

**Inside:**

**EDITORIAL: Challenge before Civil Society in Contemporary India - Pushkar Raj (1)**

**ARTICLES, REPORTS & DOCUMENTS:**

**Corruption : the Bane of India's Democracy - Prabhakar Sinha (2); Lokpal Bill is a Farce on the Public - Rajindar Sachar (4); Punjab PUC: Surendra Mohan Memorial Lecture at Chandigarh (6); Salwa Judum's war on the people - Kavita Srivastava (6); Orissa PUC: 'Encounter Killing' of Madhab Singh Thakur and Ramesh Sahu (11); Report of the 31st JP Memorial Lecture - Mahi Pal Singh (14); 31st JP Memorial Lecture: JP and India's Second Freedom - MG Devasahayam (14)**

**PRESS STATEMENTS, LETTERS AND NEWS: Press Statement on Grant of Bail to Binayak Sen - Pushkar Raj (5); Letter to the editor - Syed Shahabuddin (5); Punjab PUC: Dr. Binayak Sen is "Voice of the People" (6); Gujarat PUC: Letter to Annaji - Gautam Thaker (8); TN & Puducherry: Press Statement - MG Devasahayam (9); PUC Statement: Condemning the Assault on Swami Agnivesh and the State Sponsored Mob-Rule in Chhattisgarh (10)**

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## Challenge before Civil Society in Contemporary India Pushkar Raj

India is developing with about nine per cent growth rate. This development is linked with the western model of economic growth (capitalism in its refined form), and intrinsically tied with its capital. It is amply clear in ongoing multi-billion investment of the foreign capital in our economy and widening net of multi-nationals in the country. However it should be noted that the said investment in the country and sale of goods and technology to it has nothing altruistic about it. West needs market where its surplus capital could be invested without which it cannot retain high standard of life for its population. However this capital driven growth has seriously affected our common people. Their land is acquired with aggressive propensity for exploration of resources and setting up of industry; they are being compelled to work under diluted labour laws that extend all the protection to the capital while labour is left without effective collective bargaining rights; health, education and water are being privatised leading to limited accessibility of these essential services to poor millions. Naturally there is resentment among people and protests are happening in different parts of the country in many forms as per local conditions. In some places it is organised and armed while in others it is spontaneous and unarmed. The state tends to respond to these protests with excessive force killing and maiming people with the hope that such coercive measures will instil fear in the citizenry and they would be deterred from future protests. Apparently this approach is faulty and has grave implications for the democracy in the country.

When governments lose moral conviction to legitimate rule they resort to misusing of constitutional power to check people's rights and liberties. While Middle East autocratic regimes have used massive force against their mass uprisings, in India same is done against the sporadic local protests in different parts of the country. Incidents at Nandigram, Aligarh, Jaitapur, parts of Orissa and Chhattisgarh testify to this.

Apparently there is a serious disconnect between the ruling political elite and the masses. Though India is a functional democracy people seem to be disenchanted with it as it is failing to deliver substantially, primarily due to lack of reforms in its procedural content that brings at fore the rulers with which people remotely identify. This disconnect has pushed people to identify with civil society leaders who have received massive media and people's support recently. It may be considered as a sign of civil society coming of an age championing people's cause parallel to the political elite. It should be a wakeup call for the political establishment which must pick

up the message and meaningfully address people's aspirations. However, it is unlikely that the political elite would do so. On the contrary it might resort to discredit the civil society to deflect attention from the pressing issues of good

governance and protection of rights and liberties of the people. It is here that the challenge lies for the civil society to hold itself together and not be intimidated by political establishment's nefarious design. It is the only guarantee for continuing

to raise the issue of rights and liberties of people and sustain civil society pressure on the political elite to protect, preserve and nurture them according to the letter and spirit of democratic values of our constitution. □

## **Corruption: the Bane of India's Democracy**

### **Prabhakar Sinha**

According to one of the accepted definition of democracy, it is a government of the people, by the people and for the people. Of the three criteria, the first two are the means and the third is the end. In a democracy, the government must serve the interest of all the citizens, and it can be ensured only if the people choose their government. Timely free and fair elections give a country a government of the people because they have elected them and by the people because it is a government consisting of their representatives.

However, experience shows that elected governments do not necessarily act for the people and often serve the interest of a few. In fact, the experience of several former colonies also shows how really popular leaders sabotaged democracy to establish their personal rule using dubious means. Sukarno of Indonesia, who was really a beloved leader of the people, introduced a system called 'Guided Democracy' to perpetuate his position and power. Many leaders of former colonies in Africa unabashedly declared themselves as President for life. Mussolini of Italy really enjoyed great public support and was elected by the people in a free election, but once in power, he used his power and position to foist on the people a Fascist government in which they were reduced to non-entities and subjected to unbearable tyranny. The leaders of the war of independence of America (U.S.A.) were aware of the danger of the hijacking of a democratic government by vested interests to serve their own interest

at the cost of the rest of the people, and had incorporated a remedy against it in their 'Declaration of Independence'. The Declaration opens with the following lines.

"We hold these truths to be self evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of happiness. That to secure these rights Governments are instituted among Men deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such forms, as to them shall seem most likely to effect their Safety and Happiness."

The declaration, however, warns that this remedy should not be adopted lightly and should be applied only under circumstances destructive of the aims envisaged in the declaration.

In India, the goal of the democratic government has been enshrined in the Preamble and the Directive Principles (of the State Policy in Chapter IV) of the Constitution. A pledge has been given to the people that India would be a welfare State and that the State would ensure them political, social and economic justice. Realising that political and social justice cannot be secured if vast disparity in income and of status is allowed to continue, the Constitution unambiguously states that the 'State shall strive to promote the welfare of the people' ',in

particular strive to minimize the inequalities in income' and 'endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also amongst groups of people residing in different area or engaged in different vocations' (Art.38).The Constitution also enjoins the State to 'direct its policy towards ensuring 'that ownership and control of the material resources of the community are so distributed as best to subserve the common good'( Art.39b) and to ensure that' the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment (Art.39c).These provisions were dictated by the realization that inequalities in income and of status, facilities and opportunities were destructive of democracy. Concentration of wealth and means of production always result in inequalities in income and of status, facilities and opportunities and are detrimental to the common good of the people. They are incompatible with a welfare State.

The policy of the successive governments in independent India has been destructive of these values as enshrined in the Constitution which has resulted in vast increase in the inequalities in income and of status, facilities and opportunities of the citizens. According to the report of the Commission headed by Arjun Sengupta, 83 crore Indians live on less than Rs. 20.00 (Rupees Twenty only) per day. U.N. has fixed \$ 1.25 per head per day as the minimum required by a person. Any person living on less than that amount is

living Below Poverty Line. The fact is that anyone forced to live on such meagre amount leads a sub-human life. According a report by James Petras, 35 richest families in India own wealth which is more than the total of the wealth owned by 80 crores ordinary citizens of the country. It is calaimed that if the black money stashed away in Swish banks are distributed, 50 crores Indians would receive Rs. 100000.00 (Rupees one Lac only) each. These figured may be disputed regarding their accuracy but the outcome would not have any bearing on the fact that a vast disparity in incomes of the people exists. Vast inequality of income inevitably entails great inequality of status and opportunities.

The foundation of this development was laid down by the rulers of independent India, who despite their claim and concern for the common man, did not take steps to safeguard their interest by ensuring that the rich did not succeed in using their money and resources to control the State to serve their narrow interest at the cost of the poor citizens. The State was exposed to the danger of takeover by the rich by adoption of the policy of laissez faire towards political parties, specially regarding the sources of their income, maintenance and auditing of their accounts and the purpose and manner of their spending. The people are a helpless witness to the billions that the political parties have been spending on elections and millions being spent by the political parties and their leaders in managing their day to day affairs. However, the source of the flow of this money continues to be under to be under the wraps. It is well known that these billions do not come from small donors. Their source is black money hoarded by the rich in business and industry. The black money which cannot be openly invested to make profit is employed by the rich to earn astronomical amounts by financing politicians and political parties, who adopt policies to favour their paymasters or take decisions to

enable them to make huge profits causing unimaginable loss to the public exchequer. The nexus between the politicians, the big business and the top bureaucracy is so strong that they gang up against any attempt to expose their anti-national acts. Event the Supreme Court has failed to force the government to disclose the identity of the traitors who have stolen and stashed away 70 lakh crore of rupees in Swish banks. The law is so pro anti-national that no corrupt politician or business man can be punished. Thus our political system has been running from the beginning on the black money supplied by the anti-national rich on the basis of give and take at the cost of the nation and the common man.

The power of money is also reflected in the presence of so many rich industrialists and other big business men in the Parliament and the competition between political parties to befriend them. The combination of the politicians, bureaucrats and the rich has become so powerful and bold that it no more feels the need to keep their nexus hidden.

A new and very effective weapon in the arsenal of the big business is the media which they own. The media have been reduced to a pure business by elimination editorial independence and security of the job of the journalists, and is being used to serve the business interest of their masters. The deception of passing advertisements as news( known as 'paid news') and employment of popular and reputed media ( and now ill famed ) personalities to further their business interest has brought to light the fact that the rich of the country would not hesitate in committing the gravest of crimes against democracy and the people of India to satisfy their greed. Their crusade against corruption would also be selective, supporting reforms which serve the interest of their masters and not those which may hurt them. This trend would continue unless the freedom of the media also guarantees independence of the

editor and security of jobs of the journalist.

The absence of any law to regulate the functioning of political parties excludes the possibility of voice of dissent by honest members. Their very existence in the party depends on the will of the leader which is probably the single biggest factor to deter honest men joining politics. Honest men either have to conform and become like the rest or be driven out. Thus, most of those who continue in political parties emulate their leaders and consider it legitimate to live off politics. This fact is established by the simple fact that despite the presence of political workers throughout the country, there is no movement by political parties against corruption in Public Distribution System, MANAREGA or allotment of funds for Indira Awas. Mainstream political parties have turned into a training school for producing corrupt politicians. It is only natural for the politicians living off corruption to make the best of it as they rise to higher positions and greater opportunities.

