings looted, but the neighbouring Hindu

houses remained untouched. The motive was to ruin the Christians economically so thoroughly that they would not be able to stand on their feet for years to come; in our view, in some ways, it's a replication of the Gujarat carnage of 2002. It is interesting how Tumudibandh Block, where Laxmanananda and his disciples were killed, remained by and large peaceful.

Blocks like G. Udaygiri, Raikia and Tikabali that are between 80 to 100 km from the place of killing are the worst affected areas. These are the areas where we see the first Christian converts during the British Raj. These also developed as important trade centres of the district. In the 1970s, traders from nearby areas of Ganjam, Nayagarh, Bhanjanagar, sensing economic opportunities, immigrated into this district. They continue to dominate the trade in these areas. Around the same time, Laxmanananda set up his ashram at Chakapad and started his campaign against cow slaughter and Christian missionaries. The immigrant traders supported Laxmanananda's project. Over the last 40 years, Laxmanananda managed to have a sizeable following in the area. His supporters played different roles in attacking the Christians after Laxmanananda's killing.

Third, the ethnic theory, peddled by the government and endorsed by sections of the media and some intellectuals as the entire saga being an Adivasi-Dalit conflict seems far-fetched. Such an approach not only undermines the actual ground realities but also overlooks the planned and systemic violence on Christians and the range of injustices inflicted on them by the Sangh Parivar, irrespective of whether they are Dalit or Adivasi. Barring a few incidents, Christians everywhere, both Adivasi and Dalit, bore the brunt of communal attacks in Kandhamal.

Yet another explanation of the violence rests on the assertion that

Dalit Christians have grabbed the lands of Adivasis in the region. However, nowhere has land been forcefully occupied by the aggrieved party, as was seen in the 1994 ethnic violence. Though land remains a contentious socioeconomic issue in Kandhamal, it has little to do with the present communal violence. The present and all previous governments are solely responsible for not conducting a thorough land survey and issuing Records of Rights to the original owners of the land.

Fourth, the absolute indifference of the government of Orissa towards the removal of abject mass poverty in Kandhamal, has left the field open to various vested interests to manipulate the situation to their advantage. It's the duty of the government to provide education, health-care for the people. When there is a vacuum of any real development with people as the centre of the development paradigm, there's only marginal economic relief or a modicum of spiritual fulfillment provided by other social forces. However it is never an emancipatory agenda leading to the dignity and self-emancipation of the Dalits and Adivasis. Though both the Christian missionary organizations and the Hindu fundamentalists claim that they are working for the poor, neither of them have really ever addressed the question of land and forests, which are primary for the life and livelihood of people. No tools or measures have been provided ever by anyone for the people of Kandhamal to go beyond their poverty. With mass poverty as the background, it can hardly be said that conversion or change of faith has contributed to anything beyond symbolic changes in the material life of people. That conversion does not change the economic life has already been attested to in the PUCL report on the Kilipal (Jagatsinghpur) conversion case. Rather, this has led to social ostracization of the converts. Therefore, the Hindu allegation of conversion through allurement is baseless.

Fifth, the CPI (Maoists) killing Laxmanananda was like a spark to dynamite. Their method of combating communal and right wing politics actually contributed to 39 deaths and 50,000 people being displaced. Whatever semblance of life or family or livelihood people had put together through hard labour over years were wiped out overnight. Did the Maoists have any idea of the ground reality or anticipate what would follow their action? Where were they when village after village was raided by sword-wielding mobs of 300 to 400 in the most planned and systemic manner? More than a month later, CPI (Maoist), Orissa State Organisational Committee issued a booklet, Why was Laxmanananda awarded death sentence? claiming responsibility for the killing. The booklet gives justification for the "death sentence". We ask whether death sentence is the only means to deal with ideological and political opponents - in this case Laxmanananda Had the ordinary Christians who suffered most authorized the Maoists in any way to do it? In the entire booklet, neither have the Maoists mentioned anything about the loss of lives or property of Christians nor uttered a word of apology to the victims and living survivors of the dead. Presumably then, these are the calculated losses in the "war" they wage. At the same time, for those who are skeptical of Maoist violence as a means of checking the rapid, sinister spread of the Sangh Parivar and its Hindutva politics, we need to think hard how best to strategize against the right wing both ideologically and otherwise. The violence in Kandhamal continued unabated for over two months. Yet, barring a few sporadic protests, people across Orissa and the rest of the country remained quiet. Is it because the victims were Adivasis and Dalits? If it were to happen to some influential Pattnaik or Mohapatra or a Jachuk, would the middle-class have remained as silent? Is it class or caste prejudice that was at work or both? As women,

sexual minorities, workers, Dalits, peasants and Adivasis, we have a lot at stake for our own selves and the future generation in combating communalism. The silence around Kandhamal is far too deafening for us to remain quiet anymore.

Finally, aggressive capitalism characteristically paves the way for conservative forces and the ruling class gives them a free hand. As Orissa is on the brink of "modernization" with the ushering in of mega mining projects and entry of multinationals, the leading party in power turned a blind eye to events in Kandhamal as its coalition partner called the shots. Looking back, we have seen too closely in the last many years the hand-in-glove nature of the rise of Hindu right and the agenda of aggressive neo-liberalism. It was the defeat of the Bombay textiles strike in 1982 that struck an enormous blow to the consciousness of the working people and enabled the champions of Hindutva to make inroads in wide areas. A decade later, the economic policies brought in by the Congress at the centre, coincided with the demolition of the Babri Masjid and assault of Muslims across the country followed by the Gujarat carnage in 2002. Since then the attack on the Christian community in Gujarat, Madhya Pradesh, Orissa, Karnataka and other places has been well planned and carried out with impunity. The tentacles of Hindutva ideology have meanwhile become all-pervasive, and all institutions of the Indian "democratic" polity are today infested by these inimical forces. To combat the rise of communalism and carve a way forward, we need to learn from our historical experiences and lessons. And it can happen as we unite with all progressive and democratic forces in the struggle for a society of our own making. We make history or history makes us.

'It is not the violence of a few that scares me, it is the silence of many.'

(Martin Luther King Jr.) □

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