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w.e.f. March 1, 2010

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Ayodhya Verdict Rajindar Sachar

Both government and opposition and the public in general are rightly in panic awaiting the verdict on the Babri Masjid by the Allahabad High Court - a situation brought about by the faltering non-secular stand by all the concerned governments. The High Court is to give verdict on the following points:

1. Was the place under the Babri Masjid the birthplace of Lord Ram?
2. Was there, or was there not, a temple on the land on which the Babri Masjid was built?

Now it is obvious to the meanest intelligence that it is impossible to prove that the birthplace of Lord Ram was under the Masjid - it may be a matter of faith, genuine or contrived or otherwise, but that is no proof, nor can it ever be put forward as a legal ground to take away the land from the Mosque.

If the finding is that the Masjid was not built on a temple, then the Muslims get the land back and will be free to use it in any way including the building of a Mosque.

In the alternative it may be held that there was a temple on the land of the Babri Mosque. But even with this finding the suit by the VHP/RSS has to be dismissed. Admittedly the Babri Masjid has been in existence for over 400 years till it was demolished by the goons of the VHP/RSS in 1992. Legally speaking, the Sangh Parivar would have no right even if a temple had been demolished to build the Babri Masjid.

I say this in view of the precedent of the case of Masjid Shahid Ganj in Lahore decided by the Privy Council in 1940. In that case there was admittedly a Mosque existing since 1722 A.D. But by 1762, the building came under Sikh rule and was being used as a Gurdwara. It was only in 1935 that a suit was filed claiming that the building was a Mosque and should be returned to Muslims.

The Privy Council, while observing, "their Lordship have every sympathy with a religious sentiment which would ascribe sanctity and inviolability to a place of worship, they cannot, under the Limitation Act, accept the contentions that such a building cannot be possessed adversely" and then went on to hold, "The Property now in question having been possessed by Sikhs adversely to the Waqf and to all interests thereunder for more than 12 years, the right of the mutawali to possession for the purposes of the Waqf came to an end under Limitation Act." On the same parity of reasoning, even if a temple existed prior to the building of the Masjid 400 years ago, the suit by the VHP etc has to fail.

There is another reason why in such a situation, the suit would fail

because in common law, even a rightful heir if he kills his ancestor, forfeits his right of inheritance. In the Masjid case too, there was 'murder most foul' and hence the murderer cannot be allowed to take the benefit of his own dastardly deeds, whatever the legal position may be.

It is true that sometimes some Muslim groups in a spirit of large heartedness and as a measure of mutual accommodation, suggest that if it was found that the Masjid was built on the site of a temple, they would not like to build a Mosque on the said site now because the Koran forbids Muslims to build a mosque by demolishing any other religious place. But even then, if Muslims choose not to build a Masjid on this site, the ownership and use of the land remains with them. Hindus cannot, under any circumstances, lay a claim to this site, which was under the Babri Masjid.

Some well-intentioned persons come out with an apparently neutral suggestion of building a multi religious complex on the site. To me

this would be surrender to rabid Hindu Communal sentiment - whatever explanation you may give, a Muslim then would feel a less equal citizen if, even after he has won, he is asked to share this site with the goons who destroyed the Holy Mosque. This would be a defeat of secularism and against our constitution which mandates that all citizens, whether Hindus, Muslims or others have equal Rights and are equal before law.

A multi Religious Complex or multi culture Centre or a hospital can obviously be built by the joint free will efforts of both Hindus and Muslims. But such a complex, if it is to be built necessarily, must be on the land away and outside the Masjid complex, and that too only if the Muslims give their consent - obviously as vacant land belongs to the Muslims. But under all circumstances, the site under the Babri Masjid must remain in the exclusive possession of Muslims who will be free to use it in any way the community decides.

I feel that the government should start doing an exercise of consultation, preparation on these lines - to await helplessly trying to anticipate what the verdict would be is like a pigeon who, on seeing a cat, closes its eyes with the delusion that the cat will go away because in such a situation the result is obvious.

Equally, I feel that the leaders of all communities, political parties and social workers should start planning to meet the situation, because this matter requires the involvement of people at the grassroots level and does not brook any delay.

The legal position is clear. It is only the weakness of political will that is responsible for the Ayodhya imbroglio to continue as one of the most bitter disputes within the country. By keeping the Ayodhya issue alive, the country has been kept away from addressing its most urgent task - how to meet the challenge of the growing pauperization of the masses. And that includes both Hindus and Muslims. □

PUCL President Prabhakar Sinha's address to the National Convention held at Gandhi Peace Foundation, New Delhi on 5 September 2010:

Attacks on Democratic Rights: A Sign of a Democracy Hijacked

Dear Friends,

The nation has reasons to be concerned at the growing attack on democratic rights because it is a symptom of a sick a democracy. Our democratic governments shoot to kill or maim unarmed demonstrators for hurling a few brickbats, kill people in fake encounters or just spirit them away because they have no evidence to prove their guilt in a court of law or just do away with them after taking them into custody. The Supreme Court, acknowledging the high value of human life, awards death sentence in 'the rarest of rare cases' but the 'execution' of hundreds every year by the police and security forces is continuing without let or hindrance. Human Rights

Commissions without either teeth or commitment have been set up to provide a fig leaf to the Executive to cover these executions. Ironically, along with this shedding of blood, the government is never tired of patting its back on its being a democracy in the company of the Western democracies despite its black deeds. Whatever atrocities the Western democracies might be guilty of committing against other nations, they do not kill, maim, spirit away indiscriminately or throw behind the bars their own citizens as our governments do. The US has been a victim of a vicious terror attack in which nearly three thousand innocent persons perished, and continues to be under threat from the most powerful terrorist organizations,

but does not indiscriminately kill or detain thousands of its own citizens. In the U.K., an innocent young man (a Brazilian national) was shot dead by the police on suspicion of being on the point of executing a terror attack in a train in London; the killing so outraged the conscience of the whole nation that no second murder of the kind was committed. The U.S. felt ashamed of its discriminatory trial and ill treatment of the prisoners at Guantanamo prison, and is releasing most of the prisoners for lack of evidence though most of them are foreign nationals believed by the authorities to be terrorists. It is an inseparable characteristic of a democratic government to attach due value to life and personal liberty and be committed to the rule of law and

democratic values. Do our governments qualify to call themselves democratic governments?

The governments in independent India have undoubtedly been repressive and brutal, but where do they stand in comparison with the Imperial British Government? Were more people killed in police firing before Independence? Were there more deaths in encounters? Were there more allegations of fake encounters? Did more people (who took to arms against the British empire) just disappear (more than 3000 persons have disappeared during the last 18 years in Kashmir alone)? Did more people die in the police custody than have died in democratic India? Were mass graves found during the British rule as were found in Punjab a few years ago? Since mid June (2010) only, more than 64 unarmed protesters have been shot dead in Kashmir. Four unarmed farmers in U.P. were shot dead for assembling to protest against the unfair compensation offered to them for their land acquired by the government. Firing and killing of unarmed protesters for hurling brickbats is the routine response of the police and security agencies throughout the country. There is reason to believe that the British government killed far less people in police firing on unarmed demonstrators, or in fake encounters or spirited away inconvenient people or killed people in the police custody as is being done under the democratic governments in independent India. If the Government disagrees, it may issue a white paper giving the actual figures of such incidents prior to and after Independence.

It is common for a colonial government to arm itself with more draconian laws and repressive police and repressive general administrative machinery to keep the restive and hostile people of the colonies in subjugation. A democratic government, which is expected to

serve the people, has no need of draconian laws or repressive police and bureaucracy. However, the governments in India have armed themselves with far more draconian laws, with more fierce teeth, than the British. The Defence of India Act, 1858 did not contain the power of preventive detention (to detain on the basis of apprehension alone), which they acquired only during their life and death struggle during the First World War; but independent India passed The Preventive Detention Act, 1950 within one month of the country declaring itself a Republic. In fact, democratic India has remained without a Central Preventive Detention Act only for a brief period of about three years (from 1977 to 1980). A slew of draconian laws have been enacted since independence: the notorious MISA (The Maintenance of Internal Security Act 1971), NSA (The National Security Act, 1980), TADA (The Terrorism and Disruptive (Prevention) Act, 1985 and POTA (The Prevention of Terrorism Act). In a mid night swoop on 25/26 June 1975 thousands of people, including J.P. and other opposition leaders, were thrown behind the bars when Indira Gandhi clamped the Emergency to save her 'Gaddi'. 79000 persons were detained under TADA throughout the country including the states where there was no trace of terrorism. 1900 persons were detained in Gujarat alone, where there was no trace of terrorism in 1980s. POTA, too, had to be repealed after its most notorious use against innocent persons including Vaiko, an M.P., and Raja Bhैया of U.P. not because they were terrorists but because the respective C.Ms., Jayalalithaa and Mayawati wanted to teach them a lesson for the reasons of their own. As for the rest, the victims mostly belonged to the minority community. These black laws are in addition to a large number of draconian laws passed by the States. India must be the only democracy where the Government (Indira Gandhi's government during

the Emergency) claimed that it had taken away the right to life and personal liberty of its citizens and thus was free to detain, torture or even kill them with impunity. The victims could not turn to the judiciary for relief. Even the Supreme Court upheld this contention. It must be the only democracy where under a law (The Armed Forces Special Powers Act, 1958), a junior officer of the Armed forces is empowered to kill a person with impunity by merely declaring that he killed him in discharge of his duty. The police shoot and kill unarmed demonstrators with impunity by merely stating that they killed them in self-defence. The police have no special right to self-defence and enjoy the same right as you and I, but they are not required to prove before a court of law that the use of force was necessary for their self-defence (as we have to do), as they are never prosecuted. They have thus a virtual license to kill, which is routinely used against unarmed demonstrators.