In contrast, in the U.K. (and other Western democracies), the Electoral Commission keeps an eye on the donations received by the political parties. There are laws like The Political Parties Election and Registration Act,2000, Political Parties and Election Act, 2009 and The Election Administration Act,2006. In the U.K. the political parties are required to report quarterly donations and loan return to the Electoral Commission within 30 days of the end of each calendar quarter. This has to be done weekly during Parliamentary elections. The political parties in the U.K. are not free to take donations from all and sundry. They can take donations only from permissible sources which are notified by the Commission. The party central office is required to report donation above 7500 Pounds and 1500 Pounds if accepted by an accounting office Yet, an enquiry was conducted to ascertain whether (the then) Prime Minister Tony Blare

had shown undue favour to certain persons by making them members of the House of Lords for the big donation they had made to his party. The corruption prevalent in the political parties from the top to the bottom has had a demonstration effect and has infected functionaries even at Panchayat level. The worst manifestation is discernible in their attempt to corrupt even voters by paying them money or promising them gold, TVS and various other commodities.

The empowerment of the common man is an indispensable condition of a successful democracy. Inequality of income and status, particularly if it is vast, as in our country, reduces the common man to a state of insignificance. His morale becomes low, his self esteem is completely shattered, and instead of feeling like the master (that he is) he begins to look at the politicians and bureaucrats as his masters and at himself as a supplicant. This psychology is systematically encouraged by the politicians who never tire of reminding them of the great favours they have bestowed on them through the programmes like Indira Awas, MANAREGA and the like. The bureaucracy from the top to the bottom (which has never been made servants of the people)

continue to treat the people with contempt and disdain.

Unbridled corruption has two different characteristics: bribery and extortion, though both are known by the misnomer bribery. Bribery is resorted to by the rich who grease the palm of the Ministers and top bureaucrats for undue gains either through favourable policy decisions or executive orders. The common man is compelled to pay through his nose for getting what is his due and right because he is helpless before even an assistant. He is not guilty of bribery but is a victim of extortion. Nobody would willingly pay for something which he is entitled to get free, but a common man has no choice but to pay to the pettiest of government functionaries as he has been made impotent vis-à-vis bureaucracy. Just as a goon uses gun for extortion, a bureaucrat uses his unbridled power without accountability for the same purpose.

Though every blow to corruption is in the national interest, Indian democracy, which has been converted into an oligarchy, can be saved only by attacking its root cause and empowerment of the common man. There is an urgent need to enact a law to introduce complete transparency regarding the source of income and expenses of the political parties and politicians

holding any office to break the nexus between the politicians and the big money. There should also be a law to regulate the functioning of the political parties to ensure that they function democratically. It is unrealistic to expect political parties running their affairs autocratically managing the affairs of the State democratically. The autocratic functioning is a very big factor leading to the emaciation of our democracy which is amply reflected in the bizarre phenomenon of a nominated Prime Minister and Chief Minister and the emergence of dynastic rule in the country at the various levels.

Corruption can not be controlled without empowering the common man. So far all Administrative Reforms Commissions have been constituted to improve administration from the point of view of the rulers whereas the urgent need was to seek ways and means to empower the citizens of democratic India in their interaction with a bureaucracy with an imperial past and tradition. Let the government constitute such a Commission and substantially and effectively empower the people. Our democracy cannot survive with 80% or more of its citizens kept out and turning it into a club of the privileged 20% or less. □

## **Lokpal Bill is a Farce on the Public**

**Rajindar Sachar**

Former chief justice of Delhi High Court Rajindar Sachar says that the government draft of Lokpal Bill, 2010 is a farce on the public.

Writing in The Economic Times, Sachar says, "it is shamefully toothless and just meant to give a false reassurance to the people that the government is serious in its fight against corruption"

In his article, Sachar says, "headlines in the media, the constant talk of how deep corruption has sunk in our body politic and the nefarious role played by ill-gotten contributions to political parties is a spectre, haunting the public all the time.

"But why is the government still not persuaded to seriously consider enacting an effectively genuine Lokpal legislation to deal with this menace of corruption? If the draft of the Lokpal Bill 2010 is any indication, it would appear that a realisation of grave urgency is still absent in the government. No one is suggesting that an evil like corruption in public life can be eliminated merely by legislation.

"A clean public life, the standards and character of political parties have to be built on grounds of moral conscience and public pressure. Corruption in public life can only be

eliminated when, in the words of Mahatma Gandhi, "a small body of determined spirits fired by an unquenchable faith in their mission can alter the course of history".

"But we must face the reality. Such spirits are rare to find and we ordinary mortals must make an effort to find some mechanism which may hopefully be able to keep in check the demoralisation and corruption in our public life. One such mechanism, that almost all governments since 1996 have been promising but done nothing about, is the institution of the Lokpal, an independent body to enquire into the lapses and

complaints against legislators and MPs, both at the Centre and the states.

"The government has at last proposed the Lokpal Bill 2010, but unfortunately it fails even to be a cosmetic exercise to fight corruption. It is shamefully toothless and just meant to give a false reassurance to the people that the government is serious in its fight against corruption. "The Lokpal is a three-member body consisting of a chairperson who is or was a former Chief Justice or judge of the Supreme Court and two members who are or have been judges of the Supreme Court or Chief Justices of a high court. But restricting it to judges is too narrow, and outstanding social scientists or academicians should also be eligible, and it should be a five member body.

"The jurisdiction of the Lokpal under Sec 10 apparently covers the PM, ministers and MPs. But the hypocrisy is exposed when at the same time it nullifies the same by providing that the Lokpal shall not enquire into any allegations of corruption against any member of either House of Parliament unless the recommendation of the Speaker or Chairman of Council of States (as the case may be) is received by it. "Not only that but insultingly, even when the Lokpal finds that any of the charges has been proved,

against MPs, all he can do is to send a report of his findings to the Speaker and Chairman of the Council of States, and they alone will determine what action is to be taken. "Of course, the presiding officers have to place the report before both the Houses of Parliament. A formal courtesy is to be done by informing the Lokpal as to what action is taken or is proposed to be taken, which may include the rejection of the findings of the Lokpal.

"This reduces the authority of the Lokpal to lower than that of a magistrate whose order the highest in the land, including the President, has to comply with.

"The sheer effrontery of the law ministry in proposing such an insulting provision is a direct negation of the institution of Lokpal. What should have been done was to provide that the establishment of guilt by the Lokpal would be treated, in the same manner as Sec 8 of the Representation of the Peoples Act, 1951, as a disqualification from contesting elections for a period of six years.

"Further, the Lokpal should have been authorised to impose a penalty for the recovery of any amount found to have been lost by the action of legislators or ministers. The Lokpal, under Sec 11, is also forbidden to enquire into any memo of a complaint if it is made after five years

from the date when the offence is alleged to have been committed.

"Has the government realised the absurdity of providing a limitation period in such complaints, which, if they were to be tried under the Prevention of Corruption Act, would have no limitation bar, because there is no limitation for initiating proceedings under criminal law where the punishment provided is more than three years?

"Also has the UPA government considered that if a five-year period were to be provided, by the same logic would they not be barred from holding an enquiry into the 2G scam of 2001-02 during the BJP government (which by all standards should be held along with the enquiry into the 2G scam against Raja)?

"No judge with even a modicum of self-respect will accept such a demeaning, low grade rate post - the inevitable result would be that the Lokpal Bill will collapse -- an event that legislators have always desired. So it is goodbye to cleaning the political dirt, notwithstanding the high sounding calls by all the governments.

"Regrettably, cynics may be right when they say 'who cares' if, in the process, some dedicated Gandhians fighting for integrity in public life fast unto death against this unforgivable lapse by the government.", concludes Justice Sachar. □

## Press Statement on Grant of Bail to Binayak Sen

PUCL welcomes the Supreme Court judgment granting bail to Binayak Sen. It symbolizes institutional strength of our country in preserving our basic rights. The court's implied observation that mere possession of allegedly seditious material is no reason for charging and branding someone anti-national is a matter of

### Letter to the editor:

My dear Pushkarji,  
I have seen your editorial in the PUCL Bulletin of April 2011 in which you have stated that there is institutional erosion in our democracy. However, I find that you

satisfaction for us. PUCL firmly believes that it is time to revisit laws related to the sedition that have been subject of rampant abuse by the central and the state governments. We believe that there are thousands of Binayaks languishing in several jails in the country in the name of sedition while they merely exercised their democratic rights of opposing

have not referred to the foremost weakness in our democratic system which gives us an unrepresentative legislature followed by even more unrepresentative governments, which stand on the support of roughly

government policies or held views contrary to the establishment. PUCL hopes that the country will sustain the present movement to resist curbs on our civil liberties that has become a rule than an exception for our governments at the centre and the state level in contemporary times. Pushkar Raj, General Secretary, National PUCL 15 April 2011 □

20-10% of the voters. I wish that the PUCL would revive JP's call for proportional electoral system.

With kind regards,  
Syed Shahabuddin, IFS (Retd.),  
Ex-MP □

**Punjab PUCL:**

## **Dr. Binayak Sen is "Voice of the People"**

In a press release on 15th April, 2011 issued jointly by Roshan Lal Batta, President, Rajender Mohan Kashyap, Secretary, Ashok Nirdosh, Cashier and on behalf of all Members of the PUCL Punjab and Chandigarh have hailed the release of Dr. Binayak Sen, National Vice President, PUCL by the Hon'ble

Supreme Court of India. This is a victory for all Social & Human Rights Activists.

Dr. Binayak Sen is Voice of the People of India living in Forests, Villages & Slums; to whom Dr. Binayak Sen has dedicated his life. We also wish to congratulate Senior Advocate, Ram Jethmalani; who had argued with his inner conviction and

with professional integrity in the Supreme Court that there was "No Evidence Against Dr. Binayak Sen, who was only a Sympathizer of Maoists but not a Conspirator against State Machinery".

**Roshan Lal Batta**, President; **Rajender Mohan Kashyap**, Secretary, PUCL Punjab & Chandigarh □

**Punjab PUCL:**

## **Surendra Mohan Memorial Lecture at Chandigarh**

Comrade Surendra Mohan Memorial Lecture was delivered by Justice Rajindar Sachar at Lajpat Rai Bhawan, Sector 15, Chandigarh on April, 10, 2011. The event was organised by the People's Union for Civil Liberties (Punjab & Chandigarh) in association with Servants of the People Society.

Beginning his speech on the topic "Present State of Politics in the Country" with a humble submission Justice Sachar said, "My real identity is not of being a Justice at Delhi High Court or being son of the former Chief Minister of Punjab; I want to be known as a member of the Socialist Party, that he joined in 1946.

