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Unmarked Graves: Shame of Jammu and Kashmir

Pushkar Raj

The Jammu and Kashmir State Human Rights Commission (SHRC) has come out with the findings recently that there exist over two thousand unidentified dead bodies buried in unmarked graves in the state. The revelations confirm a widely held suspicion by the human rights groups that hundreds of innocent people might have been killed by the security forces in the name of fighting militancy and their bodies disposed off illegally. After a three years old inquiry the SHRC has concluded that out of about 2700 bodies there are 2,156 unidentified dead bodies buried in unmarked graves in 38 places in north Kashmir. The commission is also looking into resident's claims of 3,844 unmarked graves at 208 locations in the remote districts of Rajouri and Poonch. In August 2003, the state assembly for the first time accepted that 3,931 people have disappeared and 144 were killed in custody. In many cases the relatives of the disappeared persons have named security personnel who whisked away their dear ones. However only a few amongst accused have been charged and hardly anyone convicted. As per the SHRC the request for sanction to prosecute men in uniform have been pending with the state or the central home ministry for years without any outcome. This virtual impunity provided to the security forces has been a major cause of extrajudicial killings that allegedly been carried out for money and medals. Of course the laws like Armed Forces Special power Act and Disruptive Area's Act are an added base on which thrives what some people have begun to call a 'killing for profit industry' in insurgency inflicted areas in the country.

No law provides for killing of people in cold blood whoever they are, whatever their crime and disposing off their bodies. In the name of fighting terrorism or insurgency no state can wipe out its own people indiscriminately and later seek refuge in 'past is past' phrase or legal, bureaucratic technicalities or an opaque process of investigation that amounts to burying the truth forever. Any attempt to do so is keeping doors open for future mass graves in other parts of the country in similar circumstances. If all those who were responsible for killing thousands of people extra judicially and cremating them illegally in Punjab during insurgency, had been punished as per law, it is unlikely that the present graves in Kashmir would at all be there. These graves are mocking at us today because our system partially failed to punish even all those who were responsible for abducting and killing the human rights activist Jaswant Singh Khalra, the man who exposed mass illegal cremations in Punjab in

late eighties and early nineties.

This latest and the most damning collective evidence against the security forces in recent times besides denting India's already mediocre human rights image at home and abroad, will impact on the peace process that the central government has initiated by

appointing panel of interlocutors who are finalizing their report and other concurrent measures. One must admit that there cannot be lasting peace without a sense of justice. The government must ensure that the matter of unmarked graves of Kashmir is thoroughly probed under a high level judicial commission,

prosecution launched swiftly and people responsible for disappearances and murders are punished. It is not only the first prerequisite for assertion of rule of law and constitutionality in the state but also a ray of hope for justice to the wronged and grieving people who have lost their loved ones. □

President's Speech on August 27, 2011 at NC Meeting, Jaipur:

PUCL: the Challenges Ahead

Prabhakar Sinha

When the PUCL was formed during the emergency, democracy was replaced by Indira Gandhi's authoritarian rule. All fundamental rights, including the right to life and personal liberty, were suspended, to whisper the word democracy and civil liberties led to immediate detentions and a reign of terror prevailed in the country. In a midnight swoop, all the leaders of the opposition along with thousands others were detained under the dreaded MISA (The Maintenance of Internal Securities Act, 1971). Very few dared to speak out against the regime and pay the price. It appeared that our democracy was eclipsed for at least several decades to come. However, there were at least two favourable factors: the people had the first hand bitter experience of the suffering an oppressive authoritarian rule caused and the political parties and the people who were responsible for it. Out of fear, they kept their anger hidden and waited, and when the opportunity came in 1977 election, they hit back and threw their oppressors out (Indira Gandhi and her allies) of power. PUCL & DR (People's Union for Civil Liberties and Democratic Rights) then was an organisation of the people (like Shri Tarkunde and some others) who dared to speak up for democracy and civil liberties without being part of the opposition parties. There was no scope for forming a membership based organization. It was an organization based on the indomitable spirit of courageous individuals. The present constitution

was adopted in November, 1980 when Indira Gandhi returned to power and the fear of the an authoritarian rule appeared to loom large once again. PUCL was envisaged as an organization of all those persons who were committed to the protection and promotion of civil liberties regardless of their belief in different political and economic institutions suitable for the country. The membership was open to even the members of political parties though they were not eligible to be office bearers. The members of the political parties joined the organization in their personal capacity and enjoyed the freedom to act for their parties independently of the PUCL just as PUCL was not expected to support any political party or promote any 'ism' i.e. political ideology. The idea behind forming this unique organization was to have the support of all sections of the society including political parties for civil liberties and democratic rights without being a party to their politics. During 1980s, very important persons like Surendra Mohanji (who remained with us till his last breath), George Fernandes, Arun Shourie and Karpoori Thakur etc. were actively associated themselves with the organisation, but later on when the opposition parties themselves came to power at the centre and the states, the political parties lost interest and turned hostile when PUCL opposed the repressive acts of their governments. This development only reflects the reality that the political parties which fought against the

authoritarian rule of Indira Gandhi fought not for civil liberties as a cherished value but against the deprivation of their own liberties and rights.

The media which possess tremendous power to influence public opinion are owned by the rich who use them to serve their own interest. Their interest is in conflict with the interest of the masses in almost all spheres of life. If the State (as enshrined in the Constitution) strives to minimize the inequalities of income it reduces their income, endeavours to eliminate the inequality of status it reduces their princely position and power and if it seeks to prevent concentration of wealth or material resources of the country in the hands of a few, it deeply hurts their economic interest. If the State discharges its obligation to protect the human rights of the poor, their unbridled exploitation would be opposed and stopped by their victims forcing them to wind up and quit.

The media cannot be expected to act against their owners

The fact that the media have become purchasable came to light when it was found that on payment they began deceiving their readers by passing advertisements as news, specially at the time of elections. Since media have also become pure business, governments use advertisement as a means of controlling them without the odium of suppressing the freedom of the media.

The owners of the media are free to hire and fire their editors and other journalists, which has made the media 'Their Master's Voice'. And the Master's Voice is not for human rights.

The middle class, which could play an important role in protecting human rights does not feel interested because it does not identify itself with the masses i.e. the Dalits, the schedule tribes, the poor and the uneducated. They are not one of their own and what happens to them, they feel, is not their concern.

Thus, the human rights organizations have to work in an extremely unfavourable environment in which the rich and the political class are hostile, the media governed by the interest of their owners unsupportive, the middle class indifferent and the masses unaware and unorganized.

Winning the support of the middle class has become more difficult because the establishment has succeeded, to a considerable extent, in brainwashing the middle class into believing that human rights are against national interest. They are shown to be a serious hindrance in containing terrorism, Maoist violence, insurgency which is threatening the unity of the country and organized crime. It is implicitly suggested that human rights can be protected without compromising national interest only under normal circumstances.

Under these circumstances, human rights movement must take up the cudgels on behalf of the common man who is the worst victim of the violations and deserves utmost attention. Somehow, the violations of rights in the day to day life of the people have been overlooked by the rights movement resulting in its being cut off from the common man and giving the impression that human rights are only for the rights of certain sections of the people like the terrorists, insurgents or organizations involved in armed action. Though the victims of the violations in these cases are also a

large number of common men, this fact remains unappreciated due to the context in which they take place.

A poor man is beaten up and abused by the police at his whim, the police refuses to accept an F.I.R. without being bribed, implicates people in false cases, gives a clean chit to criminals with money or influence, charge- sheets innocent persons on extraneous considerations including greasing of the palm, arrests poor men accused of minor offences and allows persons accused of grave crimes to go scot free if paid or pressurized. The Public Prosecutor colludes with the rich offenders and ensures their acquittal thus willfully causing miscarriage of justice. Third degree method is used against the poor accused of minor offences while the influential guilty of robbing the nation of millions or of murder, kidnapping and worse are treated as honourable guests. The common man remanded to the judicial custody as an under trial prisoner is forced to live a subhuman life while the rich and the powerful are illegally provided the facilities for a luxurious life in prisons.

These and other such violations are common knowledge but continue to be treated as normal phenomenon not deserving of our attention. However, the fact is that they are not only violation of the rights of the people but are themselves grave crimes against the society. Refusal to record an F.I.R. is an act of concealment of an offence, giving a clean chit to a culprit is an act of criminal conspiracy, implicating innocent persons in false cases is an unforgivable crime. The police are given this license to commit these crimes in the name of giving them a free hand to investigate crimes impartially and fairly and bring the culprit to the book and not to get innocent persons punished and save the guilty.

More people are killed in police firings on peaceful demonstrations than in fake encounters, but while the killing in fake encounters are treated as violations of human rights and protested against there are no such protests by the rights

organizations against killing in police firings on unarmed demonstrations. The police claim that they opened fire and killed unarmed demonstrators in self defence but are not required to prove that firing and killing was required in self defence. The number of unarmed persons killed in police firings in course of non violent public protests outnumber those killed under special laws. Thousands are injured in lathi charge to disperse a peaceful assembly after indiscriminate use of s 144 of Cr.P.C.. The misuse of this section takes away the right of peaceable assembly and freedom of speech and expression guaranteed under Article 19 of the Constitution.