The notorious Rowlett Act, which was enacted to contain the armed struggle for freedom and which also led to the massacre at Jallianwala Bagh in 1919 appears to be a liberal piece of legislation compared with MISA, TADA, POTA, UAPA and similar draconian State laws. The blackest aspect of the Rowlett Act was that it denied the accused the assistance of a lawyer and the right to appeal. The positive side was that the case had to be tried by a bench of three High Court judges and the decision to take action against anyone under the Act had to be taken at the level of the government and not by petty officers. The fact that the decision to prosecute under the Act had to be taken at the highest level and the case had to be heard by a bench of three High Court judges eliminated the possibility of arresting and detaining thousands of people under this Act. It could not be used to arrest thousands as was done under PDA, MISA, TADA,

POTA and many other draconian Central or State laws enacted after independence. Besides, the British government did not take away the right to life and claim the right to kill or maim its subjects with impunity as was done by Indira Gandhi's government. Is it that the imperial government attached more value to the life and personal liberty of their subjects than is done to the life and personal liberty of the citizens of India by our democratic government?

The colonial government enacted laws on sedition to suppress unfavourable opinion against it, but it was nothing like the vicious Unlawful Activities (Prevention) Act in its sweeping and arbitrary power. Had the British government been like our present government, Ravindranath Tagore would have been in jail for being a supporter of freedom and Gandhiji's non-political hosts would have been in prison for harbouring a dangerous man. Why should a person be punished for holding and expressing an opinion? Were the American citizens who opposed the Vietnam War jailed for their opinion even though thousands of U.S. citizens were dying there? Are U.S. citizens being persecuted for opposing war in Iraq or Afghanistan? It is the right and duty of a citizen to oppose the policy or acts of his government, which are wrong in his eyes. We are not a nation of slaves and should not be treated as one by prosecuting or persecuting us for holding and expressing an opinion not liked by the State. The government has the power to manage the affairs of the nation as it thinks fit in good faith, but it has no right to prevent the people from thinking and speaking differently. It is a crime against democracy to enact laws to make expressing an opinion against the policy of the government a criminal offence and persecute or prosecute dissenters.

Some decisions taken by the leaders of the freedom struggle, who came to power following the

departure of the colonial rulers, give rise to disturbing questions. The Constitution makers worked hard to cull democratic features from the democratic constitutions of different countries and enshrined them in ours. In their search for a democratic form of government they adopted the Parliamentary form of government on the pattern of the British Government, but made an inexplicable omission. The top leaders of the freedom struggle had personal knowledge and experience of the organization and role of the police and bureaucracy in a democracy (as in Great Britain, U.S.A. and other Western democracies). They were also fully aware of the conduct of the police in a democratic set up, especially, how they treated the law-abiding citizens. They had a first hand bitter experience of the repressive character of the imperial police and the terror that a 'Thana' struck in the heart of the common man, but still chose to retain The Police Act of 1861 framed to create a police force, which could keep the subjects (i.e. the people) in fear and subjugation. Why was this choice made? Why was a corrupt, inefficient, dishonest and repressive police force retained and its anti-people character preserved? Why is the government still resistant to any change, which might make the police suitable for a democracy?

It is pertinent to ask why a democratic India should have the need of more repressive laws with more draconian provisions than the colonial government? Why should there be more discontent and protest now than during the British Raj? Has the Indian State become more exploitative and repressive than the British? If so, what has caused this antagonism between the democratic governments and the people who elect them?

The root cause of the present state of our democracy may be traced to the composition and character of leadership of the freedom movement. Most of these leaders came from the privileged section of

the society and were genuinely committed to India's freedom but had no commitment to democracy or an egalitarian society. Thus, after winning freedom, they chose to use the State to further their own interests rather than those of the people. Empowerment of the common man was bound to be a threat to their self-interest. So, the colonial bureaucracy with its oppressive character was kept intact. The police system with its loyalty to the rulers rather than the law of the land was preserved and continues till date. The common man continued to be treated as the 'ruled'. The political class assumed the role of 'a charitable ruler' and promoted 'a charity based' instead of 'a right based' democracy. The common man has been reduced to the status of a supplicant before the bureaucracy, and he is made to feel that he has no entitlement to anything as a right. All their rights are subject to the mercy of the bureaucracy. The country appears to have been reduced to fiefdoms of different sizes, which are being ruled by some families. The political leaders at different levels have successfully established a dynastic rule - son succeeding the father or wife the husband? Can one think of a nominated U.S. President or Prime Minister in the U.K.? Or is any real democracy (regardless of the professional competence of the person) possible under such circumstances? But we have a nominated Prime Minister and have had nominated Chief Ministers in almost all States. Our political parties and their leaders survive on corruption and carry their election campaign with black money received on the basis of give and take? Our democratic Constitution is operated by political parties, which have no internal democracy, no law to regulate their functioning and are totally autocratic in their conduct. Ours must be the only democracy where political leaders may declare to have become millionaires or billionaires overnight by receiving

small donations from supporters or by selling milk and get away with it. The others who have no such incredible stories to tell too are not cleaner though they are better at managing the concealment of their ill got wealth. Where political parties depend and survive on black money, the rich are bound to call the shots and use the power of the State to serve their interest. It is no accident that rich industrialists and businessmen are coveted by all the political parties and are cajoled to enter Parliament on their ticket. The truth of the saying that "he who pays the piper prescribes the tune," is probably nowhere more proved than in India.

A tiny minority comprising the mainstream political parties, industrialists and the bureaucracy have hijacked our democracy. It has been virtually changed into an oligarchy having the form of a democracy. Holding periodic election is a peaceful and civilized means of transferring power, but not the sole criterion of democracy. Unless the elected government's topmost priority is to work for the people, it is not democratic. Elections are meant to give a chance to the people to choose a government which may be 'of the people and by the people. However, it is only by being 'for the people' that a government really becomes 'of the people' and 'by the people' and truly democratic. But the people are not omniscient or infallible and do sometimes choose a government which is destructive of their interest and democracy itself. History is replete with examples of popular leaders who betrayed their (the People's) trust and sabotaged democracy from within. Most of the popular leaders of former colonies destroyed democracy in their countries. India escaped a sudden change but has been undergoing continuous subversion from within. Unfortunately, the temporary conflict within the political class has ended, and now those who clamped the Emergency in 1975 and established

an authoritarian rule and those who donned the mantle of democracy's saviours have joined hands to suppress the people. The elections offer no choice to the people, since all the political parties are for the privileged minority and none for the common man.

The minority which has hijacked our democracy and is ruling us has reneged on all the solemn pledges made to the people through the Constitution, and is following a course which is destructive of the goal of the nation as enshrined in the Directive Principles of the State Policy and other core values of the Constitution. The pledge of Economic and Social Justice are forgotten. The pledge that the State would endeavour to minimize inequality of income and eliminate inequality of status has been discarded contemptuously. According to one estimate 78% of Indians have to survive on Rs 20.00 (Rupees Twenty) per day, in a country where there are people who have the wealth to afford a 60-storey mansion in a city like Mumbai and gift a jet plane to their dear ones as a birthday present. The members of Parliament (M.P.) have raised their pay and perks complaining of rising cost of living. They have raised their salary from Rs 16,000.00 (Rupees Sixteen Thousand only) per month to Rs 50,000.00 (Rupees Fifty Thousand only) per month, Constituency allowance from Rs 20,000.00 (Rupees Twenty Thousand) per annum to Rs 45,000.00 (Rupees Forty five thousand), Office allowance from Rs 20,000.00 (Rupees Twenty Thousand only) to Rs 45000.00 (Rupees Forty Five Thousand) per annum in addition to 1.5 lakh free telephone calls, 34 free air trips with a companion, unlimited free travel by train with a companion in First AC (annually) and practically free of cost bungalow in Delhi. The pension of ex-M.Ps., as if they had been serving as employees for 33 years to earn pension which is considered deferred wages) will

now receive pension at the rate of Rs 20,000.00 per month instead of the present Rs 6,000.00 (Rupees Six Thousand). Some people in the private sector receive annual salary in crores. Salary in lakhs is quite common.

The shameful inequality of income has naturally resulted in inequality of status. The inequality of status based on inequality of income has rendered the life and personal liberty of a poor man of so little value that it is being dispensed with at the drop of a hat. A pet of a rich man has more security of food, enjoys far more comfortable life, receives much greater attention and has more security of life than a poor man in India. The life of animals belonging to endangered species is far more secure than the life of a common man who can be killed or caged by the State with impunity.

For a man living on one or two hundred rupees a day, the existence of fundamental rights in the Constitution is a cruel joke. To oppose the violation of his fundamental rights (including the right to life or personal liberty) he has to approach the Supreme Court or the High Court, but a poor man has no means to approach even the lower court.

The Constitution provides that the "State shall, in particular, direct its policy towards securing that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment." The State has been working overtime to achieve the opposite end. The policy the Indian State has been following is to ensure that wealth is concentrated into the hands of a handful by facilitating the means of production to be concentrated into their hands. The State is unabashedly at the service of the rich multi-national or national companies to the detriment of the common man, throwing to the wind the commitment of the Constitution to 'We the People'.

The economic inequality and the

inequality of status have made the fundamental right of equality before the law meaningless. The vast inequality of income and status make the claim of the existence of the rule of law in the country a sham. Had there been the rule of law in the country, 90% (if not more) of the ruling elite, comprising politicians, industrialists, businessmen and bureaucrats, would have been languishing in prisons. The elite are above the law and so rule the roost.

Development is a means to make the life of the people better by raising the standard of living. Development, as a human right, stipulates that the development policy should ensure that the people are participants in the projects and also their beneficiaries. Where democracy itself has been hijacked, such hope is a mirage. Multinationals are not so welcome, Special Economic Zones (SEZ) are not being created and big industries are not being set up to serve the common man but for the industrialists and big business. For the ruling elite the common man deserves nothing more than charity.