Recalling memories of working with Comrade Surendra Mohan, in whose memory the lecture was organised, Sachar said; "He was an encyclopedia and had a phenomenal memory. He was an unassuming man. A day before he passed away, he was at Jantar Mantar supporting a nation-wide protest. In fact, he passed away fighting for the people. There is a lot left to accomplish to save this nation and one Lokpal Bill will not solve the problems. The

movement does not end at Jantar Mantar by Anna Hazare ending his fast. He added that, "I have been saying since long that the Lokpal Bill was toothless and powerless since the common people could not even complain about corrupt practices. The government had almost decided to scuttle the Lokpal Bill and the Bill proposed earlier was just a joke on the poor people. In an enraged tone, he questioned the audience and said, "Even the animals would not tolerate so much. Will the people in this country suffer so much quietly?" Everyone is saying that there is criminalization of politics but I call it politicalisation of criminals. It is a known fact that earlier politicians were taming criminals but now criminals are taming politicians. He quoted the comments of Loksabha Speaker, Somnath Chatterjee and highlighted how nearly 23 percent Members of Parliament had criminal cases registered against them as per data collected in 2004. "Do you think that the candidates, who contest elections, declare their assets and details of cases against them out of will? There was a struggle of Social Activists behind it and on the plea

of PUCL the Supreme Court of India made it mandatory. The affected parliamentarians made all attempts to ignore this clause and disapproved it by saying that they are the lawmakers and the Supreme Court of India must not interfere in the case of parliamentarians. But eventually the decision of the Supreme Court was binding," said Justice Sachar.

Justice Sachar also mocked the idea of taxing water in Punjab, as mooted by certain bureaucrats. He also expressed concern on the problems of farmers of Punjab committing suicide, youth indulging in drugs and female foeticide in the land of prosperity. The lecture was attended by several others associated with peoples' movements and some of them had come from interiors of Punjab to share their experiences about Comrade Surendra Mohan.

Organisers of the function were Roshan Lal Batta, Onkar Chand Sharma, Balwant Singh Khera, Ashok Nirdosh and Rajender Mohan Kashyap.

**Rajender Mohan Kashyap**, Secretary, PUCL, Punjab & Chandigarh □

**Rajasthan PUCL:**

## **Salwa Judum's War on the People**

**Kavita Srivastava**

The Supreme Court order of March 29, 2011 asking its Commissioners and the District Collector to carry out a joint inspection in the three villages

of Tademtla, Morapalli and Teemapuram, in the Chintalnaar area of Dantewada District is very significant and let us hope that the

Apex court engages with the situation in these villages on a more long-term basis so that relief actually reaches and the people can rebuild

their ravaged lives.

It may be recalled that these three villages were attacked and burnt down by COBRA and Koya Commanders and SPOs of the Chhattisgarh Police on March 11 and 16, 2011. The plan of the Government of Chhattisgarh is very clear, which is to use the front of the *Salwa Judum* and SPOs and push these people out from their villages into either migrating out of their homelands into the *Salwa Judum* camps or to join the IDPs in Khammam, AP or go deeper into the forest area and join the Maoists or stay in the village and die of hunger. This tactics is not new. All this is being done in order to shrink the mass base of the Maoists.

#### **Documented state violence**

This is how it was done in 2005 and the first report of the PUCL, PUDR, carried out under the leadership of Dr. Binayak Sen, called "When the State makes War against its own People", clearly documented this. This was also highlighted in subsequent human rights reports by various organisations and individuals. After all, in the first phase of the *Salwa Judum*, they pushed people out of their homes, hearth, farms, and fields from hundreds of villages. It is ultimately a game of who will actually control these lands. So, as it was then so now, prevent people from being accessed, cut all communication and supply lines to the village and let them either join "us" or "them" or "die".

Thus it is a test whether the SC Commissioners will be allowed to go to the area by the Chhattisgarh Government as the five earlier attempts in the last one week made by people to reach these areas from the Raipur-Jagdalpur-Sukma route were thwarted by stage-managed obstructions. And if they do manage to go, will it be sustained by allowing supplies and communication from being established?

The latest in the series of preventing the affected villagers from getting

any aid was that of the team of 10 Congress MLAs whose attempt of going on March 29 with relief supplies was obstructed by the same set of people with the support of the police.

#### **Ex-Minister turned back**

The Congress team was led by Ex Home Minister Nand Kumar Patel. They left Sukma with food supplies at about 10.00 a.m. and proceeded towards Chintalnar. This team too was stopped at the same village Polampalli, where the Collector was stopped on March 24, 2011, by a group of about 25 SPOs and *Salwa Judum* persons. The IG, Long Kumar of Bastar who was escorting them, instead of stopping the hoodlums prevented the Congress MLA team from going, saying that he could not provide security to them as there was a risk involved in going to the villages of Tadmatta, Morapalli, Teempuram. When the MLAs insisted that they would go as they argued that this kind of resistance was routine for politicians, they were told they would not be allowed. The IG, instead of using his command and stopping the SPOs and *Salwa Judum* personnel from breaking the law, arrested and brought the MLAs to Dornapal, where they were released on personal bonds. The Congress MLAs left for Raipur by evening to raise the issue in the State Assembly.

A day earlier, on March 28, on the instructions of the District Collector, the Dornapal village Naib Tehsildar, Vijendra Patil, tried to take relief to the three villages. At around noon he was stopped and not allowed to proceed. When the ASI Dhruv tried to clear the obstruction at Polampalli he was stopped by an SPO.

In the police hierarchy the SPO would be at the lowest rung, but here they are the war lords. They even refused to take instructions from the District Collector and the Divisional Commissioner who tried to go there with supplies on March 24. They threatened the SDM who went ahead

with the supplies. On March 26, Swami Agnivesh was stopped twice, although he was being taken by the Additional SP Marawi in his own vehicle, they did not spare their own senior and threw stones and smashed the vehicle. It took the Additional SP two days of struggle to get an FIR lodged as the local police station would not lodge a case against the *Salwa Judum* and SPO lords of the region. And, of course, IG Long Kumar also does not want to exercise his control over them. This means that till now, all those who have attempted to visit those areas from the Sukma end have been prevented by the Government from going there. On March 20 and 21, the Times of India and The Hindu reporters were prevented from going to the area. They could only reach there through a longer and difficult alternate route. The All India team of members from the democratic rights organisations who went there on the same dates as Swami Agnivesh could reach and conduct a fact finding could do so because they took a third route to get there. This was first fact-finding team that visited the area after September 2009, since the PUDR team had gone to Gompad area when 16 people were killed by CRPF and other forces in its Operation Green Hunt intervention. And subsequently teams were not allowed to go to the affected areas (A women's team was not allowed to visit Samsetti village to study a gang rape case on December 15, 2009. Professors Nandini Sundar and Ujjwal Singh of DU were chased out of Dantewada and Sukma, were not allowed to stay in any hotel on the eve of the new year of 2010. Then Medha Patkar and Sandeep Pandey led a NAPM team of 40 people in early January, 2010 and they too were harassed and were not allowed to move freely into the areas to hear the woes of tribals and then in May 2010 a team led by Prof. Yashpal and 40 other intellectuals met the same fate).

### **Urgent questions**

Now suppose the SC Commissioners are taken by chopper from Raipur to these villages, then they will have to go alone and not with a local team of journalists or villagers who can be objective local guides for such visits. And then having gone once will they be able to sustain the access of supplies with the help of the Supreme Court? Who will monitor it

there? Till public access of these villages is not assured nobody will know what is happening there.

The news of how a Government lets its "lesser people" be killed, raped, their houses and granaries burnt, allows them to live in conditions of food scarcity, perhaps even die of starvation does not even make it to the national channels. Soon this will be forgotten, till the Maoists strike back and then we will only see

channel after channel breaking news, calling the poor tribals, terrorists, monsters and killers. And the human rights workers will be verbally flogged with the pitch of the anchors going higher and higher on these very channels. Would not the Chhattisgarh Government be responsible for that eventuality, if it ever happens? We should all raise our voices and stop this from happening. □

### **Gujarat PUCL: Letter**

Dear Annaji,

The statement reported in Indian Express - "The kind of model that Gujarat and Bihar chief ministers have presented, that model should be emulated by all other chief ministers... I am saying this on the basis of the kind of works Bihar and Gujarat CMs have done in the field of rural development," Hazare said during an interaction at the Press Club here today. - is unfortunate and does not reflect the reality of real Gujarat. We would like to draw immediate quick attention of our friends outside Gujarat is that Mr. Modi's response to the Mahuva farmers' agitation during the recent assembly budget session is a stark reminder of the stand of Gujarat Government. Farmers, Women, Fishing Communities, Salt-pan Workers, Tribals, Dalits, Workers and Minorities all have been waging a constant battle with the Modi government to seek what is rightfully theirs, but it remains an uphill struggle for them in Gujarat. People's movement in Saurashtra, Kutch, and Tribal areas in Gujarat only points to the contrary endorsement of Modi rule for rural development in Gujarat, Annaji. Industrial development and development claims by CSR is one thing, while the claims of actual job creation in Gujarat, where unemployment continues to increase is yet another contrast. Annaji, we have 'Job Killing Growth' in Gujarat. The success story of the two digit growth has masked the several digit realities of loss of

livelihood, land acquisition, displacement and permanent loss of natural resources, which are treated as free goods in this process. The investment figure without the displacement and depletion of natural resources figure and the employment figure without loss of livelihood does not make sense. Development-Induced Displacement in Gujarat 1947-2004 report prepared by Dr. Lancy Lobo and Shashikant Kumar of Centre for Culture and Development clearly indicates that there are 4,00,000 households displaced and affected in Gujarat during 57 years of Independence, amounting to 5% of the total population of Gujarat from developmental projects such as water resource related, transport and communications, industries, mines, defence, sanctuaries, human resource related, government offices, tourism and so on. This report further indicates that a total of 33,00,000 hectares of land has been acquired during 1947-2004 as computed from 80,000 Gazette notifications of the government of Gujarat and from Land Acquisition Departments from 25 Collectorates through RTI Act. This figure does not include the land acquired and people affected by the most controversial project Sardar Sarovar Dam [Narmada]. The acquisition of land was not based on the market value of the land but by bypassing the rule of law and even all the rules of market mechanism. This figure of displaced also does not include the

people who were dependent on land for their livelihood but were not the owner of the land. Thus real figure of loss of livelihood may even cross the figure of 50,00,000. We hope that this figure is not negligible for the Government of Gujarat.

Vibrant Gujarat summit is talking about huge investment but is silent on the issue of land acquisition and loss of livelihood because of the land "acquisition".