If human rights are to be defended effectively, these violations affecting the common man must be immediately added to our agenda and made human rights relevant for the ordinary citizens.

The organization also has to counter the propaganda of the establishment that human rights are against national interest. The nation belongs to the people and killing innocent citizens is an act of murder and against national interest. Any act of the State which is against the law of the country cannot be condoned. If a person is guilty of an offence he must be punished according to the law and not otherwise. Our members should be able to counter the propaganda of the establishment and convince the people that we are fighting for the rule of law and oppose only the lawless acts of the State. Nathuram Godse, who killed Mahatma Gandhi in full view of the people and did not deny the allegation, was punished according to the law. Ajmal Kasab, the Pak terrorist, arrested during the Mumbai terror attack is being tried according to the law. Are not Indians entitled to the same fair trial? Is it in the national interest of the country to treat its people differently – to give a fair trial to some and shoot others in fake encounters? There are various other aspects of the ideological challenge which have to be met? But the crucial question is: are our members equipped to meet the challenge? If

not, they need to be equipped because ultimately the battle is for the mind of the people.

In a vast country like ours inhabited by 120 million people, it is not possible for any organization to take up each case of violation and get the violator punished. It takes 15 years or more for one person accused of murder to be convicted. It is beyond the capacity of a voluntary organization to take even one case to its logical end. Voluntary organizations have to depend on their members who are not whole timers and give only as much time as they can spare after working for their livelihood and after taking care of their other responsibilities. The organization has to depend on the time each one of us can spare. It is

necessary to realize that PUCL is very different from the organizations which depend on paid employees for fulfilling their obligation. They have a work force at their command to serve them on a daily basis and who can be removed for failing to fulfill the expectation of their employers. The organizations with paid employees as their work force can plan and execute prolonged agitations requiring man power and money which is beyond the capacity of PUCL and other voluntary organizations.

We have to create consciousness of their rights among the people and inspire them to fight for themselves. Our enquiries and other acts aim at finding the truth and fearlessly opposing whatever is wrong and

unjust. The people learn of many of their rights from our enquiries and learn to fight for them. For example, a large number of people in Bihar thought that the police had the right to use the third degree method. They were surprised to learn (in course of our enquiries) that the police had no such right and now they have learnt to fight against it. We can only inspire the people to fight for their rights and cannot undertake the responsibility of fighting their battle. India is so vast and we are so few.

Finally, it is very important to remember that our strength lies not in our number but in our credibility. This must be preserved by our unimpeachable conduct. If our credibility is eroded we will cease to count. □

General Secretary's Report:

PUCL National Council Meeting, Jaipur 27-28 August 2011 Pushkar Raj

Dear Colleagues

I welcome you all in this historic city of Jaipur courtesy our Rajasthan state unit. I am glad to note that whenever we have proposed to hold any National level meeting the unit has agreed to offer its hospitality. On behalf of the National executive, I thank the whole team of Rajasthan PUCL for it. I also thank Andhra unit that had also offered to hold the National Council meeting there.

Friends, the last convention was held in Ranchi in 2009. It is merely two years and we are poorer by the absence of our founding member Sh. Surendra Mohan, the former President Sh. Kannabiran, former Vice President Sh. Amrik Singh and the President of Jharkhand PUCL Sh. Subroto Bhattacharjee who supervised all the arrangement in Ranchi with an enthusiasm that matched a dynamic young man. Besides we have lost Prof. H B Mehndiratta an esteemed donor of PUCL. Today we pay homage to them for their services to the PUCL. I request you to stand up and observe a two minutes silence as a mark of

respect to the departed souls. I cannot help being philosophical and feel it quite intensely than earlier that yes the world is a stage, actors come and go performing their respective role or for that matter life is like a river that keeps flowing and we human being like a drop in that river are destined sooner or later to be submerged into that invisible ocean that we know by the name – death!

Overall Scenario of the Human Rights in the Country

The country is facing several challenges. One of the greatest challenges out of which many smaller challenges emerge is an overall consensus on techno-capitalistic mode of development. It is believed by the ruling elite that all the problems of the society will be solved through the economic development based on the technology and capital which are interdependent and nurture each other. Consequently, we are witnessing a significant rise in what can be termed as a great 'land grab' rush of the government based on an antiquated law of the nineteenth

century. The law is being sought to be amended but a lots of damage has already been done, and I am afraid the new law too is again capital friendly and would put the farmers of this country on the defensive and impoverish them progressively at the expense of fattening of the existing ruling class which has corporate, business, politicians and bureaucrats tied into one unit.

In the country today, there is an intense struggle going on between this powerful combination and hapless millions – the ordinary people of this land who subsist on less than twenty rupees. The State does not hesitate to fire on people killing few, maiming many and humiliating the rest who raise their voices against state policies. The police firing in Uttar Pradesh, Maharashtra, Bihar and reported rapes by the security forces in Bhatta Parsol village in Noida testify to the brutality to which the present state has stooped to preserve its dominant position vis-a-vis people of this county.

There is no doubt that this

development agenda is at the behest of the capitalist of the west in particular. It is quite simple to understand. Our state is withdrawing from the basic areas like education, health, roads, housing, insurance, even internal security. It is being done precisely to give a strong presence to the western capital and corporate in these areas so that profit earned through their business in India can provide taxes to the governments in those countries whose economies are experiencing negligible or the negative growth. In a way this is an effort to subsidise basic amenities and the social security of the western population at the expense of hardships of our population that would reel under the onslaught of private profit making in essential areas of life. So foreign medical and other insurances have arrived; private education has begun wrecking havoc, housing is completely out of bound for a common man, water is on way to be privatised, electricity is expensive, public transport is a bad experience. In nutshell, right to live a dignified life is under severe strain as never before.

And when people protest peacefully exercising their legitimate right they are not allowed to protest at the pretext of one law or the other; if at all they are allowed conditions are put on them. At times they are intimidated, beaten up, injured with lathis and even frequently fired upon killing them. Anna Hajare case is in point. Besides, there are hundreds of small Anna type protests in the country which are routinely crushed.

In fact, excessive use of force by the state has become a major problem in the country. Procedures established under law governing police firing incidents are not being followed. Every policing firing incident is sought to be passed as normal emboldening security forces to use fire at the slight apprehension and provocation leading to numerous continuous loss of human lives in several parts of the country.

Not only on ground but in the cyber

space too the government is out to muzzle the voice of the people. The recently passed rules for information technology Act (2009) make sure that any criticism in the cyber space is disallowed through putting stringent conditions on the intermediaries (the website host). While the government is committed to follow the procedure established by the law to tap our phone calls or invade our privacy, under the new rules it can get the same information by writing a simple letter to any intermediary that transmits data electronically like emails or mobile phone calls.

Judicial delays continue to worry us. Though this government has been talking about it for quite some time now but given the recent change in the minister of law it does not seem in close sight of the avowed objective.

Women reservation bill is still pending to be passed in the name of lack of consensus. It seems there would never be a consensus till a woman Anna emerges and convinces the government that women of this country are a disempowered lot and recognising thus we must pass a women's reservation bill at the earliest. Much of the gender violence in the country is due to systemic disempowerment of women. Women's reservation in legislative bodies will empower women and assist curb all kinds of violence against them.

We hope that a robust prevention of communal violence bill will be passed that will ensure first and foremost accountability for the crime and proper punishment thereof expeditiously. Similarly on the food security bill Kavita has been lobbying intensely for quite some time now and one expects that PUCL efforts along with other organisations would bear fruits and maximum number of needy poor will be covered by the government food security blanket.

Death penalty continues to be a blot on our society. In recent past how it has been politicised is a matter of

concern and this uncivilised practice has potential to divide our society using human beings as political shield which is dehumanising for all of us as a community. This inhuman practice of taking life by the state must be discontinued and we must continue to fight against it.

Ideally the National Human Rights Commission should have led the fight against the death penalty. But like many other areas like encounter killing case (filed by Andhra police men Association) in the Supreme Court, NHRC considers silence a virtue than action on the front of the human rights. PUCL strongly feels that NHRC as an institution needs complete overhaul and the government must accept Ahmdi Committee report if it has to gain some credibility as an institution of human rights protection.

As you are aware PUCL has initiated signature campaign on sedition law. Many state units are doing the needful at the request of the National office. We have put up an e-petition against the law. Bangalore PUCL has come out with a whole website dedicated to it. I request all of you to put as much energy as possible in spreading a word about the e-petition and the website and forward it to the friends and colleagues to garner as many signatures as possible. At the same time I am in the process of bringing it to the notice of the petition committee of the Parliament through its one of its standing committees.