Pursuing the present model of development has resulted in hundreds of thousands of tribals in Orissa, Chhattisgarh and Jharkhand being driven away from their homes

where they have been living for generations; farmers whose land has been forcibly taken away are being killed in police firing and debt ridden farmers are committing suicide. A large number of tribals are being detained or killed in fake encounter on the suspicion of their being Maoists. Since there is no transparency and killing or detaining innocent persons are so common that we do not know the truth.

It is a shame for any country if development is offered to the people as a bribe when they seem to get out of control. So long as the people of an area are peaceful, development projects inimical to their interest are ruthlessly pursued, but if they turn too violent to be controlled by killing and arresting, the talk of development begins. Development is thought to be a panacea for containing Maoists for or appeasing the people of Kashmir or the North East. A model for development to serve the interest of the common man is not on the ruling elite's agenda.

The widespread unrest, almost throughout the country, is against the policy of the State to serve the interest of a microscopic minority at the cost of the rest of the people. Since the State is in the hands of the vested interests, which are determined to pursue their interest

at any cost, they have no choice but to repress. This explains why the governments in India have always taken the opportunity (on one pretext or another) to acquire sweeping and arbitrary power without a check on their abuse or restriction on its use for the purpose for which the law was enacted. Thus MISA could be misused against 35,000 of Indira Gandhi's political opponents; 1,900 innocent persons could be detained under TADA in Gujarat though there was no trace of terrorism in that state in 1980s, and Vaiko, an M.P., could be detained under POTA though he had nothing to do with terrorism to prevent which the law was enacted. There is consensus among the ruling elite on acquisition and arbitrary use of sweeping powers against those hurting their vital interest.

The ongoing attacks on life, personal liberty, and other democratic rights including the right to dissent would continue till the Indian democracy is freed from the stranglehold of the ruling elite. It is beyond us to achieve that goal, but we learnt during the Emergency not to give up but to carry on the fight for democracy peacefully and democratically in the hope that some day the people will understand and follow if the torch of Real Democracy is kept burning and aloft. □

General Secretary's Report:

PUCL National Convention on "Attack on Life, Liberty and Democratic Rights"

The National Convention of the PUCL was held on 5th September 2010. The PUCL representatives from more than 20 states attended the convention. The daylong Convention deliberated on the increasing restrictions on people's democratic rights of public protest and right to dissent through strikes, sit-ins, rallies all over the country by the central and the state Governments. It was felt that the laws aimed at countering the terrorism in the country are being used to silence the dissent of the people, human rights

activists and the people's movements. Particularly in the states where marginalized population of tribals is residing and where people's movements are organized or are taking shape to counter the displacement and corporatization of the natural resources at the cost of poor people. The laws like UAPA and state specific equally draconian laws are being used against the ordinary citizens. This has resulted into the situation related to the security of life and liberty of the citizen becoming worse than the British rule or during

the imposition of Emergency in late seventies.

The case of unlawful arrest of the UP-PUCL's organising secretary Seema Azad, the filing of the charge sheet against her and building a campaign for her release on priority was discussed. The inclusion of Pramodini Pradhan's name in a charge sheet of a maoist activist in Orissa and the names of PUCL, PUDR as front organisations of the Maoists in the charge sheet of Kobad Gandhi a CPI (Maoist) central committee member was

condemned and it was resolved that these acts of the state need to be challenged vociferously by all the democratic means. The alleged encounter killings of CPI (Maoist) spokesperson Azad and Hem Chandra Pandey and thereby derailing of peace process with the CPI (Maoist) was condemned by the delegates.

It was felt that the hate crime against the minorities - Muslims and Christians - have risen by the Hindu Fundamentalists in various states and the growing evidence of Hindutva groups' role in several terrorist incidents and blasts in the recent past that is a matter of great concern for the PUCL and all those who have faith in the Indian constitution and values enshrined in it.

It was also brought out that there was a section of Prisoners in Indian Jails particularly the Pakistanis who were being illegally detained despite serving their sentence, their release was of paramount consideration along with the release of such Indian prisoners from the Pakistan Jails.

The following resolution was passed by the house:

That the PUCL believes that it is an inseparable characteristic of a democratic Government to attach great value to the life and personal liberty of the individual and citizen and be committed to the rule of law and democratic values as enshrined in our constitution.

It is our belief that more killings, encounters, disappearances, putting people inconvenient to the Government or who raise their voice against these atrocities, behind bars, killing them in custody have become a regular trend of the central and the state governments in free India than under British rule. A white paper must be produced by the Government of India giving the actual figures of such incidents after independence.

It is well known fact that governments - federal and the states - have consistently armed themselves with laws of preventive detention and

sedition, except for the three year period soon after the emergency. Such laws like AFSPA, the UAPA, the various Goonda Acts, Organised Crime Acts, Anti Social Activities Acts, Public Safety Acts, the various conversion laws as well as certain IPC sections on security have given sweeping powers to the governments to punish people for holding dissenting opinions and diverse views. When booked under these laws, the judiciary have also at times erred and failed to uphold these supreme rights of life and liberty and have overlooked these crimes of the State.

The PUCL is of the belief that legislating and implementing laws that criminalise dissent and intent is a unacceptable in a democracy. These must be repealed. Until then all those booked under these laws should be tried under a multi-bench courts as was even done during the British rule. The PUCL resolves that it will continue to challenge these laws in the court of law and out side democratically.

It is also of the understanding that the central and state Governments have often used the police and the paramilitary forces against the people to suppress their legitimate protests virtually giving them a license to kill in the form of legal impunity in large parts of the country. The Prevention of Torture Bill, that is currently being legislated by the Government shows the intent of the government to completely protect the police rather than make it accountable.

The PUCL holds the belief that Democracy in the country has been hijacked by a few powerful stake holders and it is only working for a microscopic minority including the elite bureaucracy, Corporates, industrialists and the political parties. That resources are being appropriated by only a few; that the development paradigm has led to increasing impoverishment and marginalisation of the Tribals, Dalits, women and farmers, millions of

people have been displaced by the mega projects, more than 50% children are born malnourished and the majority of women have anemia, more than a third of the country's population do not get two squares meals a day and thousands of people are dying of hunger despite over flowing FCI godowns. Since the human rights is integrally connected to the socio - economic situation of the country, this concern is paramount for the PUCL and it would work with other people's movements to combat this.

In this context PUCL demands that all corporate interests on the land, forest and water and other natural resources be withdrawn from the various regions of the country and the local communities and Panchayats be entitled to control over these resources.

It condemns the growing intolerance and attack of the police and paramilitary forces on anti-displacement struggles in the name of Maoism in the states of Chhattisgarh, Jharkhand, Orissa, West Bengal, Andhra Pradesh and demands that this be stopped. It also demands that its forces be withdrawn from these areas paving for negotiated settlement and cases be withdrawn against the people who are raising their voices. It is in this context it reiterates its demand for a judicial enquiry into the killings of Cheru Kuri Raj Kumar Azad, spokesperson of the CPI (Maoists) and Hem Chandra Pandey (independent journalist) on 2nd July 2010.

The PUCL expresses serious concern over recent developments in Kashmir and demands that it puts stop to the cycle of violence there including revocation of AFSPA, public security act and create an environment of amicability in the state paving way for negotiations with all shades of the people there and reach a negotiated political settlement of the issue. Similarly AFSPA must also be withdrawn from the state of Manipur as it has led to

alienation of the local population and entrenched impunity of the security forces.

The PUCL condemns the CPI (Maoists) for resorting to inhuman acts of holding security forces personnel and indulging in bargain with the state. It also condemns the organization's attempt to indulge in

killing of political activists of overground likeminded ideological rival group as in Bihar recently. It calls upon both the parties - government and the CPI (Maoists) - involved in the conflict to enter into dialogue for the long-term interest of the people and the nation.

On the birth centenary year of Ram

Manohar Lohia the PUCL Convention takes the opportunity to recognize his valuable contribution in the civil liberties movement of India and pledges to work for the strengthening of civil liberty culture in the country in line with the path shown by the great leader.

Pushkar Raj (General Secretary) □

Press Statement:

Frequent Police Firings on Unarmed Demonstrators

The People's Union for Civil Liberties strongly condemns the imperial mindset and the imperial system of policing in the country under which the police have virtually been given the license to shoot and kill unarmed demonstrators amongst whom some might have hurled brickbats at the police /security forces in desperation and anger at the indifference and apathy of the powers that be to their deeply felt grievances. The State's policy of bullets for brickbats has already cost the nation the lives of thousands of unarmed demonstrators since we became a Republic, and continues to do so not only in insurgency affected areas but also in the rest of

the country including the recent killing of three unarmed farmers near Aligarh in U.P. The impunity from prosecution for these inhuman acts given by the State to the men in uniform on their mere claim of shooting and killing in self defence is not tenable, as they enjoy the same right of self defence as all citizens of the country have the same legal obligation to prove before a court of law that circumstances warranted the use of force to the extent of causing death or injury. The People's Union for Civil Liberties strongly urges the governments concerned not to treat our lives as cheaper than the lives of endangered species of birds and beasts and

prosecute the members of the police and security forces who claim to have killed or wounded unarmed persons in self defence. The PUCL also urges the Union Government to organize the police as is done in real democracies and to so train and equip them that in dealing with unarmed demonstrators there are no casualties on either side.

Prabhakar Sinha, President;

Pushkar Raj, General Secretary

(By error this statement, which was supposed to be published at page 3 in the September 2010 issue of the Bulletin, was left out at the composition stage. It is being published now.) □

Ill-Timed Controversy on Death Penalty

Mahi Pal Singh

It was a foregone conclusion that the lone survivor responsible for the 26/11 Mumbai terror attack Ajmal Amir Kasab would get the maximum penalty of death from the trial court. It was also obvious that with the conclusion of the case the evidence presented before the court by the Public Prosecutor would become known and the Government of India would be under tremendous public pressure to demand action by the Pakistani Government against the masterminds of the attack sitting across the border in Pakistan whose names figure in the evidence. It was also clear that discussion in the media on these issues would occupy a lot of time during the next few days.