Also, Annaji your endorsement of rural development is contrasts, the pollution map of Gujarat, which has contaminated land, surface water, and groundwater. Villages in Ankleshwar, Vapi, Nandesari and Vatva, Saurashtra and Kutch persistently remind who bears the brunt of industrial development. The groundwater has been contaminated in 74 talukas out of 184 talukas of Gujarat.

In Gujarat, one of the project the Final Effluent Treatment Plant (FETP). Touted by the Chief Minister, Mr. Narendra Modi, the Gujarat Pollution Control Board (GPCB), and various Industries Associations as a state-of-the-art solution the structure does not even meet the GPCB norms since 2006 even then the Chief Minister Mr. Modi of Gujarat inaugurated a pipeline of the same plant on 25th January 2007 and Centre and State Government invested more than Rs. 100 crores in the company. The explanation with the relevant documents for such an act was asked by us from the Chief Minister Office but the CM office

replied that the documents are destroyed by their office and that is why they can not provide the information. We have the Government who has not even care to appoint the members of Lokayukt

in Gujarat State by giving all possible excuses.

We can share more information about the Gujarat. Annaji visit Gujarat to know the reality at grassroots level about 'destructive development'

in Gujarat. We are ready for open debate on 'destructive development' of Gujarat based on facts and figure. Gautam Thaker, General Secretary. PUCL Gujarat; Rohit Prajapati & Trupti Shah, Vadodara. □

## **TN & Puducherry:**

**Press Statement:** 2nd April, 2011

### **Intimidation of Election Commission in Tamil Nadu Deplorable**

PUCL Tamil Nadu & Puducherry and Forum for Electoral Integrity strongly deplores the reported statement of Thiru. M Karunanidhi, DMK President and Chief Minister in an election rally in Erode on 31st March, 2011 describing the curbs imposed on electioneering by the Election Commission of India as the declaration of a 'mini-Emergency' and describing the steps taken by the ECI to prevent bribing of voters as an intimidation aimed at 'breaking the alliance'. He is also reported to have raised the question as to whether there was 'rule of law' in the state and alluded to the fact that such actions were the act of lower level officials.

Comparing the actions of the Election Commission with the Emergency is not only ridiculous but also factually incorrect and politically odious. The Emergency declared by Indira Gandhi (1975-77) was a murder of democracy and a desecration of the ideals of freedom, liberty, rule of law and an attempt to transform a democratic state into an oppressive, dictatorial one. In contrast, the current actions of the Election Commission of India is aimed precisely to restore meaning and dignity to democracy and democratic ideals by enforcing the 'rule of law' and fair play by strictly and impartially implementing the law to neutralize money power, goondaism, intimidation of voters and naked buying of votes.

The effectiveness of the strong actions of the ECI is borne out by the continuous report of huge amount of unaccounted money seized across the state carried in all types of vehicles including ambulances and official vehicles.

The action of the ECI has helped restore faith of the common citizen in the election process and generated confidence about free and fair elections.

When viewed against this historical context it becomes clear that the depiction of the strong action by the ECI dubbed by Thiru. Karunanidhi as declaration of a 'mini-Emergency' is not only inappropriate but also meant to intimidate the ECI. As part of the ruling combine at the Centre, Thiru. Karunanidhi's statement clearly breaches constitutional proprieties regarding the actions of a constitutionally constituted Institution.

The attack on the ECI by Thiru Karunanidhi has been matched by the statements made by Mr. P. Chidambaram, Union Home Minister in another election rally in Chennai on the same day. Using poetic metaphors of elections being a democratic festival and alluding to struggles for democracy in Libya, Tunisia and Yemen as being different from democratic process in India, Mr. Chidambaram uses suggestive language in cautioning the EC from imposing unreasonable conditions which would turn a "huge marriage house into a different one".

We acknowledge the fundamental right of political leaders to express their criticism of actions of various official institutions. However the nature of their expressions has to respect constitutional proprieties and political decorum. What concerns us is the timing and language of the two dominant partners, who together constitute the coalition ruling government at the centre and ruling party in Tamil Nadu. They have a more onerous burden of respecting

the independent actions of constitutional authorities and not to, in any way, sound threatening or intimidating the ECI from carrying on efforts to enforce the 'rule of law' to ensure free and fair elections.

The extent of degeneration has been officially documented and submitted to the High Court by the ECI. Huge cash caches were found being smuggled in police vehicles and policemen complicit in committing election malpractices have been identified. Over 2900 cases have been registered and the magnitude of election malpractice has been described to be so huge that it is difficult to tackle. Thus by cracking down on bribing, cash-for-votes and such political crimes, the ECI is only playing its constitutional role.

It is revealing that neither the DMK nor the Congress have denied or distanced themselves from the ECI allegations of DMK workers caught or found in possession of unaccounted money meant to be distributed as cash-for-vote during the coming elections. The DMK and the Congress have both not condemned such practices also. While so it is strange that they are now finding fault with the EC and issuing not-so-veiled threats. It appears that by their acts criticizing the EC they are actually, supporting the continuation of such corrupt practices.

It is in this light that we should consider the filing of numerous PILs in the Madras High Court challenging the actions of the ECI. There is strong ground that these PILs have been engineered to mount yet another assault on the ECI from implementing the rule of law.

What is distressing is the lack of any

introspection from most of the recognised parties about the degeneration of the political process and the brazen corrupt practices. Open bribing of voters has become the norm. Most of the parties themselves seem to be involved in the same practices alleged of other

parties. This cynical disregard for constitutional rule of law ironically will destroy the very foundations of our democracy and push the large mass of citizenry into disbelief in the electoral system.

PUCL and Forum for Electoral Integrity call upon the citizens to be

more vigilant about their hard won democratic rights. At stake are not just elections - but the future of democracy itself.

Sd/-

MG Devasahayam, Forum for Electoral Integrity; Dr. V. Suresh, President, TN & Puducherry PUCL

□

**PUCL Statement:** 26th March, 2011

## **Condemning the Assault on Swami Agnivesh and the State Sponsored Mob-Rule in Chhattisgarh**

*People's Union for Civil Liberties* (PUCL) unambiguously condemns the 26<sup>th</sup> March (Friday morning) attack on Swami Agnivesh and two Art of Living teachers, Ajay Singh and Rishi Milind, near Dornapal village in Dantewada in Chhattisgarh, who were on a peace and fact-finding mission.

Swami Agnivesh and his companions reached Sukma town, in Dantewada district late on 25th March 2011. In the early hours of 26th March they left for Chintagupha village enroute to Tadmetla, Morpalli and Timapuram villages which had been attacked by Koya commandoes and the infamous COBRA forces of the Chhattisgarh police force on the 11th and 16th of March, burning down 300 houses, killing five people and raping three women in separate incidents.

Swami Agnivesh and his companions were manhandled and abused by a crowd comprising of three hundred women and men from the Dornapal *Salwa Judum* camp and also from the Erabore village relief camp. The tyres of Swami Agnivesh's car were deflated, their laptops snatched, the supplies he was carrying for the victims of these villages was taken away. Although Swamiji tried his best to dialogue with the people who were causing obstruction yet they refused to talk. The laptops were handed over later to Swamiji and he returned to Sukma in the morning itself.

**Demanding Arrests and a CBI enquiry into the attack on the**

### **Tribals**

According to the PUCL the attack on Swami Agnivesh is a part of the Chhattisgarh Government's design to prevent any information of its operation Green Hunt against the Tribals of that region from coming out into the open. This is a clear example of the impunity that exists for the police and paramilitary forces in that area. We demand filing of criminal cases and the arrests of the police personnel and SPOs who led and carried out the attack against the villagers on 11th and 16th March 2011. We also demand similarly the arrests of persons who attacked Swamiji today.

We also demand a CBI enquiry into the incident of 11th and 16th March and the announcement and reaching of a complete rehabilitation package for the affected people on the same guidelines as ordered by the SC in this regard.

### **Attack on Commissioner, District Collector and SDM condemned.**

The PUCL also condemns the incident of two days earlier where the laudable effort of Bastar Commissioner Shri Srinivasulu and District Collector of Dantewada R. Prasanna who were trying to visit and reach relief to the three affected villages was obstructed at Pollampalli by the residents of the *Salwa Judum* camp before Chinatagupha on March 24th. The SPOs also refused to clear the passage saying that they would only take instructions from the DIG, S.R.P. Kalluri. According to

eyewitnesses the officers got their own security men to clear the obstruction and then moved on with the supplies. However, on reaching Chintagupha they were instructed by their superiors in Raipur not to go ahead. Not compromising on his duty towards the people the Collector got the supplies escorted by the SDM, Shri SP Vaid, to the three villages where four lac Rupees were also distributed to the resident of Tadmetla along with ration and other essentials. On his way back the SDM was also manhandled and abused at Polampalli by the same group of people and also given life threats asking why he had tried to reach relief.

### **State Sponsored mob-rule in Dantewada**

The PUCL is of the understanding that this is not the first time that journalists and activists and researchers have been attacked and prevented from entering that area. Since 2009, when the operation Green Hunt took off, the Chhattisgarh Government through the *Salwa Judum*, SPOs and victims of Maoist violence has continuously tried to deny access of people, activists, journalists into the area under garb of "a spontaneous reaction" of the people towards the visitors, thus openly sponsoring mob rule. On 15th December, 2009 when women's groups from all over the country tried to go to Dantewada to examine the Samsetti rape case and meet the victim, they were prevented from going and harassed so severely

by the *Salwa Judum* mob and SPOs that they had to abandon their trip and return.

From the 29th of December 2009 to the 1st of January 2010, Professors Nandini Sundar and Ujjwal Singh were forced to vacate their hotel in Dantewada, were stopped outside Sukma for over two hours, refused rooms in Sukma hotels and had to face the humiliation by SPOs bursting into their rooms in a college hostel and followed wherever they went. Similarly on 6th January, 2010

when a team of over 35 people from all over the country led by Medha Patkar tried to participate in a public hearing on atrocities on the Tribals by police forces, not only were the Tribals arrested and taken away but the team of people were also harassed by the throwing of eggs and tomatoes on the streets of Dantewada. In April 2010 a team led by Prof Yashpal along with more than forty intellectuals faced the same harassment in Dantewada.

It is well known that the journalists are not allowed to go into areas to

report, they have faced risks from all sides and have tried to keep a flow of information but there are several such instances, the latest being the obstruction of reporters of the Times of India and the *The Hindu* on 20<sup>th</sup>-21<sup>st</sup> March when they tried to go to the same area to study the attack on the Tribals and they were prevented and had to take the dirt roads and reach the villages.