Organisational Matters

Friends, we are living in time when governments do not like human rights activities and human rights activists. The power that be, does not want any one to question its policies and actions. The governments- central and the states- have been at times, dubbing these human rights organisations as anti-National or sympathetic to causes contrary to the constitutional ideals. We know this is a big lie. However at the same time we have to be cautious in our approach to our work. We must stay clear from the politics

of human rights while at the same time concentrating on the endeavour of advocating and protection of human rights.

Financial health of the organisation like always is not very sound although we are not in a bad shape as we were once in the past. We have about Rs. 206,017 as bank deposit, and five fixed deposits amounting to 325,000. This however, does not give us reason to be complacent. I again appeal the National Council members to contribute as per their capacity or the minimum Rs. one thousand per year as committed in an earlier meeting. This relatively optimum financial health of the organisation is primarily due to efforts of Sachar Sahab who continually solicits donors to send in some money; Prabhakar ji who through his visit to Mumbai and Bangalore brought us quite a bit of money and Ravi Kiran ji who often contributes certain amount of money to keep his habit of 'giving for a cause' going. Here I take the opportunity to thank all of our donors who continue to support us and assist us up and running in times when voluntary work has become extremely difficult.

I am glad that we are holding National Council elections almost on time: adhering to two years time period. I think it is a very good beginning and must be followed at the state and district level. I believe that when we hold regular meeting much of the organisational problems disappear. We are able to enroll new members, update their membership, engage in some ground level action and resolve our difference periodically if there are any. I would like to stress that wherever the regular meetings have taken place, PUCL has been organisationally sound. I am given to understand that Bihar unit have very regular meeting, so much so that our President travels about 160 kilometers every week or fortnight to attend the regular meeting like a dedicated soldier on duty. **Same seems to be true of the Rajasthan state unit.**

Here I would like to add that besides regular meetings, equally important is documentation of those meetings. I have no doubts that many units are doing very valuable work at the state level or many district units are contributing excellently in the field of human rights at the grassroots level. However, it would add to their and PUCL's greater credence and glory if it is equally documented. The PUCL journal that comes out of investment of considerable resources is the forum specially to showcase the work that we do at the state or the district level. I have tried to put in the smallest activity of any unit in the PUCL bulletin. I appeal that this area should be augmented in every unit and reports be sent to the National office regularly.

Talking about the overall membership, as on August 2011, we have 4456 members. This includes 934 members who subscribe to our bulletin. I encourage more members to subscribe to the PUCL bulletin and contribute as well to make it more representative of the country.

We have presence in about 23 states in the country with 11 functional state units. In recent past Rudrapur district unit was created under Uttarakhand state branch. President of Uttarakhand Sh. Kala, National Secretary Chitranjan Singh and I were present there. Similarly district unit of Bareilly was also created in Uttar Pradesh about which Sh. Chitranjan Singh will tell you briefly in his state report later.

Here I would like to add that we must be cautious in enrolling the members. We should watch them coming to our meetings and gauge their commitments to the cause of the human rights. These members, even though small in numbers, would be a permanent and valuable asset. We must look for quality than the quantity. Quality members would never put you and the organisation in difficult situations. This, I am saying in a particular context.

Renewal of the membership is very important. It may create existential

problem when there are serious differences within the state unit. As a matter of principle the National PUCL should not intervene in the affairs of the state unit which is an autonomous entity looked after by responsible human rights activists. However the National PUCL cannot sit silently when PUCL image is tarnished due to ugly infighting or for other reasons or when there are serious irreconcilable differences amongst the state executive, and the National unit is requested to intervene. For the sake of over all credibility and health of the organisation, the National executive is mandated to intervene. This is precisely what happened in Jharkhand.

In Jharkhand Nishant Akhilesh, the president of the state unit notified the meeting of the state Council to be held on 26 June, 2011 to elect the state executive. Several calls were made to the National President alleging that Nishant Akhilesh had notified the meeting unilaterally. The President categorically told the concerned members that they should ask the state executive committee to decide the date of the meeting of the State Council and also the decision of the executive committee would be final. He also told the members that the National PUCL should not be involved as it smacked of the high command syndrome which is not good for a democratic organisation. Then Sh. Pathak also spoke to the National President and accepted the suggestion that the state executive committee should resolve the issue. The president further suggested that the said meeting should be held in the state capital. Shashi Bhushanji accepted the suggestion and it seemed that the issue has been resolved. The National President sent the following SMS to Shashi Bhushan Pathak

"I have spoken to Akhisheshji and requested him to speak to you and hold an urgent meeting of the state executive whose decision shall be final ."

There was no response from Pathakji and after a few days he forwarded the following sms to the National President

“Please join the meeting in Palamu. I personally and on behalf of the state executive requesting for this message to be sent to Akhilesh”. Sh. Prabhakar Sinha informed me of this development by mail.

It was clear that the state executive was unable to hold a valid meeting in which both the President and General Secretary would participate. In view of the above and other developments it was clear that the state Council meeting could not happen in this environment. The National General Secretary was requested by Pathak ji to postpone the state Council meeting convened by Sh. Akhilesh and agreed that he will participate in any state Council meeting that would be held at the behest of the National office, according to the membership records available with the National office in year 2010.

Meanwhile it was conveyed to me that I should facilitate the existing General Secretary to become the President and the President can assume the role of the General Secretary. Naturally I had neither an interest, nor the mandate and therefore no opinion on the proposal.

I fixed the meeting of the state council in Ranchi on 7 August 2011 after proper consultation with Shashi Bhushan Pathak, the General Secretary, Nishant Akhilesh, the President, and the General Secretary of Ranchi district unit Sh. Anand.

However later Shashi Bhushan ji conveyed to the National office staff that unless the National President and the National General Secretary would not meet the state executive, the state Council meeting would not be allowed to be conducted. The same was conveyed to me on phone also by some people from Jharkhand.

Meanwhile various lists were sent by Shashi Bhushanji to the National office with the membership from

various district enrolled in the month of April/ May 2011. I conveyed to Sh Shashi Bhushan that the National office will give right to vote to only those who were members in 2010 as per the records available in the National office. This I also explained to Sh. Pathak on the previous day of the meeting. I told him that National office has only members from Jamshedpur, Dumka, Ranchi and 11 life members from Gadwa (who can choose their 2 members for the state council) and state Council members elected from these district will only participate in the meeting. He had some objection to the Jamshedpur list. I asked him to give the list which he thought was right. He suggested one and I accepted it, so that peaceful elections could be conducted. This was agreed by Sh. Pathak.

However, on the next day there were several persons who were not the members of state Council who came to the meeting. The meeting was disrupted with ugly scenes. This was as per the threats that the meeting would be disrupted if they would not have their way. I requested Shashi Bhushan to control the people who apparently were his supporters including his brother. I regret that he could not control them. Due to overall commotion the meeting was dissolved without conducting the election. It was humiliating for PUCL that the director of the institute (where the meeting was being held) asked the gathering to vacate the hall due to unruly behaviour.

Since the state executive committee was not in a position to hold meetings and its functioning was bringing a bad name to PUCL due to ugly infighting, there was no alternative but to dissolve it to put a stop to the ongoing bickering. In any case, its term was over and it was not allowing the state Council to elect the new state executive committee and its continuation by force was unacceptable.

Jharkhand experience has also raised the question whether a civil liberties organisation could allow the

use of threat and disruption of meetings even if some members in some cases may have a genuine grievance. This council must deliberate on this.

For our future programmes I would suggest that we devote the next two years to strengthening the existing branches and to reviving the non-functional branches. The State branches where revival is necessary are Goa, Jammu and Kashmir, Himachal Pradesh, Madhya Pradesh, Mumbai, Orissa, West Bengal and units in the north east. Steps should be taken to revive these State units. Punjab unit has taken the responsibility of reviving the unit of Haryana and progress in that front would be shared in the state report. I must emphasise that it is better to be late than have a unit that might bring us trouble. We must be slow and steady. For almost three years now the National office has not heard any thing from Kerala unit except very disturbing news which is more related to erosion of credibility of the organisation.

It is also necessary that State and local branches catch the attention of the people. We should enroll new members who understand the importance of the movement and may turn catalysts of it at the ground level. We should target Universities and Colleges for holding discussion and seminars and should approach institutional libraries to subscribe to the *PUCL Bulletin*.

Friends, we all know the constitution of India as co-workers in the field of human rights. However I shall urge that we must read and understand PUCL constitution also. Many times we function in good faith but that goes against the rules prescribed under own organisational constitution creating serious differences amongst members and office bearers. This is completely avoidable if we are well versed in PUCL constitution and vow to uphold it under all the circumstance.

In view of the fact that for personal reasons I will not be able to continue as General Secretary I propose that

National Council consider an interim arrangement so as to ensure continuity of the national office and functioning of the General Secretary, I want to suggest that as an interim measure we consider having two national General Secretaries and a National Office Secretary from amongst the three National Secretaries.

In the end, I must point out that it has been wonderful to have worked

in the PUCL in various capacities. I enjoyed every moment of my association and working with it. I value my learning in the organisation which inculcated in me some abiding human values.