However, discussion on these

issues did not last long. It is discussion on the death penalty, which was started by a TV channel that has got prolonged and stirred the question of hanging of Mohd. Afzal convicted for the 2002 Parliament attack case whose mercy appeal is pending before the President of India. Bharatiya Janata Party, the main opposition party in Parliament utilized this opportunity to attack the ruling UPA Government for not expediting action in the matter and keeping the hanging of Afzal in indefinite abeyance. One wonders whether the leaders of the BJP would be equally vociferous in demanding hanging of Pragya Singh Thakur, Lt. Colonel Srikant Purohit, Ram Narain Singh, Dayanand Pandey, Devendra Gupta and Chandrashekhar,

belonging to the Hindutva outfits like the Hindu Jagaran Manch and Abhinav Bharat, accused of the Malegaon and Ajmer Dargah blasts and the Mecca Masjid terror attack in case they are also convicted and awarded the maximum penalty of death by the judiciary? From their reaction of defending Sadhvi Pragya Singh Thakur and the other accused so far, it seems most unlikely.

The media chose the most inappropriate time, only a day before the quantum of punishment was to be announced for Kasab, to discuss the very serious issue of the death penalty. It was clear that almost all the panellists would demand death for him. The man on the street and the victims or the family members of the 26/11 attacks were all bound to

demand the same. The lawyers who appeared in the discussion and were asked to give their opinion on the basis of the law of the land, were also bound to pronounce the maximum penalty of 'death' in the case as it was certainly covered under the 'rarest of rare' cases, the yardstick prescribed by the Supreme Court for the award of the capital punishment.

So long as the provision of the capital punishment is present on the statute book, the courts are certain to award death in such 'rarest of rare' cases and the largest number of people is bound to demand it when any such case is under discussion. The question becomes case specific and the circumstances of the case, the barbarity, the cruelty, the horror and the bloodshed all visit the mind of the person asked to give his opinion, combined with his own anger at the outrage (and the sense of patriotism and nationality in the cases of acts of terror by Pakistani nationals) force him to pronounce 'death' as the only punishment. They demand it because that is the maximum punishment available under the law for such heinous crimes. What needs to be understood is that they would demand 'life imprisonment' for the same crimes if that were the maximum punishment available. Such crimes happen in those countries also, which have abolished the death penalty and the people in these countries demand, and the courts award, the maximum punishment of life imprisonment for them.

The question of death penalty needs to be discussed in an objective manner, in an atmosphere of detachment, without reference to any specific case. Such a discussion did take place at the Conference Against the Death Penalty held at New Delhi on 22nd and 23rd July 2000 in which retired Justices and Chief Justices of the Supreme Court of India and High Courts participated. The unanimous opinion of the Conference was that the death penalty should be abolished.

Different arguments were presented in the Conference for abolition of the capital punishment. They ranged from practical reasons that almost all those awarded the penalty of death are from the most vulnerable sections of our society - the poorest and those belonging to the scheduled castes, scheduled tribes and minorities - because they cannot defend themselves properly in the courts because of the high cost of securing justice; that it is reminiscent of the old barbaric practice of eye for an eye and hand for a hand which does not befit a civilized society; that it has failed to act as a deterrent, to humanistic and moral considerations that no man has the right to take a life which he cannot give back. The last argument is also important in the light of the fact that several people like Sub-Inspector Balbir Singh in the Indira Gandhi assassination case and Prof. S.A.R. Geelani in the Parliament attack case, who were convicted for the crimes and awarded the death sentence by the lower courts, were adjudged not guilty by the higher judiciary and acquitted. Human life is too precious to be left to the vagaries and errors of the justice administration system particularly when it vows by the edict of not letting a single innocent person be wrongly punished even if in the process two criminals go scot-free. In a country where the big fish, responsible for the killing of thousands and rapes and arson in communal riots, not only roam around freely but also continue to rule the people, there cannot be any justification for continuing the capital punishment.

Dr. B.R. Ambedkar, the principal architect of the Indian Constitution, has observed, "This country by and large believes in the principle of non-violence. It has been its ancient tradition, and although people may not be following it in actual practice, they certainly adhere to the principle of non-violence as a moral mandate which they ought to observe as far as they possibly can and I think that,

having regard to this fact, the proper thing for this country to do is to abolish the death sentence altogether." (Dr. Babasaheb Ambedkar - Writings and Speeches, Vol. 13, page 639, Govt. of Maharashtra Publication).

With the adoption of the Universal Declaration of Human Rights by the United Nations the first attempt at abolishing the death penalty was made. Since its adoption 140 Member States have abolished the death penalty either in law or in practice. In 1989, fifteen years after the International Covenant on Civil and Political Rights (ICCPR) entered into force, the General Assembly adopted a Second Protocol to the Covenant, aimed at the abolition of the death penalty, because many States Parties believe that "abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights." The European Convention, signed by 18 European States and ratified by another 24, entered into force in July 2003 is the first international treaty to ban the death penalty in all circumstances with no exceptions permitted, not even in wartime.

It is high time that we hear the call of the UN High Commissioner for Human Rights, Navnitham Pillay, and abolish the death penalty from our statute book when she says: "I hold this position for a number of reasons: these include the fundamental nature of the right to life; the unacceptable risk of executing innocent people by mistake; the absence of proof that the death penalty serves as a deterrent; and what is, to my mind, the inappropriately vengeful character of the sentence." For a country, which gave to the world the greatest apostle of non-violence in M.K. Gandhi, this is the only rational option. But such a decision cannot be reached on the basis of the opinion of the man on the street, that too with reference to a case like that of Ajmal Amir Kasab. □

Communal Riot in Udaipur District, Rajasthan - Police Enacts Gujarat Asghar Ali Engineer

I have before me the PUCL (People's Union for Civil Liberties) Report on Communal violence in Sarada Village, Udaipur after the murder of a Meena tribal which was purely of a criminal nature. The PUCL team consisted of senior advocate Ramesh Nandwana, Vinita Srivastav, a lawyer, Arun Vyas, Shyam Lal Dogra, Shri Ram Arya, Hemlata, Rajesh Singh and Rashid. Sarada village had witnessed communal incidents a couple of years ago also.

According to the Report, on 2nd July, one Shehzad Khan and two of his associates murdered Mohan Meena, who was dealing with illegal alcoholic substances during a fight while drinking the said substance. Subsequent to this the Adivasis began setting Muslim shops on fire from 3rd to 5th July. These Muslims had nothing to do with the murder. And on 18th July Amrut Lal Meena, a local BJP leader from and resident of Boripal and others of his colleagues said that their major goal was destruction of Muslim families.

On 14th July, SDM and Dy. SP held a meeting with both sides and discussed the problem. The Adivasis who were all members of Bajrang Dal and members of Hindutva groups, according to PUCL Report, stated that the goal of (destruction of Muslims) could be abandoned only if all the three accused in the murder of Mohanlal Meena are ostracized by Muslims and it be declared in newspapers. Though such a demand had no legality and law had to take its course to get the guilty punished, Muslims, in the interest of peace accepted the demand and ostracized the three accused and notified the Tehsildar of Sarada and published in Dainik Bhaskar, a daily from Udaipur.

However, PUCL Report says, the Adivasi leaders, instigated by Hindutva organizations, went back on their word and on 18th July began to

distribute pamphlets for 'continuation of their war against Muslim families.' PUCL also gathered enough evidence that between 18th and 24th July weapons were distributed to Adivasis in the area by different associations. On the night of 24th July 2010, in villages of Pal Sarada, Pal Saipur etc., Dhanraj Meena, a retired teacher, Kalu Shankar Meena, Assistant Secretary to Panchayat and others, some of them teachers, distributed arms.

The Muslims of Sarada came to know of the meeting and distribution of arms and informed the higher officials and local leaders (police and district administration also must have been aware of all this) and requested for increase in security forces. Then Adivasis gathered on 25th at 4 p.m. near a student hostel, were instigated and began attacking Muslim shops and houses, one of which was of retired principal Ahmed Husain who was also injured in stone pelting. The rumour was spread that a Muslim had fired which, however, was later found to be by police.

Though Adivasis were beating drums and gathering and instigating fellow Adivasis to attack Muslims but authorities did nothing. The Adivasis kept attacking Muslim colonies. The police fearing for 'Muslim safety' brought them to police station. In their absence Adivasis looted their houses and set afire, in all 70 in number. What is shocking is that not only district administration was aware of all this and yet did not take any step but more shocking, according to the PUCL Report is that all this happened in the very presence of DM, SP and other senior officers. While Adivasis were burning and looting Muslim houses these highest district officials were watching in silence and all this happened right in their presence.

What is more shocking is that

no action has so far been taken by the Home Minister or the Chief Minister. At my request a high level delegation of Muslims led by Prof. Mohammad Hasan, Prof. Salim Engineer and others along with two victims of the riot met CM and requested him to suspend these district officers in whose presence 70 Muslim houses were looted and burnt, the CM said that he would ask the district commissioner to hold an inquiry.

There is Congress Government in Rajasthan and Muslims had massively voted for the Congress as they had seen communalization of Rajasthan during the BJP rule and post-Gujarat the Congress Government is drafting the much awaited communal violence bill to prevent Gujarat like incidents in future. Also, along with district officials one Congress MLA, herself a Meena, was also present at the scene of this mayhem.

Is really Congress Government serious about preventing communal incidents in Rajasthan and other states? The way district officials behaved and remained mute spectators to such major incident raises several questions. Was Chief Minister aware of this whole incident? If not why concerned officers failed to inform him? Or if he was aware why no action was taken? It may have happened in a smaller place yet the incident was of grave proportions.