Prabhakar Sinha, President, Mahi Pal Singh, Secretary; Kavita Srivastava, Secretary, National PUCL □

### Orissa PUCL:

## Encounter Killing' of Madhab Singh Thakur and Ramesh Sahu

During the last week of December 2010 and first two weeks of January 2011, in a series of 'encounters', over twenty-five people, allegedly Maoists, were killed in Orissa. Most of the victims were adivasis and 10 of them women including one minor girl.

The first 'encounter' of the series, in which two alleged Maoists were killed, took place on 27 December in the Gandhamardan hills of Bargarh district. The second in the series took place on 29 December in Telkoi area of Keonjhar district. (The local media reported killing of two Maoists but showed the body of only one woman.) The third encounter took place on 1 January near Tamka forest area in Jajpur district. Five people including four women and one minor girl were killed. The fourth round of encounter took place on 9 January in the Kashipur area of Rayagada district in which nine people including five women were killed. The fifth in the series took place on 12 January and two adivasi men were killed.

It needs to be noted that the areas, where these 'encounters' took place, have also been the scene of resistance struggles against mining and displacement. In two of these areas – Kashipur and Kalinganagar – police had earlier resorted to firing upon the struggling adivasis in 2000 and 2006 respectively in which 17 people (3 in Kashipur and 14 in

Kalinganagar) were killed and many more injured.

It was in this background a four members PUCL team did a fact-finding (during 30<sup>th</sup>-31<sup>st</sup> January 2011) of the Paikmal encounter killing of 27 December 2010.

The team visited the family members of Madhab Singh Thakur and Ramesh Sahu – the two victims of the encounter, spoke to some villagers of Temri and leaders of the Gandhamardan Suraksha Yuva Parishad (GSYP), visited the local Police Station (PS) at Paikmal and spoke to the Officer in Charge (OIC), visited the PS at Sohela and met the Inspector in Charge (IIC) who is the Investigating Officer of this case, met the Chief District Medical Officer (CDMO) at Bargarh. The team tried to meet the Superintendent of Police (SP) Bargarh but the latter was not willing to meet. (The team has reasons to believe that on 31 January when two of the team members visited the office of the SP she was very much present in her residence but they were given the message that she was on tour.) The team also went through the media reports on the incident. The team managed to get a photocopy, from a local journalist, of the FIR filed at Paikmal police station by the team leader of the combing operation of 27 December. On the basis of the facts gathered from the above sources, the team

has come up with the following account of the incident.

**The Area:** Paikmal, on the foothills of Gandhamardan, is a small block-town of the district Bargarh in Western Orissa. Demographically speaking, Scheduled Castes and Scheduled Tribes constitute 13.6% and 39.5% respectively of the total population of the block. During anti-BALCO struggle in the 1980s Paikmal happened to be base of the Gandhamardan Surakshya Yuva Parishad, the organization spearheading the anti-BALCO movement against extraction of bauxite from Gandhamardan. Since the cancellation of the BALCO Project, the Parishad is not so active, but quite vigilant about any future mining activity in the area. In the recent past, there have been many reports in the media of handing over Gandhamardan to various companies. Around 1996, it was heard that Gandhamardan had been sold to a US company, Continental Resources. NALCO in 2006 and Vedanta in 2008 have tried to mine bauxite from Gandhamardan.

### About Madhab Singh Thakur and Ramesh Sahu – the two victims

Madhab Singh Thakur, aged about 35 and Ramesh Sahu, aged about 22 were residents of Temri village under Paikmal police station. Madhab Singh was married with three daughters – Puja, the eldest

of them, is five years old and, the younger Prachi and Pragyan are twins and only 14 months old. Ramesh Sahu was married only eight months ago. He was the only son of his widowed mother who had lost her husband when Ramesh was still a child. While Madhab Singh Thakur earned his living by cultivating the family land, Ramesh Sahu had a small stationery shop.

Madhab Singh Thakur was a frontline activist of Gandhamardan Surakhsha Yuba Parishad. He was also the Mandal President of the Bhartiya Janata Party. Being a leader, he was active in the social and political activities of his own village as well as of the area. Just a few weeks before his death, on 10 November when Chief Minister Naveen Patnaik visited the area, Madhab Singh Thakur was in the forefront of the crowd that protested his visit and demanded a clear answer from the CM regarding his government's position on mining in the Gandhamardan hills. And just the day before his death, on 26 December, he had visited the two local police stations i.e., Paikmal and Jharbandh, and was in touch with another police station in the neighbouring Chhatishgarh in connection with the rescue of a minor girl who, reportedly, had eloped with a man. In addition to his political activities, Madhab Singh Thakur was also a regular blood donor.

Ramesh Sahu lived an ordinary family life.

The villagers of Temri and the functionaries of Gandhamardan Surakhsha Yuva Parishad that the PUCL team spoke to, deny that either Madhab Singh Thakur or Ramesh Sahu had any connection with the Maoists. Pradeep Purohit, the advisor of Gandhamardan Surakhsha Yuva Parishad, who is also a district level leader of the BJP, strongly denied the police version that Madhab Singh Thakur had Maoist links. The OIC of Paikmal PS told the team that there is nothing in police record regarding their links with the Maoists. The IIC of Sohela police

station told the team, "As the investigating officer of this case, I am looking into the incident of 27 December only. I can't say anything about their past activities. But the fact that they were present at the Naxal camp site explains it."

#### **On the day of 'encounter' – 27 December 2011**

The family members of both the victims clearly stated that both Madhab Singh Thakur and Ramesh Sahu and one Amrut Barik left their village Temri on some work in a motorcycle at about 4 pm on 27 December. Both had informed the family members that they would return home in the evening. Apart from family members, there are other villagers who had seen Madhab Singh and Ramesh Sahu in the afternoon of 27 Dec. There was a scheduled meeting of the BJP in Bargarh on the next day, i.e., 28 December, and Madhab Singh was mobilizing people in different villages to attend this party meeting.

From Temri, Madhab Singh Thakur, Ramesh Sahu and Amrut Barik went to a village called Palsada. In this village Amrut Barik was dropped at his uncle Rankamani Barik's house and the other two left the village around 5 p.m. It was in this village that Madhab Singh Thakur and Ramesh Sahu were last seen. They didn't return home that night. Madhab Singh Thakur had his cell phone with him. His family members kept calling him up but the phone was switched off.

According to the FIR lodged by Shri Debasish Mohanty, Team leader of the Combing operation on 27 December, there was intelligence input regarding camping of 60 to 70 armed cadre naxals near Mahadev Jharan forest area near Borasambar range forest of Gandhamardan hills. On this information an anti-naxal operation was planned. 3 units of SOGs and 2 platoons of CRPF personnel were engaged that day in this operation. The timing of the 'occurrence of offence' has been recorded as 4 pm in the FIR. The detailed account of the 'encounter'

as written in the FIR mentions that first the security forces gave warnings to the naxals to surrender. When the naxals didn't surrender and challenged the security forces and began firing indiscriminately at the security forces then the latter opened fire in self defence. The firing stopped after it became dark. The security forces 'took positions' and spent the entire night in the forest, waiting for the day-break. In the morning, as there was no firing from the other side, they cautiously advanced towards the naxal camp site. It was near the camp site that they found two male dead bodies lying with gun shot injuries on their persons.

The FIR also mentions of two eyewitnesses of the firing. One couple – Chhala Bariha and his wife Kalpana near the firing place. Seeing the couple and after ascertaining their identities the police took them to safety before the firing took place. (The PUCL team could not meet the two eye witnesses but spoke to a journalist who claimed to have met the couple. The journalist told the team that the Bariha couple were not consistent in their reporting of their encounter with the security forces.)

According to Sri Raj Kishore Mishra, the IIC of Sohela police station who has been appointed as the investigating officer of this case, no arm or ammunition has been recovered from the persons of Madhab Singh Thakur and Ramesh Sahu. Even from the alleged naxal camp-site no arm or ammunition has been recovered.

The police FIR records that 84 rounds of firing took place during the operation. There is no mention of any security personnel being injured or killed. The FIR also doesn't record of any naxal, other than the two killed, of being injured, during the operation.

The OIC of Paikmal police station told the PUCL team that the local police had no role in the anti-naxal operation of 27 December. He also told that though there is no written

direction, it is the strategy now not to involve the local police in any way in the anti-naxal operation. The coordination with the state police is done only at the SP level. The team was told that the reason behind the exclusion of local police was because it was noticed that when local police were involved often it led to information being leaked. This led to loss of lives on the part of the police and other security forces. This analysis regarding the non-involvement of local police was confirmed by the IIC of Sohela too.

#### **Developments after 27 December 2010**

On 28 December, there was news in the local TV Channels that two Maoists had been killed in an encounter with the police in the forest of Gandhamardan hills in Paikmal. The channels also reported, quoting police sources, that the two Maoists were suspected to be from neighbouring Chattishgarh. Nobody suspected that the killed Maoists could be Madhab Singh Thakur or Ramesh Sahu.

On 29 December, the local newspapers carried the news, along with photographs, of the two Maoists killed in the encounter that the villagers suspected one of them as Ramesh Sahu. The picture of the other person was not as clear but since both Madhab Singh and Ramesh Sahu had gone together and not returned home, they suspected the other picture could be that of Madhab Singh. Even on 29 December, the newspapers, quoting the SP Bargarh, reported that there was a combing operation in the forests of Gandhamardan hills and that two Maoists, belonging to Chattishgarh, were killed in an encounter with the security forces.

While the SP Bargarh told the media on 28 December that the two Maoists killed in Borasambar forest were from Chattishgarh, in the early morning of 29 December, the security forces cordoned off Temri village and searched houses to find out if any outsider had come to the village or if anybody had been away

from the village.

The bodies of Madhab Singh Thakur and Ramesh Sahu were brought to the district headquarters hospital, late in the night of 28 December, for postmortem. The PUCL team members were told by the CDMO that the police had insisted to do the postmortem in the late hours of the night but the District Magistrate didn't give permission to do so. The CDMO however refused to say anything more to the team on the postmortem.

The family members and villagers along with the members of Gandhamardan Surakhsha Yuva Parishad came to meet the Bargarh police to enquire about what they had read in the newspapers. They identified the two bodies as that of Madhab Singh Thakur and Ramesh Sahu.

The PUCL team learnt that the postmortem reports were not made available to the family members of the victims. When the team met the police officers both at Paikmal and Sohela police station and wanted to see the copies of the postmortem reports the officials flatly replied that they were not empowered to do so.

Once the bodies of Madhab Singh Thakur and Ramesh Sahu were identified by the family/community members, the SP Bargarh briefed the media that the police had intelligence inputs about the Maoist link of Madhab Singh Thakur.