I have been very fortunate to have worked with Prabhakar Sinha as the President. In him I interacted with a wonderful human being who is impartial like sun shine in matter of principles and with an understanding

of human rights that is nearly pure.. I must say that we both respected each other, had a very good mutual understanding on the issues, be it public or organisational. I have learnt a lot from him, especially on organisational matters and I feel good and fortunate to have worked with him.

With these words I open the agenda and the General Secretary's report for discussion. □

Electoral Reform – Will the Central Govt. Redeem Itself

Rajindar Sachar

Anna Hazare when he gave up his fast announced that the next movement is for electoral Reform and especially prioritised "Right to Reject candidate" at the elections and the right to recall a legislator earlier than the end of his term.

Central government is seeking to project itself as responsive to public opinion. Here then is an opportunity to do so. I say this because the public demand for effectuating right to reject vote or more clearly "**None of the Above**" (NOTA) is very easy to effectuate. The Representation of People Act. 1951 and its rules provide a detailed mechanism for standing and voting at elections. Govt. of India has framed Conduct of Election Rules 1961 to provide the manner how votes are to be cast, and the precaution to maintain the secrecy of voting which is absolutely necessary for a healthy democracy. Prior to the introduction of Electronic Voting Machine (EVM), voting was by means of ballot paper. Rule 49 M provides for maintaining of secrecy and voting procedure by E.V.M., whereby the voter presses the button against the name of the candidate for whom he intends to vote.

Rule 49(o) further provides that if an elector decides not to record his vote, a remark will be made by presiding officer on Form 17, and signature of the voter shall also be

taken. But this procedure is faulty and outdated, because it does not take into account mode of change of voting to EVM instead of by ballot paper. This procedure is also illegal because by this the identity of the voter who decides not to vote will be disclosed thus violating the fundamental right of voting in secrecy.

Realising this anomaly and lacuna the Election Commission of India as far back as 2001 and ever since has been writing to the Central Government to make necessary modification in the rules by providing a slot of NOTA in E.V.M.

Finding the inaction of the Government, Peoples Union of Civil Liberties (PUCL), filed a writ petition in 2004 in the Supreme Court asking for direction to the Central government to suitably amend Rule 49 (0). The writ petition was heard by a two judge Bench which referred it to a larger Bench in 2009 – because of the congestion in the Supreme Court, the matter has not yet come up for hearing. But notwithstanding the pendency, in law there is no prohibition to make the necessary change by amending rule 49(o) by providing "**NOTA**".

I believe that by introduction of NOTA in E.V.M. a radical change will be brought about in political arena. At present the voter is treated as a dumb driven cattle who must choose

one, even if he finds all of them to be thoroughly undesirable. A voter at present has no role in selecting the candidate, as in U.S.A. Primaries and even in Britain by constituency members. Here selection of a candidate is done by a small cabal of party leaders and in some parties even by one or two so called super leaders. The provision of NOTA voting will make a sea change in the power equation in favour of the small voter as against the monster of a big political party. Such a provision will enable the voter to exercise his right in secrecy and to send a message of his anger at the unsuitability of contesting candidates and their political mentors.

It is not as if at present many voters will not like to record their disapprobation of the contesting candidates but they are afraid to do so because of the unholy alliance of mafia crowd with many of the contesting candidates. But NOTA being available in the voting machine, the voter will be able to speak his mind without fear and thus defeat politicalisation of criminals.

At the present, when voters feel disgusted at the nomination of undesirable candidates, they just sit at home and sulk, but are not able to convey their resentment effectually. But in the changed position the voter will be assured of

secrecy and will exercise his right which will send a strong message to the smug political bosses against their manipulation and force them to listen to the small man/woman who in fact have the power with his/her little finger on the button to decide the fate of so called tallest of them. Thus NOTA can be effectuated immediately by the Central Government by amending the rule, provided it is genuinely concerned with clean polities. The principles justifying NOTA are self evident, namely;

- (a) All legitimate consent requires the ability to withhold consent;
- (b) Would end the farce where voters are often forced to vote for the least unacceptable candidate, the all too familiar "lesser evil."
- (c) Voters would decide the fate of the political parties' choices, instead of the parties deciding

the voters' choices.

- (d) Many voters and non voters, who now register their disapproval of all candidates for an office by not voting, could cast a meaningful vote.
- (e) Improves checks and balances between voters and political parties.

In any election when "NOTA" will be put on EVM, the list of candidates would be followed by the button of "NOTA". If **NOTA** gets more votes than any of the candidates, then no one is declared elected, instead, a follow-up by-election with new candidates, old being ineligible, would be held to fill the seat, until a candidate wins a plurality of votes among all other candidates including "NOTA".

NOTA has many thoughtful advocates in various countries in the world including the most well known Ralph Nader, the consumer activist. U.S.A. Australia, Norway and other

countries have a very strong constituency favouring NOTA.

Of course legislation would need to be enacted to provide that if NOTA votes exceed the maximum cast for the highest vote getting candidate, the election will be countermanded and a fresh election ordered. This change will be warning to the political parties that decision about the choice of candidate is not the sole prerogative of a clique within the party. It must involve the voters at the initial stage of selection. A wrong choice will result in fresh elections. I feel the Central Government can redeem its self damaging conduct during Anna Hazare Fast (as even some of the Ministers have said it openly) by immediately amending Rule 49(o), as demanded by Election Commission since 2001 and by providing a slot of **NOTA** in the voting machine straight away for all future elections, thus recognizing the supremacy of the voters. □

Delhi PUCL: Press Statement: 3rd September, 2011

Appeal to Parliament to Abolish Death Penalty

In the wake of ongoing controversy on the justification of death penalty, it is high time that Parliament takes appropriate steps to abolish such provision from our statute books. The provision of Death Penalty had been introduced by the British in the Indian Penal Code in 1860 but the same has itself been abolished by the British from their own statute books-being incompatible with the values of a civilized society, as done by large number of other countries.

Judgments of the courts are not always correct. Supreme Court itself has stated that its judgments are correct not because they always may be correct but because they are final. Recognizing 'the fallibility of human judgment being undeniable even in the most trained mind' the five judges bench of the Supreme Court in the matter of 'Kehar Singh & another Vs. Union of India and

others' as reported in AIR 1989 SC 653, while examining powers of the President and Governors under article 72 and 161 of the Constitution of India, has quoted with approval the following classic exposition of law stated in Ex parte Philip Grossman (1924) 267 US 87: 69 Law ed 527:- "Executive clemency exists to afford relief from undue harshness or evident mistake in the operation or the enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of circumstances which may properly mitigate guilt. To afford a remedy, it has always been thought essential in popular governments, as well as in monarchies, to vest in some other authority than the courts power to ameliorate or avoid particular criminal judgments....."

Thus in a situation where Supreme Court itself has given due consideration to the fact that courts judgments may not necessarily be always correct, to deprive a person of his life would be nothing short of a barbarous act.

The people of India, including the Government of India, have appealed to Pakistan on humanitarian grounds to commute death sentence of an Indian, namely Sarabjit Singh, facing the death penalty in that country. Can we make such appeal when we are blind to such appeals within our own country?

We, therefore, on behalf of PUCL appeal to the members of Parliament to take immediate appropriate steps to abolish the provisions of death penalty from our statute books.

ND Pancholi, President, Delhi PUCL □

Bihar PUCL:

PUCL report on Police excess in Langartoli, Nala Road, Kadam Kuan, Patna

A news item appeared in the local dailies about Police excesses on a group of protesters in Langartoli, Nala Road, Patna. The incident took place on August 12, 2011. Bihar PUCL discussed it in its weekly meeting on August 14, 2011 and decided to probe the incident as it involves citizens' legitimate right to protest. An enquiry team was constituted with **Fr. Philip Manthara**, President Bihar PUCL; **Jitendra Choubey**, **Kanchan Bala**, and **Manish Kumar**, members Bihar PUCL.

The team visited the ground zero on 22 August, 2011. The team met residents, shopkeepers, protesters, hawkers and onlookers along with victims to find out their version of the incident. Among them were Geeta Devi, 45 yrs, Mobile Shop Owner, Shamim, 55 yrs, (Spectacles Shop), Prem Kumar, 26 yrs, (Sweet Shop), Prakash, 27 yrs, (Optical shop), Uttam, 32 yrs, (Optical Shop), Ram Ji, 55 yrs, (Vegetable Seller), Prem (Sahara Finance Agent), Malti Devi, (Tea Shop). The residents who either participated in this cause or as residents were Jayram Singh, 50 yrs, resident; Vijay kumar, 35 yrs, resident; Shailu Devi, 40 yrs, resident; Laxmi Devi, 42 yrs, w/o Mahaveer Kumar; Bijwanti Devi w/o Girjananda Singh; Rupa, 25 yrs; Sanjay kr Munna, 35 yrs, Businessman; Chinta Devi, 65 yrs, and her manager Gajo Prasad, 70 yrs, resident.