How the police behaviour in a Congress ruled state different from what happened in Gujarat where too police was actively involved in helping the rioters. The only difference perhaps is that in Gujarat even things happened with Government's tacit approval. In Rajasthan of course this was not the case but the CM should have been more alert and determined to act against guilty officials.

I need not stress here that if

government does not want, no riot or major communal incident can take place. Bihar and West Bengal are the best examples. When Lalu Prasad came to power with the help of Muslim and Yadav votes he prevented communal riots effectively by simply warning the police that if effective steps were not taken to control communal violence within 24 hours, they will be suspended. He also warned Yadavs, if they want power they should refrain from indulging in communal clashes.

Bihar thereafter never witnessed major communal violence in last 15 years during the Lalu regime and similarly Nitish Kumar, in order to wean Muslim votes from Lalu saw to it no riot takes place and by and large during his regime too, Bihar remained riot-free, Not only that, in order to attract Muslim votes, Nitish also saw to it that the culprits of Bhagalpur riots get punished which Lalu did not as most of them were Yadavs.

Similarly, West Bengal too was a communal tinder box and when the Left Front came to power it issued a circular that any police officer who fails to control outbreak of communal violence in 24 hours will stand suspended and throughout 25 years of Left Front Government no major outbreak of communal violence took place except once in Murshidabad which was controlled in time.

Thus it would be seen that much depends on the will of the Government. It is regrettable that prompt action is not forthcoming against the guilty officials of Udaipur district in whose presence Muslim houses were burnt and looted. Rajasthan was ruled by the BJP for two terms and as a result bureaucracy and police have been communalized. During BJP rule in non-IAS and non-IPS cadre recruited through state cadre are mostly from RSS background including school and college teachers.

This plays havoc with state administration and also, RSS, VHP and Bajrang Dal like BJP front organizations spread very fast and acquire new strength. RSS, as all of us know, has been very active in tribal areas and it is not for nothing that those who attacked Muslim houses and looted are all from Hindutva background as highlighted by the PUCL Report.

The CM who has secular image should be quite aware of these facts and should send right signals to all his district officials that communal behaviour will not be tolerated. As the Congress has come to power after several years of BJP misrule it should take vigorous steps to de-communalise the state administration. Yet, one does not see such vigour.

I am told that Muslims in Jaipur have decided to boycott CM's Iftar

party unless prompt action is taken against the guilty officials in Sarada Tehsil. In fact they have decided to boycott Iftar party by any Congressman. This is right decision. Muslim intelligentsia should play more vigorous role in maintaining communal harmony and peace and compel the government to take prompt action against guilty officials.

The CM should cleanse, at least, sensitive districts of communal officials and watch their performance and also offer incentives to secular and proactive officials who promote communal harmony and peace. If the DM and SP are suspended immediately pending inquiry it will send right signals to other officers and failure to do that will encourage officers with communal background and would render Rajasthan another Gujarat. That is precisely what the BJP wants. It has already created communal infrastructure during its two terms before.

Even now it is not too late for the CM to act to salvage his image and to boost the secular image of the Congress. Unfortunately Congress, my forty years of engagement with communal forces have shown, has not been strong in its commitment to secular action as in words. It is high time it shows its commitment in action as well. Mandal parties like Janta Dal, RJD and others have shown commitment in both. □

Gujarat PUCL: Memorandum 1:

Declining Human Rights Situation in Gujarat

To

Dr. Srimati Kamala, Her Excellency Governor of Gujarat, Gandhinagar.

Honourable Governor,

On the completion of 35 years of Emergency, a Citizens' Convention was held on 26th June, organized at Mahendi Nawaz Jang Hall, Paldi, and Ahmedabad under the joint auspices of Lok Andolan Gujarat (People's

Movement, Gujarat and People's Union for Civil Liberties (PUCL) to protest against Undeclared Emergency prevailing in the State and the country. The convention was chaired by Shri Prakash N. Shah.

In this Convention, a total of four resolutions were moved which were passed after deliberations and additions. These resolutions were about (1) 26th June - 26th June Every

Day in Gujarat, (2) Water, Land and Forest (3) Students' representation in Colleges and University Senate (4) Cheating with Gujaratis in the name of religion and culture. In this Convention, discussions and deliberations took place on the various aspects of undeclared Emergency of each moment and on new kind of Emergency.

As a matter of fact we sent our

letters to the Home Minister, Revenue Minister and the Education Minister of Gujarat, seeking appointments to submit the copies of resolutions taken in the Citizen's Convention on 26th June. Regrettably there was no response from any of the Ministers of the Govt. Finding no way to express the concern of the citizens, we requested your Excellency to submit this memorandum along with the resolutions. So we express our gratitude to you.

After the Emergency of 1975, India's ruling regimes have continued their efforts to suppress and deny fundamental rights and civil liberties by Constitutional amendments, enactment of black laws and legal provisions, globalization and liberalization. AND, in Gujarat, every day is a 26th. June i.e. Emergency.

However, during the three decades we saw the demolition of Babri mosque in 1992 and later in 2002 experienced the trampling of fundamental values of humanity in the form of genocide triggered by the misguided mindset of a section of the people in parts of Gujarat. In the wake of such happenings during last three decades a different kind of economic and social emergency has been hitting the common man quite hard almost daily, at every step.

Speaking of our Gujarat State, both globalization and cultural nationalism together have brought about the inhuman situation of the common people and all of us are witnessing the preference of the Government to act in favour of a handful of industrialists. The Government has forged an agenda to trample the fundamental rights and freedom of the people, by snatching away the natural resources like water, land and forest which indeed belong to the villages and the common people, by handing them

over to the private owners, major industrial houses for rampant misuse, at very low cost, in the name of 'SEZ' or Vibrant Gujarat, instead of distributing it among the dalits and the deprived classes. When the VEDANTA project has been scrapped in Orissa by the Ministry of Environment, ironically projects after projects are coming up violating the environment and ecology in Gujarat.

Moreover, atmosphere of panic has been created with the aid of Police and administration among the poor. The violation of civil rights and democratic rights has become habit on the part of the Govt. and its machinery. The Activists struggling to get social justice for the poor, dalits, tribals and the deprived are harassed which reflect the anti-poor attitude of the Govt. of Gujarat. Moreover we would like to add that the murder of RTI activist Mr. Amit Jethwa again reflects how the whistle blowers are facing the threats to their lives. On the other hand, by creating an inert and weak Human Rights Commission, Government of Gujarat has exposed its little concern for Human Rights.

Though there are no visible activities of the so-called Maoists, the Green Hunt is pursued mercilessly. And 13 activists are sent behind the bar, branding them as Maoists in the state

Within last 6-7 years, the Government of Gujarat has dealt death blows to autonomous functioning of Sahitya Academy, Natak Academy. Moreover the existing multiculturalism is erased and replaced with a specific religious identity in the state.

The Rule of Law is in shambles and least respected in Gujarat. Minorities are awaiting justice of 2002 carnage. CBI enquiry on Sohrabudin is termed as the intervention of the

Central Govt. and a communal situation is created. Apart from it the utterances of the Chief Minister Mr. Narendra Modi on the C.B.I. enquiry as per the directive of the Supreme Court is an assault on the democratic norms and practices. Creating a situation of India v/s Gujarat is going to create very bad precedence and it will have serious consequences, if it goes unchecked. Likewise, the utterances are also contempt of Supreme Court's directives. It is a matter of grave concern that the CM has not spared any functions either organized by the Govt, educational institutions, including the Gujarat University, or the ribbon cutting or stone laying ceremonies, where he has not spat the venom of hatred and revenge, and threatened to go to the streets, which is nothing but an assault on Judiciary and judicial enquiry. The situation is becoming worse day by day following the arrest of Mr. Amit Shah, the state Home Minister.

The democratic functioning of the educational bodies has been destroyed. The Syndicate and Senate election have become a mockery. When a young boy aged 18 can be a voter in the General Election in the country, the elections are banned in Gujarat and North Gujarat Universities.

Gujarat Government itself is violating the legislation of Minimum wages and its Rules.

In a nutshell the human rights situation is declining on alarming scale in the state in all spheres of life which needs your immediate attention and redressal.

Thanking you,
Yours,

Ms. Ila Ben Pathak, Gautam Thaker, Dilip Chandulal, Manishi Jani. Dwarika Nath Rath □

Gujarat PUCL: Memorandum 2:

Criminal Contempt of the Supreme Court

To

The Honourable Chief Justice S.H. Kapadia, Supreme Court of India, Tilak Marg, New Delhi.

Sir,

Being seriously concerned with the uproar raised by the Chief Minister of the state Mr. Narendra Modi and the ruling BJP and their senior National and State leaders, around the Judicial Enquiry on Sohrabuddin (Fake) Encounter by CBI ordered by the Supreme Court, an emergency meeting of the citizens of the state was held in a public hall in Ahmedabad on 4th. September, 2010 presided over by one of the eminent citizens of the state Mr. Prakash N. Shah.

The meeting was convened by People's Union of Civil Liberties (PUCL) and Lok Andolan Gujarat.

Lawyers of repute Mr. Mukul Sinha, Ms. Ami Yagnik and Mr. M. M. Tirmizi engaged in legal battle of Godhra, post Godhra 2002 carnage and various encounter deaths including the Sohrabuddin (Fake) Encounter were present in this meeting. They discussed and elaborated how the Gujarat Govt. is creating hurdles, is trying to delay and is stalling the enquires of Godhra, post Godhra carnage and the encounter deaths. They explained in detail that there was total non-cooperation from the Govt. of Gujarat As law took its own course, as the investigation in Sohrabuddin (Fake) Encounter Case progressed, 14 police officials were arrested by CID.

Only two more were arrested by the CBI later when it took over.