The leaders of Gandhamardan Surakhsha Yuva Parishad and some local journalists told the PUCL team that the motorcycle used by Madhab Singh and Ramesh Sahu on 27 December had been located in Borasambar village. The police had not seized it and the villagers, for some reasons, were not willing to talk about it. When the PUCL team asked the IIC Sohela about the motorcycle he said he had not heard about it. When asked about the cell phone of Madhab Singh Thakur he said, "for the purpose of investigation we can't talk about it".

#### **Reactions of the local Community:**

The local community as well as the Gandhamardan Surakhsha Yuva Parishad reacted very strongly at the killings of Madhab Singh Thakur and Ramesh Sahu. People found it hard to believe that the two were Maoists. They also found it hard to believe that the two could be killed in an 'encounter' with the police at a 'maoist camp site' and barely after they had left village Palsada. As a mark of protest, the Gandhamardan Surakhsha Yuva Parishad gave a *bandh* calls on 3 January in Paikmal and Jharbandh Blocks and on 6 January in Padampur and Gaisilat Blocks of Bargarh district.

#### **Maoist Activities in Paikmal area:**

The OIC of Paikmal police station, told the team that there have been reports of Maoist activities in the Block. There have been reports of Maoists conducting meetings in some villages since September of 2010. However, there is no report of any Maoist violence in the area.

#### **Questions being raised by the fact-finding team:**

1. If the police had prior information about Madhab Singh Thakur's involvement in Maoist activities why wasn't he arrested? Not only that Madhab Singh was no under-ground activist, he had visited the local police stations on many occasions, due to his active involvement in socio-political activities of the area. Even on the day before he was killed he had visited the police stations.
2. If the police had intelligence inputs that Madhab Singh Thakur and Ramesh Sahu had Maoist links, how is that the SP Bargarh briefed the media on 28 Dec. that the two 'Maoists' killed were from Chhatisgarh? Does it not mean that the maoist link of the two victims is a fabrication and after-thought of the police?
3. 'Occurrence of Offence': The police FIR mentions 'about 4 pm' as the time of the occurrence of offence. Can it be possible that Madhab Singh and Ramesh

Sahu leaving their village at about 4 pm, going to Palsada and leaving that place at about 5 pm can also, at the same time, be at a naxal camp in the forest?

4. By police's own admission, no arms or ammunition has been recovered from the two victims. How could then they attack the security forces first as claimed in the FIR?
5. If at all there was a naxal camp where 60-70 armed cadre-naxals were camping and if there was heavy exchange of fire between the security forces and the naxals, then how is it that none of the armed cadre-naxals

was killed or injured; none of the security personnel was injured or killed, and surprisingly, two unarmed men were killed?

6. If the bodies of the two victims were recovered from the firing site in the morning of 28 December why did it take more than 12 hours to bring it to Bargarh – a distance of about 100 km – for postmortem?
7. Why was the SP Bargarh insisting to get the postmortem done late in the night?
8. If the police had nothing to hide then why is that the postmortem reports of the two deceased not

shared with their family members?

#### **PUCL Demands:**

In view of the above, the PUCL demands for a judicial investigation into the incident. PUCL also demands that the government take the responsibility of the family members of Madhab Singh Thakur and Ramesh Sahu.

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*The PUCL fact-finding team consisted of Saroj Mohanty, Gargi Satapathy, Dr. Golak Bihari Nath and Pramodini Pradhan – all members of PUCL, and Umesh Biswal, a journalist from Bargarh* □

## **Report of the 31st JP Memorial Lecture**

The 31st JP Memorial Lecture was organised at the Gandhi Peace Foundation, Delhi on 23rd March 2011. It was attended by a distinguished audience of 80 people including TN Chaturvedi, Ex-Governor, (Justice) Rajindar Sachar, (Retd), former President, PUCL, (Justice) RB Mehrotra, Retd. Judge of the Allahabad High Court and BD Sharma, Senior Advocate, Supreme Court. Many members of the Delhi PUCL along with ND Pancholi, Shivakant Gorakhpuri and Jaipal Nehra, President, General Secretary and Treasurer respectively of the

Delhi PUCL attended the meeting. The meeting was presided over by Prof. Prabhakar Sinha, National President, PUCL.

Mahi Pal Singh, Secretary, PUCL welcomed the guests and Ms. Kavita Srivastava, Secretary, PUCL introduced the JP Memorial Lecture. Then Prof. Sinha introduced Shri MG Devasahayam and invited him to deliver the Lecture.

At the end of the Lecture Mahi Pal Singh thanked Shri Devasahayam, Prof. Sinha, Kavita Srivastava and all the other guests. He also thanked Bhai Surendra Kumar, Secretary,

GPF and his staff and the office staff of the National PUCL Office for their co-operation in organizing the Lecture. He also thanked the Donors for extending their co-operation to the PUCL year after year in promoting and protecting civil liberties and human rights of the people by sending their donations regularly. After that the guests were invited over a cup of tea where an informal and lively discussion on the problems facing the country and the strategy to solve them continued for a long time.

Mahi Pal Singh, Secretary, PUCL. □

**31st JP Memorial Lecture:** 23rd March 2011 (Delhi)

## **JP and India's Second Freedom**

### **M. G. Devasahayam\***

*[\*M.G. Devasahayam was District Commissioner cum Magistrate of Chandigarh, where Jayaprakash Narayan was jailed, and as such was JP's custodian. During this period he developed a humane and warm relationship with JP, which sustained after the Emergency and lasted till JP, the architect of 'India's Second Freedom', passed away in October 1979.*

*Devasahayam was responsible for unveiling of the secret Emergency Papers and triggering the 'regaining' of the Shah Commission Report that*

*has been published as a book recently. He has also written a revealing book on the events of the Emergency period: **India's Second Freedom - An Untold Saga and JP in Jail - An Uncensored Account.** M.G. Devasahayam has diverse experience of serving in the Indian Army, Government as IAS, Corporate Sector, partaking in political process, pursuing advocacy of public causes in the voluntary sector. After post-graduating in Economics from Loyola College, Madras, he taught there for one year before being commissioned in the Indian Army soon after the Indo-China war. He is recipient*

*of General Service Medals and Samar Seva Medal (War Service Medal) From Army, Devasahayam moved on to the Indian Administrative Service (Haryana cadre) and has headed Districts, Departments and Public Sector Undertakings as well as holding senior secretariat positions. He had the privilege of raising a new District Bhiwani (Haryana) and evolving an integrated development model, which became the precursor to the IRDP in the seventies. In the Voluntary Sector Devasahayam founded Citizens' Alliance for Sustainable Living and is functioning as its Managing Trustee.*

Core objective of SUSTAIN – a Networking NGO - is advocacy, promotion and propagation of responsive governance, resource efficiency and sustainable development. In the nineties, for a brief period he was associated with the Janata Party as General Secretary of its Tamil Nadu unit and All India General Secretary. Presently he is very actively engaged in combating money-power in elections and is the Convener of the Chennai based Forum for Electoral Integrity.

Devasahayam is a prolific writer and has written extensively and done several case studies. His subjects broadly include Governance, Economy, Urban Management, Utilities, Civil Services and anti-corruption. While at Chandigarh he was closely associated with Mother Teresa. Working with the Mother, her Missionaries of Charity and the Catholic Bishop of Simla-Chandigarh Diocese for about ten years, he was instrumental in the setting up the 'Home for orphans, abandoned infants, dying destitute and mentally retarded' called 'Shanti-Dan' at the heart of Chandigarh and a sanctuary for lepers at the city's outskirts. Devasahayam considers the privilege of knowing and closely associating with JP and Mother Teresa and feels that it has been the greatest achievement of his life.]

I feel honoured to be invited by People's Union for Civil Liberties to deliver the 31<sup>st</sup> JP Memorial Lecture. India's Freedom, achieved on the midnight of 14/15<sup>th</sup> August 1947, ended on the midnight of 25/26<sup>th</sup> June 1975, when the then President of India signed a crisp four-line proclamation virtually on command from the then Prime Minister Indira Gandhi:

*"In exercise of the powers conferred by clause (1) of Article 352 of the Constitution, I, Fakhruddin Ali Ahmed, President of India, by this Proclamation declare that a grave emergency exists whereby the security of India is threatened by internal disturbances."*

This extinction of freedom in the country brought about an eyeball-to-eyeball confrontation between Indira Gandhi, the self-appointed dictator

and Jayaprakash Narayan, popularly known as JP, the congenital democrat. While the former was the epitome of power and pelf, the later abjured all desire for power, but wielded immense moral authority. By the time the confrontation ended in March 1977, JP had won with India regaining its Freedom.

Acknowledging this, veteran journalist Kuldip Nayar said in his 24<sup>th</sup> JP Memorial Lecture: "He wasn't built to be a hero: slight of figure, racked by illness, battle-worn. Yet, he proved to be the outstanding hero who won us the second freedom in 1977, 30 years after the first one."

Hardly any one today seems to know about this 'second freedom' won with such suffering and sacrifice. So much so, anyone launching an agitation calls it 'second freedom struggle'. The latest to use this phrase is Anna Hazare while seeking enactment of the JAN LOKPAL Bill. If this is the perception of a veteran crusader like Hazare, one can only imagine the public awareness about JP, his Movement, resultant Emergency and regaining of Freedom in 1977. Is it that decades after this 'remaking' of history people do not really have a sense of freedom and liberty?

Perhaps so. It looks as if Indira Gandhi, who used the violent 'Jhatka' method to kill democracy in the mid-seventies, learnt her lesson and resorted to the less painful 'Halal' method after returning to power in 1980. The objective is to effectively drain the body of the victim's blood, resulting in slow, but steady decay and death. Successive regimes have followed this resulting in a benumbed state of democracy and freedom in the country today.

Even so, Freedom has been India's path ever since Independence, a path chosen by the founding-fathers of our Republic under extremely trying circumstances. Despite all trials and tribulations and its many imperfections, India today is being lauded as the largest democracy on earth practicing freedom, however

imperfect it may be.

For JP, considered among the greatest revolutionaries of the last century, Freedom has always been a passion. This is what he said in 1975:

*"Freedom became one of the beacon lights of my life and it has remained so ever since.....Above all it meant freedom of the human personality, freedom of the mind, freedom of the spirit. This freedom has become a passion of my life and I shall not see it compromised for bread, for security, for prosperity, for the glory of the state or for anything else".*

In the dying moments of the 2nd millennium, standing on the ramparts of the Lincoln Memorial at Washington DC, US President Bill Clinton declared: "The story of 20th century is the triumph of freedom. We must never forget the meaning of the 20th century or the gifts of those who worked and marched, who fought and died for the triumph of Freedom".