They narrated how their only narrow lane they have was flooded with rain. The drain was choked resulting in knee deep water on road. Unfortunately, sewer line got clogged and started overflowing. This resulted in a lot of filthy matter floating from septic tanks. Besides this the accumulated garbage turned putrid making it terrible for the

residents. The situation remained like this for 10 days. The worst sufferers were school going children, the Aged and the sick. An old lady said that she was confined for a week without vegetables. Shopkeepers lost their business and vendors their precious livelihood.

The foul smell emanating from putrid matter made life hellish for them. Discontentment grew because of the terrible apathy of the administration. As taxpayers, it was their right to get basic civic amenities. Even at this stage they did not allow despair to take over. They wrote petitions signed by more than 100 people and submitted them to their respective ward councilors. After getting no positive response from the administration the residents decided to register a non-violent protest on 12 August, 2011 to draw the attention of the administration about their terrible plight.

A fairly large number of people were gathered in the morning around 8:30 am on Aug 12, 2011. The protesters barricaded one half of the two way road and allowed the other half for vehicular movement. They burnt tyres to draw the city's administration to their daily sufferings. At 9 am, the women started addressing the crowd on microphone. A police Jeep from Kadam Kuan Police Station led by ASI Lal Babu Singh arrived. But they didn't interfere with the peaceful protest. According to the witnesses a crowd of 200-300 had gathered there by then.

Around 10 am, the Dy SP (Town), Rama Kant Prasad arrived with his two body guards. He was neither interested to know the reason of protest nor in its peaceful end. He preferred to use force. He himself snatched away the microphone from speaker, Anamika, 31 yrs, and without any prior warning, ordered his men to disperse the crowd by force.

What followed then was brutal lathi blows. According to them, Ramakant Prasad forcibly took Sadhana Mishra, 41 yrs into a tight grip within his arms. Rest of the public including other girls and women were infuriated over this unacceptable behavior and they tried to release Sadhana from his clutches. During this scuffle, Ramakant Prasad's uniform was partially torn. He threw Sadhana on the road with full force causing her bodily injury. Police brazenly used cane against women; a youth named Nikolai Sharma, while trying to defend the women, bore the brunt of the attack on his bare palm, that required eight stitches to stop bleeding. A girl, Suman Lata Mourya, said Ramakant Prasad threw a burning tyre over her which she allowed to slip down her body by closing her limbs tightly. She narrowly escaped with only burn injury on her left arm.

The angry crowd threw few stones resulting in some damage to the wind screen of the Police Jeep. Policemen turned more violent than earlier and used their cane more indiscriminately against the crowd. After dispersing a large part of the crowd, Police started arresting protesters. They took Sadhana Mishra, 41, Sandhya Maiti, 50, Anamika, 31, Leelavati Singh, 42, Laxami Devi, 45, Sumanlata Mourya alias Pinky, 21, Anjali, 18, Pooja Singh, 23, Pummy Kumari alias Sadhana, 21 and five men Suryakar Jitendra, 38 yrs, Anil Kr, 35 yrs, Saroj kr Suman, 30 yrs, Krishnamohan Singh, 22 yrs, Rahul Singh, 20 yrs under custody. The people mentioned above were beaten up in public view. The women were roughed up, humiliated by using filthiest abuses in the Police vocabulary to demoralise them exposing the brutal face of Patna Police. The people were furious. It

was only when the whole thing was over they brought two women police in civil dress just to show that lady police were present.

In the Kadamkuan Police Station: Victim's version

At the Police Station, the arrested people were asked to sit on the floor. The police hurled filthy abuses on them while the men were beaten up again and again. When Dy SP Ramakant arrived he made hell for the victims. He told Policemen to beat them up as there were no media reporters inside. Ramakant Prasad smashed the spectacles of Sadhana Mishra. He slapped her on her checks again and again while calling the women and girls prostitute and worse. Meanwhile, Ramakant's body guard didn't want to be left behind. He took one young woman and started misbehaving with her. Her cries brought all the others to shriek and cry. Only then the bodyguard left her free. In the meantime arrested men received lathi blows and kicks.

Injury report (Medical report)

Victim, Suman Lata Mourya alias Pinky, suffered burning injury at her left arm and burn hair.

Nikolai Sharma wore a thick bandage covering his right palm. He had received eight stitches as his medical report suggest.

Sadhana Mishra had received arm and leg injury along with some internal injury according to her medical report.

All the arrested five men were sent to Jail after registering an FIR against them; the three women whose names were included in the FIR were let off.

According to FIR: FIR: No. **3784/11** filed by **ASI Kadam Kuan P.S Lalbabu Singh**

IPC section 147,148,149,341,323,353,307,332,427

Name of Accused: Rahul Singh, S/O Girjanandan Singh, Langartoli; Suryakar Jitendra, S/O Late Saryug Sharma, Nala Road, Near Shiv mandir, SUCI worker; Mohan Singh, S/O Girjanandan Singh, Langartoli; Anil Kumar s/o Laxmi Narayan

Barnwal, Rajendra Nagar Rd No.-1, Kadamkuan; Saroj Kumar Suman s/o Balkrishna Sharan, Darbhanga; Sadhana Mishra D/o Sitambar Mishra, Langartoli; Sandhya Maiti, D/o Late Bisheshwar Maiti, Langartoli Pooja Singh D/o RAMdani Singh, Mirjapur Mali, Aurangabad; 40-45 unknown active workers of SUCI According to FIR, ASI Lalbabu Singh, along with driver Ramashish Singh, Home guard Jawan Shivnath Singh, and Lallan Sharma with mobile no. 1, reached the protest spot after getting information of huge traffic jam at Nala Road. He found 10-15 women and nearly 50 men had blocked the road, by burning the tyres. When he requested them to call off the protest and allow the movement of traffic, they all rejected his request and became defiant and started shouted slogans against the administration. Meanwhile, Dy SP (Town) Ramaknt Prasad arrived. He also requested them to call off the agitation. Instead of calling off, they started pelting stones and later on attacked the police using sticks and canes, leaving few policemen injured. One of the protesters was whirling the burning tyre which caused injury to protesters themselves. When anti-riot control vehicle arrived, a stampede occurred and some agitators received injuries. We chased and caught five men who later revealed the names of three women who were involved in this protest.

SHO Jyoti Prakash's version

The protesters had not given prior notice of their agitation. Our ASI Lal Babu Singh was there to keep vigil over the peaceful Protest of around 50-60 people. As the Dy SP Rama Kant Prasad arrived, he ordered the Policemen to disperse the crowd. Our forces acted on his order. The mob turned violent and pelted stones. In the meanwhile, Dy SP asked for reinforcement from the Kadamkuan Police Station. Special Mobile-2 also arrived to control the mob. In this skirmish, ASI LalBabu Singh received minor head injury; constable, Suresh Thakur, who

arrived with reinforcement, received Left hand injury and minor head injury. When the arrested were brought to the Police Station, no Media was present there.

Dy SP Ramakant Prasad's version:

The team met Dy SP in his office at old Police lines near Gandhi Maidan on 23 August, 2011, morning. He was vocal in praising himself: his college days, his union activities and the many achievements of his life. He said when he was passing through Nala Road and found slogan mongering students. He intervened. Then he was compelled to take action. 'I wish I had no uniform on me to teach them a lesson of their lives' he said. On being asked about his alleged misbehavior with women and girls, he denied everything and put the all blames on the protesters. He said that there is a case against him in the court regarding this incident. He asked us to wait for the court verdict. He said he had acted in full media glare and promised to provide a CD to the team to prove his innocence. But that CD is not still made available even after repeated reminders.

Conclusion:

1. Any one visiting Langartoli even in normal days can imagine what the situation would have been when flooded with filth and putrid matter for days together. So the cause of protest was totally legitimate. The protest was peaceful as testified by the SHO, Kadamkuan PS.
2. The order of Dy SP to remove the protesters by force was not only against concept of modern policing but also against basic civil rights.
3. Eventually the police had the whole place thoroughly cleaned up by 6 pm the same day with the help of concerned ward councilors. If the Policemen had shared this possibility with the protesters in the morning, they would have found them their allies in restoring their legitimate right for civic amenities. The Patna police had missed a golden opportunity to gain community support in sorting out problems without violence.

4. The team sensed the anger of the people in the way Dy SP led the police in manhandling women protesters, beating them with lathis, slapping them and mouthing foul language against them as a method of punishment. This indicates the barbaric mindset of male chauvinistic police. The team unequivocally condemns this.

The Patna police often behave as the enemy of the people. Contrast the behavior of Patna police with that of the London police 117 of whom were wounded because of stone pelting during the recent riots there. They maintained restraint in the face of extreme provocation. Later the law-breakers were arrested and

prosecuted. That is the route police should take in any civilized society.

5. The arrest and detention of 9 women by male police, without the presence of lady police, took place in full public view. The police also admitted this but this was not mentioned in the FIR. This had happened not by chance but by a clever design.