However, ironically enough the moment the Supreme Court ordered the CBI enquiry into the Sohrabuddin (Fake) Encounter case, uproar started building up throughout the state raised by the Chief Minister of Gujarat and the Delhi-based leaders of BJP. A volatile situation is being created after the arrest of the Home Minister of the State Mr. Amit Shah.

It is alleged by the Chief Minister that the CBI is acting through motivation provided by the Central Government against the Gujarat State Government and more, against the people of Gujarat. To our deep dismay the psyche of the people of Gujarat is fed with the concept that Gujarat is a nation which is being victimized and India as a nation is poised against it. This malicious campaign confuses the people and raises doubts about the sanctity of our Judiciary and the judicial Inquiry ordered by the Supreme Court.

We are deeply distressed to note that as it is the executive is parlayed in Gujarat, Legislature is not allowed to be active and now the judiciary, especially the apex Court is also being brought down from its most respectable pedestal to be discussed on the streets.

So, as citizens of India we are drawing the attention of the Supreme Court to the following resolutions passed unanimously in our meeting-

" We are of the firm opinion that,

1-When the 2002 riot cases and Sohrabuddin (Fake) Encounter Case

are pending in the Honourable Supreme Court and when the State Govt. of Gujarat is a party in these cases, neither the Chief Minister Mr. Narendra Modi nor the Delhi-based senior leaders of BJP can make public comments about the pending proceedings in the Court. It clearly amounts to Criminal Contempt of the Court.

2- As the CBI is entrusted by the Honourable Court to investigate the Sohrabuddin (fake) Encounter Case, the allegations made by the Chief Minister, Mr. Modi and the senior Delhi-based leaders of BJP against the motive of the CBI and their attempt to create mass frenzy against the investigating agency directly interfere with the judicial process and the impartial investigation by the Court-appointed agency and create doubts among the people about the honesty, integrity and impartiality of the Court proceedings which clearly and unequivocally amount to Criminal Contempt.

3- We pray that the Honourable Supreme Court may be pleased to take notice of this Criminal Contempt of Court and take appropriate action against all those who are responsible.

Thanking you,

Yours truly,

Prakash N. Shah, President of the Meeting; Gautam Thaker, Secretary, PUCL; Dilip Chandulal and Dwarika Nath Rath, Joint Convenors, Lok Andolan Gujarat. September 15, 2010 □

TN & Puduchery:

Prominent RTI Activists Arrested In Chennai Go Missing

V Madhav, Gopalakrishnan and Siva Elango arrested this morning for protesting against Non-transparent Appointment of Chief Info Commissioner, are not traceable, says a colleague who was with them.

Three RTI Activists -- Gopalakrishnan, Siva Elango (Makkal Sakthi Katchi) and Madhav Vishnubhatta (Association for India's Development) -- who were picked up Chennai Police at about 11.20 this

morning in front of the Raj Bhavan and taken to Guindy police station have gone missing and are currently not traceable, says their close associate Nityanand Jayaraman.

"They were taken in a white Tata

Sumo, and should have been produced before the magistrate at Saidapet Court and remanded by the police under 'preventive detention' provisions of CrPC Section 151 and also Criminal Law amendment (CLA) 71A," said Nityanand, flustered after a search of about two hours. "However, they are neither at this court, nor at the judges bungalows nearby, nor at the Guindy police station. Guindy police station (044 22341539) claims to have no knowledge of their whereabouts. They appear to have been whisked away to an undisclosed location by the senior inspector of the police station.

The three activists were demonstrating against the unlawful swearing-in of the former Chief Secretary K S Sripathy as Tamil Nadu's Chief Information Commissioner without an open and transparent process. They stood at the entrance to the Raj Bhavan wearing black blindfolds and holding placards that read "Save RTI", "No transparency in Appointments", "Non-transparent appointment to uphold transparency??"

The DMK Government had convened a meeting of the Selection Committee under RTI on 23 August,

2010. RTI activists, including Madhav, met Ms. Jayalalithaa who is both leader of the opposition and a part of the 3-person selection committee to highlight the lack of transparency in the selection process. The selection process was not preceded by a call for applications from eligible candidates, and Mr. Sripathy's name was revealed even before the Committee could meet. Ms Jayalalithaa's request for information regarding the various candidates was also not honoured. Mr. Sripathy, who is known to be close to the Chief Minister Karunanidhi, is also known for his non-transparent stance. On one occasion, he appealed a decision of the Tamil Nadu Information Commission directing his office to reveal the details regarding names of IAS officers who had disclosed their assets and those who had not. During his tenure as Chief Vigilance Commissioner, Mr. Sripathy had facilitated the exemption of the Directorate of Vigilance and anti-Corruption from the purview of the RTI Act.

It is pertinent to note that the invitation for swearing in of the Chief Information Commissioner sent to the Press and others did not even

mention the name of the person being sworn in to uphold the RTI Act, which seeks to enforce transparent and accountable governance. Those in the know opine that this was done to thwart any attempt to bring a stay order against the appointment.

"How can there be a non-transparent process to appoint the keeper of the Right to Information Act. This is cronyism at its worst and spells ill for the RTI Act's implementation in Tamilnadu," said Madhav Vishnubhatta speaking from the police vehicle.

Note: 1. Over the past several months, V Madhav has been spearheading a national level campaign for transparent appointment of State Information Commissioners.

2. Madhav had unearthed a racket of some top-level bureaucrats in Tamil Nadu who had virtually selected themselves for the post of State Information commissioners.

3. Madhav had led a delegation of activists on 12th Feb 2010 from around the country to hold a meeting with DoPT Officials about transparent CIC selections. The delegation had formally submitted a representation to DoPT in this regard. □

Press release from Pakistan:

Supreme Court of Pakistan Informed 454 Indian Fishermen (out of total 582 currently detained) have completed their sentences in Pakistani Jails, should be repatriated

Karachi, August 26, 2010: Pakistani ministry of Foreign Affairs Thursday told Supreme Court that four hundred and fifty four (454) Indian fishermen (out of total 582 currently detained) have completed their sentences and that they have been verified to be Indian nationals by the Indian high commission in Pakistan. Foreign Affairs has recommended to the Interior ministry to expedite their repatriation to India.

Supreme Court of Pakistan bench, comprising Chief justice Iftikhar Muhammad Choudhry and

Mr. justice Khalil-u-Rahman Ramday was hearing a constitutional petition filed by Pakistan Fisherfolk Forum (PFF), Pakistan Institute of Labour Education and Research (PILER) and Indian Fishermen detained in various jails in Sindh against unlawful detention of Indian fishermen. Senior advocate Syed Iqbal Hyder appeared on behalf of petitioners.

At today's hearing the apex court gave one more chance to the Interior ministry to submit their explanation before the next hearing on September 14, 2010 immediately

after EID.

On the last hearing on August 12, 2010 the Supreme Court had directed the ministry of Foreign Affairs, ministry of Interior Government of Pakistan and Government of Sindh to submit their Para-wise comments to the petition and explain under what lawful authority the Indian fishermen in question were arrested, prosecuted, convicted and later detained for so many years.

At today's hearing the ministry of Interior and the Government of

Sindh did not appear before the court. However the ministry of Foreign Affairs gave its detailed comments, agreeing the contentions of the petition.

Syed Iqbal Hyder presented to the Supreme Court the two orders passed by the Indian Supreme Court in similar cases, these orders were obtained with the help of Indian Human Rights activists. The Pakistani apex court has taken into consideration the orders of Indian Supreme Court which support the contention and the issues before the Pakistan Supreme court for the release of Indian fishermen.

Syed Iqbal hyder termed the comments filed by the ministry of foreign affairs and its recommendation for release of Indian

fishermen as very encouraging and heartening. The foreign ministry has also produced a detailed account of the number of the prisoners released by the two countries in the recent past. It has also acknowledged recent release of Pakistani prisoners in pursuance of the orders of the honorable Supreme Court of the India.

Issue by: Pakistan Fisher Folk Forum (PFF); Pakistan Institute of labour Education and Research (PILER); Shujauddin Qureshi, Senior Research Associate, Pakistan Institute of Labour Education and Research (PILER), Gulshan-e-Maymar, Karachi-75340

(Note: In pursuance of the orders passed later by the Supreme Court of Pakistan 442 of the 456 Indian

fishermen who had inadvertently crossed the maritime boundary and were caught and detained in Pakistan were released and handed over to the Indian authorities at the Attari-Wagah border, the last batch of 142 of them reaching India on 7 September 2010. PUCL, India congratulates human rights activists in Pakistan for their efforts for getting these fishermen released. The National Convention of the PUCL held at New Delhi on 5 September 2010 considered the matter of the Pakistani fishermen detained in India even after completing their jail terms, and ways of getting them released from detention. According to the Pakistan High Commission sources there are 902 of its civilian nationals detained in India out of which 71 have completed their sentences. - Mahi Pal Singh, Secretary, PUCL). □

Equality of Opportunity by People's Participation in Human Development

Ravi Kiran Jain

Continued from the last issue...