JP had 'worked and marched, fought and died for the triumph of freedom' in a country wherein live one-sixth of the human race. And he did it not once, but twice—as a fiery fighter for freedom from alien rule under Gandhiji's leadership and later winning it back from a native 'durbar' under his own stewardship. Elsewhere in the world such a man would be celebrated with gratitude. But here in this 'Republic of Scams' and land of 'cash-and-crime politics' he is near-totally forgotten.

During the 20 months of active Emergency, people moved in hushed silence, stunned and traumatised by the draconian goings on. Across the nation, groveling academicians, advocates and accountants vied with each other to sing paeans of glory to the Emergency rulers, some signing pledges of loyalty and servitude in blood! The bulk of the civil service crawled when asked to bend. Higher judiciary was willing to decree that under Emergency

regime citizens did not even have the 'right to life'. Politicians of all hue and colour, barring honourable exceptions, lay supine and prostrate. There was gloom all around and it looked as if everything was over and the world's largest democracy was slowly but surely drifting into dictatorship.

But through this all, one single soul, one lonely spirit continued to stir in anguish and agony, for the first few months in captivity at Chandigarh and later attached to a dialysis machine at Bombay's Jaslok Hospital and a spartan house at Patna. Yet, this defiant, indomitable spirit in the person of Jayaprakash Narayan dared the might of Indira's dictatorship and defeated it thereby restoring freedom and democracy to India. This he did despite being in the frailest of health and living on borrowed time.

All nations, most of all India, need an icon to which they can cleave when times are bad, which can unite them across barriers of caste, creed, clan and language. Mid-seventies were bad days and through the draconian and repressive regime of National Emergency and the 'era of discipline' positioned against 'anarchy and chaos', Mrs. Gandhi was building herself up as that icon. If she had succeeded, she would have got a clear mandate in any ensuing election, since majority would have voted for her instead of opting for a vacuum. When firmly in saddle, with Emergency endorsed by the people, the 'iconship' would have passed on to Sanjay Gandhi who was waiting in the wings. With age in his favour and his known dislike for the democratic process, India would have drifted from 'direct democracy' to 'directed democracy', a euphemism for dictatorship. An alternative icon was needed to prevent this tragedy from happening and JP with his towering personality and his aura as the hero of 'Quit India' movement eminently filled the bill.

JP's emergence as an alternate icon

to take the nation back to Freedom and democracy was not an easy task. The Sarvodaya leader was out of circulation and public view for several years before he surfaced in 1974 to lead an uprising, which mostly involved the Youth. Mainly students spearheaded this uprising, popularly known as "JP Movement". Outlining its *raison d'être* JP wrote: "The movement was started with certain specific demands. The chief among them were: removal of corruption, curb on inflation, solution of the problem of unemployment and basic changes in the system of education".

Emphasising on the movement's main thrust JP said, "**We have always raised our voice against corruption. Prevention of corruption was the main aim of our movement**". These were indeed genuine and unassailable demands and should have received positive response from any Government run on democratic principles. Instead, a power drunk ruling coterie chose to respond brutally with harsh repressive measures resulting in the strengthening and spreading of the JP movement.

The Allahabad High Court judgement of June 12, 1975 unseating Mrs. Gandhi from Parliament for 'corrupt practices' gave a big fillip to the Movement, which was poised to sweep the country. But before it could gain momentum Mrs. Gandhi struck and in one swift move declared Emergency and incarcerated all leaders who commanded public following.

On top of the list was 'enemy-number-one-of-the-state' Jayaprakash Narayan. By this time JP had come to symbolise the conscience of the nation and uncompromising opposition to corruption and despotism which had become the hallmarks of Congress party and governments. By locking up an ailing JP in confinement, the ruling coterie thought they could break his body and spirit and thereby eliminate the only hurdle they had in

enjoying uninterrupted and unfettered power.

What 'man proposes God disposes'. In this case it was a woman proposing to be the icon of 750 million people and the unquestioned leader of the vast sub-continent of India for years to come and then pass it on to her progeny. Using the Emergency as a whip to 'discipline the nation' and building her up as "Indira is India", she would have eminently succeeded with individuals and institutions collapsing one by one and falling by the wayside. And, barring sporadic murmurs of dissent, she had no opposition whatsoever and all roads were clear as far as eyes could see. But God has his own way of disposing.

During the initial days of the Emergency, within the confines of the yet to be commissioned intensive care ward of the Chandigarh's Post Graduate Institute of Medical Education and Research (PGI), JP was a haggard, and 'defeated' individual who felt that all hopes were gone and freedom in India stood extinguished. He had also mentally reconciled himself to die in confinement 'as a prisoner of Indira Gandhi'. But the Almighty and the Ultimate Arbiter had other ideas. He wanted this man, who once symbolised all that was fiery in India's Freedom struggle and all that was noble in pursuing a cause, to resurge, rise again and re-emerge as the nation's hope and the alternate icon to lead the people back to freedom and democracy. As the then District Collector & Magistrate of Chandigarh and custodian of JP-in-Jail, I had the privilege of witnessing this history-in-the-making first hand. When I received 'prisoner JP' at the tarmac of Chandigarh Air Force base on the night of July 1, 1975, Emergency was only a few days old. JP had been taken into custody under the dreaded Maintenance of Internal Security Act by the District Magistrate, Delhi on 25/26 June night, moved around nearby areas

of Haryana and Delhi's All-India Institute of Medical Sciences, and was being brought to Chandigarh for safe custody and medical care. To me at that time JP was an enigma as well as a mystery. My memory of him as the 'Hazaribagh hero' of the forties was hazy and the perception of his recent campaign for 'total revolution' was rather confusing.

During the 22 weeks JP was in my custody, I did come to know him very intimately. And having understood the nobility of his struggle and the intensity of his commitment, I partook in all matters concerning him and the State, shared his intimate thoughts and feelings, discussed political events and happenings, played 'Devil's Advocate', participated in brainstorming and strategy sessions, took charge of his mental and psychological well-being, initiated the reconciliation process between him and the Prime Minister and succeeded in reviving his faith in himself and his people which he was on the verge of losing.

"My world lies in shambles all around me. I am afraid I shall not see it put together again in my lifetime. May be my nephews and nieces will see that. May be". These opening words of JP's Prison Diary-1975s' first entry dated 21 July—a full three weeks after his arrival in Chandigarh—amply describe a sense of defeatism and extremely fragile state of JP's mind and spirit during the initial days. While this was JP's state of mind within PGI confines, outside some strange things were happening. Under instructions from the 'Delhi Durbar', Chandigarh Administration was preparing a contingency plan in the event of JP's death in detention and a 'death drill' was being rehearsed.

Blissfully unaware of the rehearsal of his own funeral, JP was taking stock of things and doing some hard soul searching, introspection and evaluation of events leading to the imposition of Emergency and its aftermath. This intense 'solo-

brainstorming' led JP to believe that the 'intellectuals' who had egged him on saying 'JP you are the only hope of the nation' and whom he counted upon as bulwarks of democracy had buckled and had deserted him.

This deep mental hurt was the main cause for some disturbing developments later including his conclusion that at least for the foreseeable future, democracy in the country was dead. And even when 'it was put together after a long time' he will not be there to see it. So, over a period of several days he drafted a 'letter of farewell' to Mrs. Indira Gandhi pouring out his heart in anguish, pleading with her to mend ways and "reconciling to die a prisoner under her regime". This letter—indeed an epistle—sent on July 21, 1975 to the Prime Minister caused quite a ripple along the corridors of power.

JP had been expecting some response to this impassionate letter from Mrs. Gandhi whom he often referred to as 'the child who played in my lap.' He felt slighted and humiliated when there was none. Already smarting under a deep feeling of hurt and betrayal, reports of intellectuals, academics and groups of people 'hailing' the Emergency and the 'decisive' leadership of Mrs. Gandhi, had tremendous psychological impact on JP edging him to give up all hopes and ready to fold-up.

One touching incident is worth narrating. On Sunday, August 10, 1975 I had permitted JP's brother-in-law S. N. Prasad an interview for one hour. Around noon Jail Superintendent delivered to me a letter from JP addressed to the Prime Minister conveying his decision 'to go on fast until death' unless the Emergency was revoked and all prisoners released within two weeks.

JP had authorised Prasad to announce this to the outside world. Considering the grave implications this could bring forth I took upon myself the task of dissuading JP

from this disastrous move, but did not make any headway even after two hours of highly surcharged nail-splitting verbal duel. JP refused to relent and said that his decision was irrevocable because in his opinion Mrs. Gandhi will only bring more destructive measures now that 'Intellectuals' had totally buckled and there was no resistance whatsoever. Sensing that his main grievance was the meek surrendering of the intellectuals, I argued that all intellectuals had not buckled and there were many willing to follow JP. I mentioned octogenarian Bhimsen Sachar and his distinguished 'freedom fighter' colleagues daring the Prime Minister and commencing a public campaign against Emergency from that very day. I said people are in a daze and only now the enormity of the situation is sinking in. As of now state power is holding absolute sway but before long they are bound to slip and people would regroup. At that time people across the nation would need a JP to lead the largest democracy in the world back to freedom and liberty. JP pondered, paused and agreed to reconsider his decision and defer the fast for the present. He took the original letter and tore it off. I however retrieved it. Moving fast, Prasad was accosted in the moving bus and embargoed from announcing the fast.

Extremely concerned and perturbed by the devastation and destruction caused by unprecedented floods in his home state of Bihar, JP requested the Prime Minister for a month's release on parole so that he could mobilise people's help and organise popular relief in cooperation with the state and Central Governments. Despite the floods getting worse and JP's repeated pleadings for parole, the response from 'Delhi Durbar' was total indifference. All that happened was the visit of a senior government emissary for briefing JP on the Bihar flood situation.

Though nothing much came of it, I

found this as an opening to initiate the process of political dialogue and reconciliation, which I had been thinking about. So I got working on this, quietly putting this thought in the mind of JP, and increasingly getting positive response. My efforts culminated in a warm gesture by way of a letter from JP to PM on September 17 expressing hope of an early end to the Emergency. In response to this, at the behest of Mrs. Gandhi, Sheikh Abdullah issued a positive statement setting the ball rolling on reconciliation.