Recommendations:

1. The team found the conduct of the Dy SP led Police action as anti-people. We recommend his removal from the present assignment and start disciplinary procedure for blatant violation of human rights.

2. The team found the case made against the arrested persons

manufactured. We recommend unconditional release of the arrested five men.

4. The arrest and detention of women protesters at Langertoli by Police men was totally illegal. The team recommends initiation of criminal procedure against the Dy SP, ASI Kadamkuan, Lal Babu Singh and other guilty policemen.

5. A radical police reform is a must in keeping with the increasing, legitimate aspiration of the citizen of this country in accordance with the provisions of the Indian constitution. Sd./-

Fr Philip Manthara, Jitendra Choubey, Kanchan Bala, Manish Kumar ☐

Mysore PUCL:

National council meeting of PUCL on 27-28 August 2011 at Jaipur:

Report of the Activities of PUCL- Mysore District for the Period Nov 2010 to Aug 2011

Investigations:

- 1 Fact finding team visited Saligrama, KR Nagara Tq on 13-11-2010 to investigate the social boycott of daliths by okkaliga community. Government has provided work under NREGA for 80 people (job cards issued) and released about Rs 30 lakh for self employment. Cases has been booked against 40 people. Jains & Brahmins are land owners while Gowda community got some land during Devraj Urs period. Cases under SC/ST act has not been registered. Wrote to DC for early release of compensation and punishing the accused.
- 2 Fact finding team visited Shivani, Chikkamagalur Dist on 25-01-2011 regarding social boy cot of Devanga community members by their own caste panchayat because of inter caste marriage (team members; Dr V.Laxminarayana, Mr T.R.Nataraj, Mr Krishnappa of PUCL & Mr Babiah of PDF)
- 3 Fact finding team visited Alagud near T. Narasipura, on 02-04-

- 2011 to investigate the attack on the daliths by the majority Nayaka community. (team members; Dr V.Laxminarayana, Mr T.R. Nataraj, Mr Budha & Mr Lakshman).
- 4 Fact finding team visited Koppala district on 04-05-2011 to investigate into the police lathi charge on the agitating farmers who were demanding wages for the work completed under NREGA programme. Delegation met the DC in charge and submitted a memorandum regarding the issue. Superintendent of Police was not in station. Farmers mostly women showed the wounds inflicted on them during the lathi charge and complained regarding the foul language used by the lathi wielding police. it was men police who manhandled the women. Old women fell down and could not stand up and the goons bet them. (team members; Dr. V. Lakshminarayana, Dr E. Rati Rao, Mr Budha and Mr J. Bharadwaj)

- 5 Fact finding team visited Yergoppa village of Badami Tq in Bagalakote District on 24-06-2011 to investigate the attack and social boycott of madiga community by kurubas. The team members Dr V. Lakshminarayana, Dr E. Rati Rao and Mr Budha met the daliths village and also the others but due to tension in village discussion could not be held. We also met the tashildar who appraised us of the situation and reported regarding the measures like jobs under MNREGA and to follow Q- system at for autostand (to observe 20 min gap)etc. team also visited the hospitals both private and Government to gather information on the inpatients who were attacked during the riot.

Delegation to Governor & Police Commissioner:

- 1 A delegation of PUCL met the Governor on 09-04-2011 to seek his intervention in the issue of police high handedness at Mangalore (team members; Prof Ramdas Rao, Dr V.

- Lakshminarayana, Mr Suresh Bhat & Mr kabir)
- 2 A delegation of various organizations met the Police commissioner on at Mysore 17-03-2011 at Mysore. the issue of banning public protest at KR circle Mysore by the Commissioner of Police was discussed. Arrest of and foisting of cases on the peaceful protestors was condemned. Protest and dharana is democratic right and ban on this fundamental right of the citizens was also condemned. (PUCL team members; Dr V.Lakshminarayana, Mr T.R. Natraj, Mr Vombatkere and Mr Budha)
 - 3 Participation in campaigns/ Dharnas:
 - 4 Participated in a sit in dharna organized by various democratic organizations at Town Hall on 29-12-2010 at Bangalore on the issue of arrest of Binayak Sen on sedition charges . (PUCL- Mysore team; Dr V. Lakhminarayana, Dr E. Rati Rao)
 - 5 As a part of the campaign to release Dr Binayak Sen pamphlets were printed and distributed at various locations in and around Mysore etc.
 - 6 Participated in Dharna organised by Raitha sangha and Dalith sangharsha samithi at DC office on 29-03-2011, against police lathi charge on agitating farmers who were demanding wages for the work done under NREGA programme in Koppal district. (PUCL team; Dr V.Lakshminarayana, Mr T.R. Natraj, Dr S.G. Vombatkere, Dr E. Rati Rao, Mr Budha)
 - 7 As a follow up to protest against the ban imposed by Mysore Police commissioner on 'right to protest' at KR circle in Mysore, progressive organizations joined together and formed a committee 'Prtibhatana hakku rakshana samithi '(Protection of Right to protest committee) on 30-08-2011. Pamphlet on right to

protest was released onat Gandhi statue square in front of court premises marking the launch of protest. Follow up programme included meet with councilors, MLC & MLA to bring pressure on govt to with draw the ban. Ploice commissioner came up with a route map for protest avoiding KR circle. The committee is planning protests in a phased manner.

Seminar organised

- 1 A seminar on 'Is nuclear power in our best interests?' was organised by PUCL-Mys along with NAPM & Inst of Engineers on 08-05-2011, at Institution of Engineers. Prof J. Lakshmana Rao inaugurated and Dr Vishnu Kamat, Mr Y.B.Ramakrishna & S.G.Vombatkere spoke on various aspects of nuclear industry including Kaiga & Rare earth Materials Plant at(Ratnahalli) Mysore.
- 2 A seminar was organized to observe 'world anti torture day' on 29-06-2011 at Maneyangala, Kalamandira Mysore by PUCL along with NCHRO & NAPM. Prof CKN Raja spoke on 'Anti torture laws and Acts in Indian constitution, while Mr Jagdeesh BN a lawyer spoke on 'Status of torture in India'.
- 3 In the wake of teaching of 'Bhagvatgita in public schools ' controversy in Karnataka a seminar cum book release function was organized by PUCL along with Dalith Sangharsh Samiti, karnataka komusauharda vedike on 23-07-2011 at AVRC hall at University of Mysore. Booklets in kannada on critique of Bhagvatgita by BR Ambedkar & D.D.Kosambi was also released on the occasion. A pamphlet on "constitution or bhagvatgita" was also distributed to the students.

Participation in Seminar/ conferences:

- 1 Participated in a conference organized by Komusauharda vedike on 19th & 20th March at ISI., Bangalore (PUCL- Mys Dr

E. Rati Rao)

- 2 A protest march on 27-03-2011, from Russel market to Darus Salam, Shivajinagar Bangalore and a seminar organized by Pourakarmika's on the occasion of International Women's day was attended by Dr E. Rati Rao who was the chief guest on the occasion.
- 3 A Human rights convention organized by NCHRO on 09-04-2011 at Darus salam, Bangalore was attended by Dr V. Lakshminarayana who also inaugurated the convention.
- 4 'Constitution as a shield to rights activists for defending Rights, Expanding Freedoms!'
- 5 'Why Citizens Should Know Constitutional and Criminal Law' was organised by PUCL Bangalur unit on 19-06-2011 at ISI Benson town. Mr V.Suresh national Vice President PUCL from Chennai was the resource person for the workshop. Members from PUCL Mysore and Chamrajnagar units participated. (Dr V.Lakshminarayana, Mr T.R. Nataraj, Dr E.Rati Rao, Mr Venkataraju, Mr nanjegowda & Mr Doreswamy)

Workshop /Group discussion:

- 1 A day workshop on 'Constitution as a means to protect & safe guard citizens rights' was organised on 21-08-2011 at Maneyangala, Kalamandira at Mysore. Initially, participants were divided into various social groups such as daliths, minorities, women, students, labourers agriculture/ industrial, landlords/industrialists etc to discuss the specific problems, their rights as enshrined in the constitution so as to orient the audience to the theme of the workshop. Prof Suresh,Principal of the JSS Law college inaugurated the workshop by opening the book 'Constitution of India'. Prof M.S. Venugopal discussed the Rights & Duties of the citizens while Ms Sumana a practicing lawyer, presented

the ways & means of protecting the citizen through constitutional means. The role of NGO's in strengthening the civil society was also discussed. More than 80 participants were actively involved in the group discussion.

- 2 A group discussion was organized on a book by Chanadra Poojari, 'Yakkiga bhoomi prashne' (Why land question now?) Prof VK natraja retired professor was in Chair. Mr Divakar presented the theme of the book. Various social group activists participated in the discussion which was lively & thought provoking.