It "should" make any difference is one thing to say but what has happened is that it has made a difference. The State legislatures have not enacted laws themselves. Most of the matters relating to elections are being made subject of delegated legislative powers i.e. the general rule-making power. For example, the U.P. Panchayat Raj Act 1947 contains section 110 which provides that the State Government may by notification in the gazette, make rules for carrying out the purposes of this Act. It is under this section that the following rules have been framed by the State government: -

1. Uttar Pradesh Panchayat Raj (Election of Members, Pradhans and Up-Pradhans) Rules, 1994
2. Uttar Pradesh State Election Commission (Panchayat Raj and Local Bodies) (Appointment and Conditions of Service) Rules, 1994

3. Uttar Pradesh Panchayat Raj (Registration of Electors) Rules, 1994
4. Uttar Pradesh Panchayat Raj (Delimitation of Territorial Constituencies for Election of Members) rules, 1994
5. Uttar Pradesh Panchayats (Determination and Publication of the Number of Persons belonging to the Backward Classes) Rules, 1994
6. Uttar Pradesh Panchayat Raj (Computation of Period of five years for Removal of Disqualification, Fixation of period of dues etc. and Settlement of Disputes of Disqualification) Rules, 1994
7. Uttar Pradesh Panchayat Raj (Election of Members, Pradhans and Up-Pradhans) Rules, 1994
8. Uttar Pradesh Panchayat Raj (Oath of Office of Pradhan, Up-Pradhan, Panch, sarpanch, Sahayak Sarpanch and Member of Gram Panchayat) Rules 1994

9. Uttar Pradesh Panchayat Raj (Settlement of Election Disputes) Rules, 1994
 10. Uttar Pradesh Panchayat Raj (Vacation of office under section 11-D) Rules, 1994
- Similarly in Uttar Pradesh Kshetra Panchayat and Zila Panchayats Act there is a provision namely section 237 which provides for rule-making power of the State government. The following rules have been framed by the State government under this section:
1. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Election of Members) Rules, 1994.
 2. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Reservation and Allotment of Seats and Offices) Rules, 1994.
 3. Uttar Pradesh Kshetra Panchayats and Zila Panchayats (Oath of office of Adhyaksh or Pramukh etc.) Rules, 1994

4. Uttar Pradesh Zila Panchayats (Settlement of Disputes Relating to Membership) Rules, 1994
5. Uttar Pradesh Zila Panchayats (Election of Adhyaksh and Up-Adhyaksh and Settlement of Election Disputes) Rules, 1994
6. Uttar Pradesh Kshetra Panchayats (Election of Pramukh and Up-Pramukh and Settlement of Election Disputes) Rules, 1994
7. Uttar Pradesh Kshetra Panchayats (Removal of Disqualification and Settlement of Disputes Relating to Disqualification and Membership) Rules, 1994

Under the Uttar Pradesh Municipalities Act there are similar rule-making provisions and most of the laws relating to elections have been made by sub-ordinate legislative authority. It is well settled that the essential legislative policy cannot be abdicated to the subordinate legislation.

Even the rules, which have been framed under the Uttar Pradesh Kshetra Panchayat and Zila Panchayats Act and Uttar Pradesh Municipalities Act, do not cover all the matters relating to elections, which have been elaborated in the Mahinder Singh Gill's case.

In exercise of power under entry 72 of list 1 of the seventh schedule of the Constitution the Parliament has enacted the Representation of the People's Act 1950 and Representation of the People's Act 1951. The Act of 1950 is to provide the allocation of seats in and the delimitation of constituencies for the purpose of election to the house of the people and legislatures of the states, the qualifications of voters at such elections, the preparation of electoral rolls, and matters connected therewith. The 1951 Act is an Act to provide for the conduct of elections to the house of

Parliament, or house of legislature of each state, qualifications and disqualifications for membership of those houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections. The Conduct of Election Rules 1961 providing exhaustively regarding ballot papers, voting facilities, counting of votes and declaration of results etc. have of course been enacted under the subordinate legislative authority.

It may be seen that a lot of concern is shown about the electoral system of our country for which articles in leading magazines, newspapers and workshops are written and published. In the April 25-May 1, 2009 issue of the Economic & Political Weekly there is a very well considered article based on a serious exercise by Bhaskar Datta. This article shows concern that in India there are numerous small political parties, the electoral system neither reflects the true views and opinions on important social and economic issues nor does it incorporate "social inclusiveness". In the April 8-24, 2009 issue of this magazine there is an article by Manjari Katju wherein it has been observed that aspirations by multiple parties to attain or hold on the power have hugely increased rule-bending, rule-flouting and aggressiveness, and that these trends in politics demand not only an altered approach to electoral work, but a concern in the setting up of Election Commission itself. This is unfortunate that regarding the electoral reforms in the local self-governments there is no debate at all.

For the economic development in rural and urban areas, as far as possible, the Local Self Government should be given precedence according to the Constitutional scheme after the Constitution 73rd

and 74th Amendment Act. But in the name of Rural Development, the Central Government gives every Member of Parliament Rs.2 Crores for being spent by them in indiscriminate manner to the exclusion of participation of the people in the decision-making about their own development. Besides encouraging the Institution of Corruption in allocating an amount of Rs. 2 Crores each at a flat rate to every Member of Parliament whether he is elected from a posh urban area or a backward rural area, it causes lot of confusion in the minds of the people about their role in the development through the Local Self Government. In fact this amount should be sent by Union of India straight to the Panchayats without any bureaucratic interference. The budget allocation to the Ministry of Rural Development are next only to those made to Defence. The ministry implements programmes annually for poverty alleviation and development of infrastructure, habitats and land resources in the rural areas to the tune of more than Rs. 20,000 crores.

Disadvantaged section of population in our country lives in rural as well as in urban areas. In the past, it was always believed that the urban areas would develop automatically, whereas constant efforts would have to be made to plan the development of the rural areas. However, socio-political and developmental arguments are now frequently put forward for the uplift of disadvantages sections of the urban population as well. These arguments are based on facts, which simply cannot be ignored. First, we have acute poverty in urban areas, since the urban poor cannot fall back on their own land for the production of food to meet their minimum subsistence requirements. Second, the Urban poor are completely dependent on those who own the means of production etc. Large numbers of people in urban as

well as in rural areas have remained poor, deprived of basic nutrition, rudimentary shelter, minimal medical attention and primary education. The existence of poverty is incompatible with the vision of an advanced,

prosperous, democratic, egalitarian and just society implied in the concept of a social democratic republic. Elimination of poverty must be the highest priority of the State Development. It seems that it is for

this priority that poverty alleviation programs are now sought to be entrusted to local self-governments by putting this subject in the Tenth and Eleventh Schedules of the Constitution. **Concluded.** □

The Struggle of Ludhiana Power Loom Workers

Workers of about three dozen power loom factories in Ludhiana's Gaushala, Kashmir Nagar, Madhopuri etc. areas are on strike from 16th September 2010 under the leadership of the Karkhana Mazdoor Union (KMU). The workers have revolted against their pathetic living conditions, total absence of labour laws, callous attitude of the factory owners and administration and the opportunistic behaviour of the established trade unions affiliated to parliamentary left parties. They are energised by the recent successful strikes in 42 power loom factories in Shaktinagar area and the Jindal Textiles factory.

Ludhiana is among the big industrial cities in India and the industrial capital of Punjab. The main industries here are hosiery, bicycle, tyre, auto-parts, engineering etc. In recent years the workers in Ludhiana have been fighting for their basic rights e.g. the struggle of the thousands of workers of the big factories of Ludhiana such as Hero cycles, Rockman, Avon, Rolson, Highway, Garetave, Bajaj Sons etc; the militant struggle of the thousands of workers against the factory owners and police-bureaucracy after the Hindustan Tyres episode; the outburst of anger of the workers in December 2009 after the Dhandari episode, the workers hitting the road after a recent disappearance of a workers of Poddar Tyres. These outbursts are just a reflection of the terrible conditions of the life which the workers of Ludhiana are forced to live and the total failure of the governance system to protect even the basic rights of the workers. The anger of workers is expressed at

times spontaneously and at other times in a planned and organised manner. It is because of this reason that most of the time section 144 of the Cr. P.C. is imposed in the industrial areas of Ludhiana which prohibits assembly of five or more persons and holding of public meetings besides other restrictions.

Most of the workers of Ludhiana are migrant workers coming from the states of Uttar Pradesh and Bihar. They are treated as aliens in their own country. These workers are subject to abject poverty and extreme exploitation. Despite toiling for 12-14 hours a day, most of the time they do not even receive the minimum wages fixed for a helper for 8 hours work {Rs 3400 (less than 80 USD) monthly}. In case of the power loom workers, there has been no increment in the piece rates and wages for last 10-12 years while the prices of all basic necessities like food, housing, medical care, travel have been skyrocketing. On the other hand there has been manifold increase in the profit level of the factory owners.

The working condition of the power loom workers of Ludhiana is so difficult and so dangerous that it can at best be called inhuman. Serious injuries and deaths at workplace are quite common in the industrial areas. Even the basic safety measures and regulations are not implemented by the factory owners. Even the administration does not take any initiative to fulfil its constitutional obligation of implementing the labour laws in these areas. On the contrary in most of the cases, the administration is found connived with the factory

owners to serve their interests. No labour law whatsoever is implemented in these factories. Provident Fund, Employees State Insurance, Job Card, Attendance Register have no existence here. The regional labour department is fully hand in glove with the errant factory owners and is suitably compensated for its services. Not only the factory owners have bought up the officials and police, they do not even hesitate to use the services of goons to intimidate the workers if they raise their voices for justice. In the Dhandari episode in December 2010, they unabashedly used the local goons called Bikers' Gang to brutally attack the agitating workers. Even the police favoured the factory owners and held the workers responsible for the violence. The owners portray any agitation of workers as being launched by "outsiders" and the local politicians and regional media also take the side of the owners only.

The workers of Ludhiana have been fighting for their rights for years through the established trade unions. But of late they have begun to realise that it is because of the betrayal of the leadership of opportunistic and corrupt trade unions such as CITU and due to the lack of well planned strategy that they have not been able to put up an effective resistance and the factory owners manage to crush their struggle. In a number of struggles of workers of large factories of Ludhiana such as Hero Cycle, Rockman, KW, Avon, Rolson, Highway, Bajaj Sons, Moonlight etc since 2004, the opportunistic, compromising, corrupt and pro-management character of CITU has been thoroughly exposed before the workers.