JP responded to Sheikh Abdullah through a letter, which *inter alia* said: "However, in spite of all that has happened and is happening, I am prepared to seek the path of conciliation. I shall, therefore, be much obliged if you kindly see me as soon as possible so that I could discuss this matter with you. I being the villain of the piece, the arch-conspirator, culprit number one, a return to true normalcy, not the false one established by repression and terror, can only be brought about with my co-operation. I am herewith offering you my full co-operation".

This letter was delivered at Delhi on September 24<sup>th</sup> forenoon and the response from PM's Office was swift. A special emissary of the PMO (Sugatha Das Gupta, Director, Gandhi Institute of Studies, Varanasi, of which JP was the Chairman) arrived on 25<sup>th</sup> morning to initiate efforts for a political dialogue between PM and JP. There were some more visits by Das Gupta and the preliminary work on reconciliation was going apace.

As hope for the success of reconciliation efforts and restoration of democracy was rising, certain mysterious and intriguing things happened culminating in the whole process being sabotaged by Sanjay Gandhi and his cronies. JP's letter to Sheikh Abdullah was never delivered but was returned through Das Gupta during one of his visits. Certain other disturbing events followed.

Mysteriously in early November 1975, JP's health started deteriorating fast and from doctor's hedgy replies about his health I suspected that something was amiss. As later events proved, JP's kidney was getting irrevocably damaged! Under the circumstances, I was convinced that it would be unsafe to keep JP in Chandigarh any longer and he should get to a place where his ailment could be diagnosed correctly and treated properly.

This conviction led me to initiate silent and swift steps to launch a multi pronged assault—through PMO emissary Das Gupta, JP's brother Rajeshwar Prasad, Chandigarh Chief Commissioner/Union Home Secretary and my personal channel to the PMO with the same message content—"If JP dies in Jail"—to create a crisis mind-set in Delhi so that JP could be released immediately.

This worked admirably resulting in a flurry of activities leading to JP's release on 'unconditional parole' on November 12, by an order served on him by the Chief Secretary and District Magistrate of Delhi who flew into Chandigarh by a special BSF aircraft. This was followed by high intensity drama in the next few days when the panicked 'Delhi Durbar' made desperate efforts to retain JP in Chandigarh. However, I prevailed upon the PGI to discharge JP and commandeered seats in the Indian Airlines flight to take JP to Delhi *en route* to Bombay Jaslok Hospital!

As he departed from Chandigarh on 16<sup>th</sup> November, I saw him off at the airport wishing him well and requesting him to look after his health. JP's reply still rings in my ears: "Devasahayam, you are like a son I never had. My health is not important. The health of the nation and democracy is. I will defeat 'that woman' and have them restored". And then the aircraft departed.

Fourteen months later, emboldened by the reports of 'success' of Emergency regime and the

perception that opposition to her rule was crumbling and JP, the only mass all-India leader was sick and demoralised, Indira Gandhi called for the Sixth General Election to Parliament in January 1977. And in his inimitable style JP went into action despite being tied down to dialysis machine twice a week. Without wasting any time he put into effect the political blueprint he had worked out while in detention and refined later.

Due largely to his untiring efforts, immediately after coming out of jails, the opposition leaders announced the coming-together of Congress (O), Jansangh, Bharatiya Lok Dal and Socialists under the Janata Party umbrella. Congress was dealt a body-blow by the sudden defection of Jagjivan Ram, HN Bahuguna and Nandini Sathpathy who formed the Congress for Democracy and along with DMK and Akali Dal, forged a common front with the Janata Party in order to give a straight fight to Congress and its allies in the election held in March 1977.

Emergency and its excesses was the major issue of the election campaign. JP created a public upsurge by touring the country intensively and addressing mammoth gatherings. At several places, where he could not go, large crowds intently listened to JP's speech through pre-recorded tapes. His message was simple and straight—"If you want autocracy and corruption vote Congress; If you want democracy and honesty vote Janata".

With the popular upsurge thus created, Janata alliance captured 345 parliamentary seats with the Congress and its allies far behind with 189. Congress was virtually wiped out in North India with the party winning only 2 out of 234 constituencies in seven states. Both Indira Gandhi and Sanjay were defeated.

Historian Bipan Chandra wrote this about India losing its freedom in the seventies and getting it back:

“Whatever the character of the JP Movement or of the Emergency regime, there is no doubt that the decision of Mrs. Gandhi to hold genuine free elections, and her defeat and the opposition’s victory that followed were a remarkable achievement of Indian democracy.” Indeed true, and it was made possible by a man called JP and he kept his word of ‘restoring India’s freedom’ in full measure. In the process he had suffered and sacrificed enormously, thereby proving Leo Tolstoy’s famous dictum: “It is by those who have suffered that the world has been advanced.”

Janata government collapsed in mid-1979 due to intrigues and betrayal. Shortly after this, I visited JP in his Kadam Kuan residence at Patna. He was on dialysis, but made me sit beside him. That he had taken Janata’s collapse to heart was evident when he said with tears welling in his eyes, ‘Devasahayam, I have failed yet again’. The hard-boiled revolutionary, who was a foot-soldier for the Mahatma in his fight for Independence and who almost single-handedly won India’s second freedom was a sad man when he died weeks later in October!

The billion-people question is - Did JP and his Movement fail? What kind of freedom is being practiced in the country post-Emergency? As everyone agrees, Emergency was a cataclysmic experience by itself. Describing this dark period civil rights activist Rajni Kothari wrote: “It was a state off-limits, a government that hijacked the whole edifice of the state, a ruling party and leader who in effect treated the state as their personal estate.... It was one big swoop overtaking the whole country, spreading a psychosis of fear and terror with the new upstarts storming away through whatever came their way, pulling it all down and calling boo to it all. And it happened in this country after 28 years of democratic functioning.”

Are things any different today? Just before independence, Winston

Churchill said this more in contempt than with concern: “Power will go to the hands of rascals, rogues and free-booters. All Indian leaders will be of low calibre and men of straw. They will have sweet tongues and silly hearts. They will fight amongst themselves for power and India will be lost in political squabbles.” With successive elections throwing up as ‘leaders’ criminal and corrupt wheeler-dealers, who are no more than vassals to native and alien dynasties, Churchill has been proved right. And governance has gone into the hands of these servile sycophants lacking any trait of leadership.

“If you have leadership without governance you risk tyranny, fraud and personal fiefdoms. If you have governance without leadership you risk atrophy, bureaucracy and indifference”, said Mark Goyder. India today is a heady concoction of both the brew—‘governance without leadership’ and ‘leadership without governance’. Therefore, what we see is tyranny in dealing with the poor; widespread fraud and corruption in every sphere; mushrooming political and personal fiefdoms; atrophying civil, police, judicial and military services and gross indifference to public opinion.

‘Power to the People’ was the political philosophy of the Fathers of both ‘Freedom movements’ and on the socio-economic side they wanted an equitable, small-is-beautiful, need-based, human-scale, balanced development while conserving nature and livelihoods. India’s low-caliber ‘leaders’ have turned it upside down. ‘Power to the Profligates’ is the current political ‘*mantra*’ and ‘destructive development’ is the socio-economic policy. In the event, decimating the forests to propitiate the corrupt carpetbaggers is ‘development’, while speaking up for nature and the tattered tribes is ‘sedition’!

JP Movement, Emergency and restoration of Democracy are all crucial chapters of India’s post-

Independence history. But these have been blacked-out from school-texts, books, forums, media and other avenues. BJP, a party that owes its existence to JP, did precious little to set this right. All political parties-left, right and centre-have benchmarked Emergency excesses and are practicing them with vengeance. In the event, all institutions of democratic governance either stand compromised or virtually decimated. The wheel has come full-circle!

Why have these happened in the world’s largest democracy? Let me say it in the manner of Joseph Story extolling the Constitution of USA:

“The structure of India’s democracy has been erected by architects of consummate skill and fidelity; its foundations are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order; and its defences are impregnable from without; it has been reared for immortality, if the work of man may justly aspire for such title. It may nevertheless perish in an hour by the folly, or corruption, or negligence of its only keepers, THE PEOPLE.

Republics are created - these are the words, which I commend to you for your consideration – by the virtue, public spirit and intelligence of the citizens. They fall when the wise are banished from the public councils because they dare to be honest, and profligates are rewarded because they flatter the people in order to betray them.”

This has been the reality of India. With ‘profligates’ ruling the roost, leadership in the country is *non est* and governance has descended into a bottomless pit, displaying unconcealed greed and contempt for all basic norms of democracy. Do we then say that India is the world’s greatest democracy or is it the largest ‘Kleptocracy’ - a government of the thieves, by the thieves and for the thieves!

Indeed, through his suffering and

sacrifice JP left us a legacy of Freedom, which people have taken for granted. In the event they do not take notice of this precious legacy being 'compromised for bread, for security, for prosperity, for the glory of the state.' When draconian laws, police repression and militarization replace justice, equity and fair-play, media hails it as 'war-on-terror' and people remain mute spectators! Dr. Binayak Sen's case is the standing testimony of this rot.

It is fortuitous that the cry against such rot has resurged and is spreading far and wide. For the first time, over 2/3<sup>rd</sup> of the people consider corruption and collapse of governance as the most serious national issues. What is more significant, anguish is giving place to anger and that needs to be harnessed in a democratic manner. The battle needs to be joined:

*"Much to cast-down, much to build, much to restore;  
Let the work not delay, time and the arm not waste;  
Let the clay be dug from the pit, let the saw cut the stone;  
Let the fire not be quenched in the forge;  
For it is time to demolish the corrupt;  
Who are entrenched so very deep."*

Do we see hope of this happening? I am afraid not, unless all the disjointed rumblings and protests come together and form into a thundering shout. In this we must heed the pragmatic words of Edmund Burke: "When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle."

Such association is possible if the spirit of JP Movement is revived and words are converted into weapons. Let us take heart from Alexander Solzhenitsyn's exhortation: "It is infinitely difficult to begin when mere words must move a block of inert matter. But there is no other way if none of the material strength is on your side. And a shout in the mountains has been known to start an avalanche..."

In the mid-seventies, a shout by JP from the Ramlila Grounds (*Sinhasan-khali-karo ki janata aatii-hai*) had started an avalanche. Let it reverberate again. At this time of national anger, PUCL, founded by that great patriot should take the lead and be in the vanguard for reviving his iconic name and reigniting the JP Movement with youth in the forefront.

Thank you very much for your patience. May God Bless you ☐

### Organisational Queries

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

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

– Pushkar Raj, General Secretary ☐

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