Visit to jails:

- 1 In an effort to meet the Maoists prisoners held in Mysore jail a team visited the jail on 14-01-2011 and met the Superintendent. He wanted to ascertain that PUCL organization was not on the banned organization list before granting permission. When we approached him again he said that though PUCL is not included yet he cannot grant permission, that we have to write to higher authorities for the permission. (team members; Dr V.Lakshminarayana, Mr T.R.Nataraj, Mr P.A. Kumar, Mr Budha, Mr Renukaradhya, Mr C. Rangaswamy, Mr Aiyappa Hoogar, Ms E. Rati Rao)
- 2 To investigate the issue of sand mining a team visited Nanjangud sub jail on 30-03-2011. Mr Bokkalli Nanjundaswamy PUCL

member & president of local farmers Association was arrested along with nine women activists. (team members; Dr V.laxminarayana, Mr Budha, Mr T.R. Nataraj)

One act play on social issues:

- 1 An one act play "torch Bearer" by Ms Ojas on the struggle of Ms Irom Sharmila who is on fast for more than 10yrs was staged at Mysore. Violation of human rights of people of Manipura due to the army occupation and the struggle against black laws including AFSPA (Armed Forces special powers Act) was the central theme of the play. It was staged at JSS Law college, Sarada vilas B.Ed. college and at Institution of Engineers at Mysore. PUCL –Mys branch and Samatha vedike Mysore jointly sponsored the event.

Inauguration of PUCL branches:

- 2 A branch of PUCL-K was inaugurated at Chamaraja nagara District on 24-04-2011. A delegation of PUCL–Mysore branch consisting of Dr V. Laxminarayana, Prof V.N.Lakshminarayana, Mr T.R.Nataraj, Ms Nagaratnammani Urs, Mr Budha and Dr E. Rati Rao were present on the occasion.
- 3 A branch of PUCL-K was opened informally at Koppala district on 04-05-2011. Delegation of PUCL –Mysore branch members consisting of Dr V.Lakshminarayana, Dr E. Rati Rao, Mr J.Bharadwaj and Mr

Budha were present on the occasion. Later PUCL-Karnataka President P.B.D'sa inaugurated the PUCL branch at Koppal on 16-07-2011. Prof VN Lakshminarayana spoke on the occasion regarding the necessity of a strong civil rights movement. Dr V.Lakshminarayana, Dr E.Rati Rao, Mr J. Bharadwaj also spoke.

- 4 Press statements on contemporary issues:
- 5 Press releases were released in connection with every fact finding committee visits apart from that issue of the release of Binayak Sen was given wide publicity.
- 6 Press release for a strong Janlokal was released on the occasion of the fast under taken by Anna Hazare

Condolence:

- 1 PUCL-Mysore paid its homage to Mr Kannabiran on 11-01-2011 at its EC meeting.

Administrative:

- 2 Centers share of Rs 3900/- was sent to national office (which included life members 7 and ordinary members 12)
- 3 A total of 24 life members and 12 ordinary members are on the Mysore PUCL list.
- 4 During the period (Nov 2010 to may 2011) the PUCL-Mys EC met 6 times.

T R Natraj, President, Mysore PUCL; **N Divakar**, Secretary, Mysore PUCL □

Rajasthan PUCL:

Gopalgarh (Bharatpur Mewat) Police Firing Incident

Preliminary Findings of the Fact Finding Team

This preliminary report of the PUCL team pertains to the incident of the police firing in Gopalgarh, district Bharatpur, Rajasthan. As per the media reports, the police resorted to firing to quell rioting mobs. The government has acknowledged eight deaths and 23 injured in this incident. Following this, the PUCL, Rajasthan constituted a Fact Finding Team to

conduct independent inquiry into this incident. The team comprised Kavita Srivastava, National Secretary, PUCL, Professor Shail Mayaram (Delhi), Professor Yogendra Yadav(Delhi), Ms. Nishat Hussain (Vice President, PUCL, Rajasthan) Mr. Sawai Singh (Organising Secretary PUCL, Rajasthan), Mr. Noor Mohammed (PUCL, Alwar), Mr

Virendra Vidrohi (PUCL, Alwar), Adv. Ramjan Chowdhary (PUCL, Mewat district, Haryana), Mr Gaurav Srivastava(PUCL intern). Mr. Neelabh Mishra, Editor, Outlook (Hindi) and a section of progressive members of the Gurjar and Meo community also accompanied and assisted the fact finding team.

The team visited Gopalgarh and

nearby villages on the 16th and 17th of September and, spoke to victims and their families, eyewitnesses and locally informed persons. The team also spoke to the District Magistrate, SP on duty (before they were transferred), the SHO of the Gopalgarh Police Station and senior police and administrative officials.

The government version, widely reported in the media, is that this was an outcome of rioting between two communities. It is said that since the mobs had turned violent, the police was left with no option except to open fire.

Our preliminary inquiry, however, raises many serious questions about this official account:

1. All the eight dead bodies identified are of Meo Muslims. Of the 23 persons officially acknowledged to be injured, 19 are Meo Muslims. This preponderance of Muslims among the dead and injured is intriguing, if the police was, as is claimed, acting neutrally and firing on both sides to control rioting mobs. .
2. Every eye-witness we spoke to said that there was no death before the police force intervened. According to senior police authorities as many as 219 rounds were fired by the police, which appears prima facie an excessive use of this measure of the last resort. Other than the use of tear gas shell, we did not hear about other precautionary steps to disperse the crowds such as lathi charge, use of rubber bullets. Since most of the deaths took place inside the Mosque, there is compelling reason to think that the firing targeted one community.
3. Local persons reported that several dead bodies were burnt. In addition, three dead bodies were discovered from a nearby well. This aspect requires thorough investigation, since it is reasonable to presume that the police was in-charge of the site after firing had taken place and the mobs dispersed.
4. There are many aspects that point to a collusion between the

local police, an aggressive section of the Gujjar community and some local RSS, Bajrang Dal and VHP leaders. The composition of the Police Station (eight police personnel were from the Gujjars community, while none was Muslim) and its conduct in the recent past gives rise to the impression that the police was not neutral.

5. The Mosque bore evidence of extensive vandalism, which lends credence to the allegation that after the firing the Mosque was 'captured' by a section of the Gujjar community in complicity with the police.
6. The burning and mutilation of at least three or more dead bodies and of those who were alive (some of the patients in the SMS bear witness to this) again gives rise to the suspicion that the local police and a section of the Gujjar community may have colluded in the aftermath of police action. There is a serious apprehension that this could have been done in order to destroy all evidence of bullet and other injuries.
7. The conduct of the administration in handling the original dispute concerning the graveyard land and during the crisis of 14 September leaves many questions unanswered. There were confirmed reports about violent confrontation between the two communities (thousands from each side) around 11 a.m. But once the initial clash was put down by noon, the crowds were allowed to remain and rearm for five hours, even though the District Magistrate and SP were at the site. There is a strong belief among the Meos that the District Magistrate was pressured into ordering firing by self-styled Hindu leaders. There are widespread allegations that firearms from the police station's armory were taken and used by some elements from the Gujjar community. This needs to be investigated.

The state government has announced several steps following

this incident. The District Magistrate and SP have been transferred, a judicial inquiry has been announced, the investigation has been handed over to the CBI and compensation announced for the victims. These are steps in the right direction. But these are not sufficient. We suggest the following steps on an urgent basis to restore peace and public confidence.

1. There are still many reports of missing persons which need to be verified immediately.
2. There is a need for credible post-mortem of the dead to be done by a high level and independent panel of doctors.
3. The official list of injured needs to be revised so as to include those who did not report out of fear or those who went over to Haryana to get private treatment. There is a need for a fresh MLC for all the injured.
4. Arrangements should be made to bring back the Muslim families of Gopalgarh who have fled in order to save their lives.
5. The entire local police should be transferred and be replaced by a multi-community police force with adequate representation of minority community.
6. The local community needs to be taken into confidence in carrying out repairs and restoration of the Mosque.
7. The case files should be handed over to the CBI within the next seven days.
8. Confidence building measures in this region to reduce the possibility of communities coming to a flashpoint and to restore trust among the minority community need to be undertaken.
9. As a long term measure all disputes pertaining to community spaces such as temples, mosques, graveyards, cremation grounds, etc should immediately be identified and special courts set up to resolve the legal disputes. Simultaneously, steps should be taken to amicably settle such disputes by bringing the communities in question

together through proactive measures.

10. The terms of reference of the Judicial Enquiry must specifically include

- The conduct of the District Collector and SP of Bharatpur, the Additional SP on the site, the SHO of Gopal Garh police station, The Circle Officer of the area and the Tehsildar who issued notices under sec 91 of LRA, which precipitated the situation.
- The role of outsiders on the 14th of September during the inconclusive mediation meeting between the leaders of both communities held to further inter-communal resolution at the police

station, which compelled the Collector to give written orders for firing.