The recent surge of militant agitation among the power loom workers of Ludhiana began with the strike of the 42 power loom factories of Shaktinagar, Tibba Road areas on 24th August 2010 under the leadership of the Karkhana Mazdoor Union. It was the apathetic attitude of the power loom factory owners, which was mainly responsible for the inhuman conditions of living, which forced the workers to halt the work and choose the path of strike. The main demands of the workers were: hike in the piece rates/wages, necessary provisions for the safety of the workers and implementing all the labour laws including identity cards, PF, ESI etc. The bold, organised and determined fight of the workers forced the power loom

owners to relent and they were forced to agree to the demands of the workers. On 31st August the workers withdrew their strike after a written agreement with the owners. It was a glorious victory of the workers after a long time. A remarkable aspect of this victory was that the power loom owners were not only forced to hike the piece rates/wages but they also agreed to give half wages for the days of strike. It is very rare that the factory owners agree to pay for the days of strike. On the contrary, one can find many instances in the labour movement of Ludhiana like the shameful Avon Cycle agreement in which due to the compromising, pusillanimous character of the renegade leadership, the workers were forced to work for 9 days without

pay as a punishment for going on strike.

After this a strike broke out in the Jindal Textile factory and there too it reached a successful culmination. It is noteworthy that this was after 18 years that a workers struggle had achieved such success in Ludhiana. During the last one and a half decade the workers of Ludhiana had fought many long struggles but they culminated in shameful defeat due to the betrayal of the established trade unions. The recent victory is important in this respect and it has raised the morale of the workers to a new high.

Meanwhile, workers of some other power loom factories agitating under another union were brutally

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PEOPLE'S UNION FOR CIVIL LIBERTIES

MEMBERSHIP FORM

The General Secretary, People's Union for Civil Liberties

Dear friend,

I subscribe to the aims and objects of the *People's Union for Civil Liberties* and agree to abide by its Constitution. Please enroll me as a member.

I remit herewith Rs. 50/- (**yearly**) / Rs. 1000/- (**Life**) / Rs. 2000/- (**Patron**) membership fee. [See Clause 3(c) and (d) of the Constitution].

I also remit herewith Rs. 100/- at concessional rate as the subscription of the *PUCL BULLETIN* (optional).

I am not a member of any political party/ I am a member of(Party).

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Address :

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State : Pin Code :

Signature

Note : Please send money in the name of the '**People's Union for Civil Liberties**', preferably by **DD/MO**. In case of **outstation cheques**, please add **Rs. 70/-**. Normally, send the form to the State/local branch. **National Office**: Dr Pushkar Raj, General Secretary, PUCL, 270-A, Patpar Ganj, Opposite Anand Lok Apartments (Gate-2), Mayur Vihar-I, Delhi-110091 (Ph.: 011-2275 0014)

attacked by armed goons of the factory owners last week. Around 50 workers were wounded in this lethal attack, some of them seriously. Karkhana Mazdoor Union has demanded the authorities to carry out an investigation and punish the culprits.

Taking inspiration from the recent successes in the Shaktinagar and Jindal factory strikes, hundreds of the power loom workers of about three dozen factories of Ludhiana's Gaushala, Kashmir Nagar, Madhopuri etc also decided to call a strike on 16th September 2010 under the leadership of the Karkhana Mazdoor Union. These workers are on a strike to force the factory owners to increase their piece rate/salary and to implement other basic rights. They are united and determined to make their strike successful. They have appealed to

Constitution of PUCL:

(The PUCL office regularly receives enquiries regarding its membership. Quarries are also made regarding its stand on violence in general and the conflict-affected areas in particular. The following excerpts from the Constitution of PUCL clarify the stand of the PUCL on these issues. *For more information a copy of the booklet 'Know PUCL' can be had from the National Office for Rs. 50/- General Secretary)*

1. Question of Violence

(a) Resolution of the National Convention held on March 7, 1982, at Madras (now Chennai)

"The PUCL reaffirms its faith in the democratic way of life.

"It appeals to all to use to the utmost the agencies and methods available in an open society. Apart from other factors, violence, even for laudable objectives, will legitimise counter-violence by the State and other groups.

"It reaffirms that even those who have taken to violence are entitled to due process of law. We believe that this

the fellow workers of other power loom factories who are yet to join the strike to come forward and join the strike to make the struggle more united and strong. Along with this the workers have also organised vigilant squads of their own against the possibility of fresh attacks by the factory owners. A great achievement of these strikes is that the workers are no longer terrified of the police and the goons of the owners. Moulder and Steel Workers Union of Ludhiana has supported the power loom workers in their strike. The workers have also distributed pamphlets among the civilian population explaining to them their wretched working and living conditions and the rationale behind their demands. They have also appealed to other factory workers of Ludhiana to support and join their strike. The workers have warned the officials of the labour

commitment is the very faith of an open society and also that adhering to this commitment is an effective way of converting all to the democratic and peaceful way of transforming our society".

(b) Statement adopted at the National Convention held at Pune on May 26 & 27, 1990

"With the increasing resort to violent agitations, terrorism, and insurrectionary and associated devices to attain political ends, and as a sequel the response of the state machinery the basic civil liberties and human rights of the great majority in the country are in jeopardy and are likely to get further curtailed by the State on the one hand and the perpetrators of violence on the other.

"The present state of affairs in Jammu and Kashmir, the Punjab, the North-east, and other parts of the country, especially in Andhra Pradesh and Maharashtra, range from virtual insurrection to organised terrorism. The late, hasty, panicky, inarticulate, and ad-hoc reactions of the governments, both at the centre

department not to work as stooges of the factory owners and perform their constitutional duties otherwise their strike will become more vigorous.

On the third day of the strike i.e. on 18th September 2010, the henchmen of a factory owner attacked the KMU members who were distributing the leaflets in a market and also kidnapped two workers. Immediately hundreds of workers gathered outside the factory where the kidnapped workers were being held. The owner ran away and the workers were rescued. This was another psychological victory for the workers.

Rajwinder - 098886 55663,
Lakhwinder - 096461 50249

Karkhana Mazdoor Union,
Shaheed Bhagat Singh Pustkalaya,
Gali No.5, Lakshman Nagar,
Gyaspura, Ludhiana, Punjab. □

and in the States, amount to unleashing measure which not only aggravate the situation but, because of their very nature, constitute a frontal attack on residual civil liberties. Even with all the goodwill, which is not that widely prevalent among the law enforcing authorities, they may find themselves in an unenviable position of liquidating the rights of the citizen for what may appear to them and their mentors, a higher cause.

"It must be recognised that such movements do not emerge without warning and without some cause and therefore a minimal mass base, and one of the main aims of such movements is to prevent the exercise on the rights by their adversaries. Not to generate advance signals of warnings and to respond to them promptly and the inability of the democratic body politic to resolve an issue involved within the democratic framework is a reflection, in general, on its inadequacies and, in particular, a failure of the State apparatus in the country.

"The persistence of these trends over extended areas are a threat to the integrity of the country, to its nascent democratic polity, and to the very survival of civil liberties and human rights.

"In this context, it should be specially noted that those indulging in violence, terrorism, and insurrection are not belligerents but citizens of the country and hence the principal objective of the State response should be to bring them into main stream of democratic polity by neutralising the effectiveness of their ill-conceived strategy.

"The Convention therefore calls upon:

- (i) The public and all political parties to demand creation of suitable institutional framework in order to resolve underlying causes in a peaceful and humane manner and where already violence and insurrection have raised their head, to organise masses to isolate the 'other' side, erode their bases, instil confidence among the community in their ability to combat unarmed the 'other' side. Without political mobilisation on a large scale, mere law and order approach to these problems will be woefully inadequate.
- (ii) The Central and the State governments to initiate steps that will ensure the credibility, the integrity, and accountability of the government machinery at various levels not necessarily confined to administrative hierarchy, and
- (iii) In the context of the specific situation in Jammu and Kashmir, Punjab, and other parts where sporadic terrorism is being witnessed, to associate and involve credible persons from different parts of the country, not as decision-makers, in various organised ways with all the 'law enforcing' measures. This will mean their being live witnesses, sounding boards, and reviewing agencies in the case of arrests,

detention, interrogation and firings. Similar arrangements should be made to facilitate reporting on the activities of the violent agitators, terrorists, and insurrectionists. These measures which ensure continuous monitoring of developments should act more as effective deterrent than post-mortem of the traditional time consuming, judicial and quasi-judicial, agencies.

"The convention also calls upon all champions of civil liberties and members of the PUCL in particular, without identifying with any of the involved groups, to take vigorous and prompt initiative on these matters and act as catalysts in the creation of new institutions and fresh practices that will promote and consolidate their principal cause."

2. Criteria of Membership

- (a) Every adult person shall be eligible to be a member of the organisation if he/she believes that civil liberties must be maintained in India, now and in the future, irrespective of any economic and political changes that may take place in the country.
- (b) Members of the political parties will be entitled to be members of the organisation in their individual capacity if they subscribe to its aims and objects. They will have all the rights of membership except that:
 - (i) The President, the Vice Presidents, the General Secretaries, other Secretaries, and the Treasurers of the organisation or any of its branches shall not be a member of any political party.
 - (ii) At least one-half of the members of the National Council and the National Executive Committee and of corresponding bodies at the State and local levels, shall be persons who are not members of any political party. □

REGISTERED
Postal Regn. No.:
DL-(E)-01/5151/2009-2011

**Posting : 1-2 of same month
at New Delhi PSO**

RNI No.: 39352/82

Date of Pub.: **OCT. 1, 2010**

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PUCL BULLETIN

Chief Editor : Pushkar Raj

Editor : Mahi Pal Singh

Editorial Board : Rajni Kothari,
Rajindar Sachar, R.B. Mehrotra, R.M. Pal
Chief Editor, Editor.

Assistance : Babita Garg

Printed and Published by:

Pushkar Raj, General Secretary, PUCL,
270-A, Patparganj, Opp. Anandlok
Apartments, Mayur Vihar-I, Delhi-110091
for People's Union for Civil Liberties

Printed at: Jagdamba Offset Printers,
H-28, Jagat Puri, Delhi-110051