- The persons responsible for vandalising the Mosque, scorching the dead, putting the dead bodies in the well and those who allowed these persons to enter the mosque when it was in complete control of the police
- Conduct of police and administration in the five hours from noon to 5 pm so as to find out why the weapons were not seized from both the communities during the course of day and why section 144 CrPC was not imposed when several thousand people had gathered
- The handling of the original

revenue dispute to find out why the concerned Tehsildar issued notices of eviction under section 91 of the Land Revenue Act when the SDM Pahari was already dealing with the Kabristan Land issue under section 136 of the Land Revenue Act

- The fire in the stacks of cow dung cakes (the Baterwas-hut shaped structures made for the storage and safety of cow dung cakes) around the site of firing that raged for two days and why were the fires not doused despite the local availability of the fire engine.
- The exact circumstances in which the orders of firing were issued and the possibility that some police arms were used by private persons. □

PUCL Press Statement: September 7, 2011

Bomb Blast at the Delhi High Court Needs Severe Condemnation: Government Must Come Out with a Comprehensive Rehabilitation Policy for the Victims

PUCL strongly condemns the heinous crime of bomb blast at the Delhi High Court this morning, killing nine people and injuring more than fifty. There is no doubt that those who are responsible for it are cruel enemies of humanity and deserve the severest punishment under the law.

PUCL strongly feels that it is the responsibility of the government to minutely investigate this crime of terror and catch the perpetrators. The police need to be much more thorough and professional in their approach to the investigation so that the culprits are brought to the justice.

It must augment the human intelligence to prevent such crimes, investigate professionally to catch the real criminals and put together the evidence to ensure speedy punishment to the perpetrators. This is pertinent in the light of the fact that a similar blast had occurred near the same place just about four months back and the case has remained unsolved.

PUCL deeply regrets to note that innocent people who had come to seek justice in the court of law have become victims of a mindless act of terrorism. It is time that the government of India come out with a comprehensive compensation and

rehabilitation policy on such victims. These are the people whom the Indian state has failed to protect as the citizen of the country, whatever the reasons. It is high time that the government instead of announcing paltry sum of one or five lacs, that sounds like putting a price on a life, takes concrete measures to ensure that families of those who are dead or injured continue to live a dignified life. As a society this is the least we can do to lessen a little the grief and trauma that the victims of such terrorist acts undergo.

Prabhakar Sinha, President; **Pushkar Raj**, General Secretary, PUCL National. □

Letter to the Home Minister:

September 15, 2011
Honourable Shri P. Chidambaram,
Home Minister, India
Dear Mr. Chidambaram,

Regarding Effective Compensation to the Victims of Terrorism

The bomb blast at the Delhi High

Court on September 7, is a despicable crime against humanity deserving of strongest condemnation. As many as 13 people have lost their lives and more than seventy have been injured, some of them with permanent disability.

Similar terrorist acts have taken place in the past also in which a large number of people have been killed and permanently incapacitated. Sometimes those killed were the sole bread earners of their families. Their families are doomed to live a life of penury and misery Many of

the injured who survive live a life of permanent disability, suffer for the rest of their lives, and are denied the enjoyment of complete worth of human life.

The government has so far failed to root out terrorism from the country or to prevent the terrorists from killing or maiming innocent people at public places who were quite unaware of the lurking death and destruction. The State being the sovereign has the prime responsibility of protecting its citizens. As per article 3 of the universal declaration of human rights, to which India is a signatory, 'everyone has the right to life, liberty and security of person.' The Indian constitution too affirms the right to life in no uncertain terms. Whatever the reason .the State has been

unable to protect the life and limb of the people leading to a serious violation of human rights of the victims of terrorism. It is in this context that I take the liberty of approaching you to introduce effective measures to ensure that the victims of terrorism or the other innocent persons killed or maimed by security forces in the name of or course of fighting terrorism may live with dignity and facility for the full development of their potentialities. I suggest that a special law or concrete policy measures must be initiated for the victims of the terrorism of any kind in the country to ensure that they live with dignity. The present system of compensation is questionable and insulting. In the recent bomb blast at New Delhi High

Court, the next of kin of those who are dead have been given 4 lacs, those who are permanently incapacitated have been given 2 lacs, and those who are seriously injured have been given 1 lak. By no stretch of imagination it can be called a compensation; instead, it is more like a charity that the Indian State thought fit for these innocent people who have suffered due to the failure of the State to protect their limbs or lives. The State must own its responsibility and do all in its power to bring a smile to the kith and kin of the dead and the permanently incapacitated.

With best wishes

Sd./-

Pushkar Raj, General Secretary,
PUCL □

On the 35th anniversary of the imposition of Emergency rule in the country:

PUCL: It's History of Struggle in Fighting the Structures

Mahi Pal Singh

Contd from last issue (PUCL Bulletin, September 2011)...

Can the Courts Provide any Relief?

The Constitution of India has laid down the responsibility of protecting the fundamental rights of the people, as guaranteed under the Constitution, on the shoulders of the Supreme Court of India and the various High Courts. In individual cases these courts have given some historical judgements thereby extending the scope of some of the fundamental rights. The Right to free and compulsory Education as a fundamental right emanated from the judgement of the Supreme Court in 1993 in Unni Krishnan's case (AIR 1993 SC 2178) wherein the Court observed that the 'Right to Education' is also a right to life, which is implicit as it flows from the right to life guaranteed by Article 21, though it had been present in the Constitution of India as a Directive Principle of the State Policy under Article 45 ever since the adoption of the Constitution in 1949 without being considered a fundamental right by any government before that. Right to know and information have also

emanated from the interpretations of Articles 19 and 21 of the Constitution by the apex Court.

However, in the matter of such draconian laws as the TADA, the POTA and the Armed Forces (Special Powers) Act, the courts have somehow failed to fulfill their responsibility as the protectors of the Fundamental Rights of the people as assigned to them by the Constitution and as recognized by themselves as such, when, in the Keshvanand Bharti case, otherwise known as Fundamental Rights case (AIR 1973 SC 1461) the apex Court observed that the democratic form of government and the fundamental rights are some of the basic structures and framework of our Constitution and they cannot be abrogated or whittled down even by the Parliament in exercise of its plenary powers of amending the Constitution. Yet the Court has gone against its self-assigned, and constitutionally mandated, duty again and again. On the allegations of "administrative liquidation" of two men by personnel of the Manipur

police, the Supreme Court had ordered a district and sessions judge to conduct an investigation on a public interest petition filed by the People's Union for Civil Liberties (PUCL) in 1992. The Court, however, gave orders only for monetary compensation, in its judgement on February 6, 1997, to the relatives of the victims. It did not exercise its authority to refer the matter to the trial court for the criminal prosecution of the perpetrators of the crime.

When the necessity to examine the Armed Forces (Special Powers) Act arose as a result of a letter-petition addressed to the Court in 1982, it was converted into a petition under Article 32 of the Constitution. The judgement came after 14 long years and the Court ruled that *none of the provisions of the Act can be characterized as arbitrary*. Though utterly bizarre such judgements might seem, they are in perfect consonance with the status-quo character of the establishment, be it the legislature, the executive or the judiciary. Otherwise how does one view the judgement of the apex

court, during the Emergency in 1976, where in the Habeas Corpus Case, which came to be known as ADM (Jabalpur) Case, (AIR 1976 SC 597) the majority of the four Judges headed by Chief Justice A.N. Ray (Justice Khanna alone differing and paying the price for it) ruled that "Article 21 is the sole repository of the right to life and liberty and that since that right was suspended, Habeas Corpus petitions were not even maintainable," which practically meant that the Government had a right to kill a person without the authority of law and, in fact, contrary to the rule of law.

The National Human Rights Commission is even prevented by Clause 19 of the Protection of Human Rights Act from investigating directly complaints of human rights violations against the armed forces.

How Can an Atmosphere Conducive to Human Rights be Secured?

The National Democratic Alliance (NDA) government led by Atal Behari Vajpayee could not find time to pass the Women's Reservation bill to empower women during its six year rule because, as it claimed, it wanted to bring about a consensus on the issue. The same government passed the POTA within no time by calling a joint session of Parliament when it realized that it would not be able to get the bill through in the Rajya Sabha where it did not enjoy a majority. The same Congress party, which was opposing the move then, and later declared that it would abolish the Act as soon as it came to power, took a lot of time to do so, although, if Justice Rajindar Sachar, a retired Chief Justice of the Delhi High Court and expert in legal matters, is to be believed, the Act could be abolished overnight by an ordinance issued by the President. Not only that, the Congress led government at the centre is now planning to invoke Article 355 of the Constitution to keep the Armed Forces (Special Powers) Act in place in Manipur, where the people in large numbers have come out in favour of

repealing the Act, in view of its gross misuse by the security forces. Article 355 permits the Centre to intervene in the state affairs without the consent of the state government *in the interest of protecting the state from external aggression or internal security threat*. What kind of threat from 'external aggression' or 'internal security threat' the government perceives is hard to comprehend. On the issue of keeping Manipur designated as a "disturbed area", there is a consensus in the political parties of all hues supporting the government, including the Left parties, who have otherwise been opponents of such black laws. The stand of the Congress party on continuing the AFSPA to remain in force in Nagaland and the other North Eastern states can well be taken as a foregone conclusion.

Situation in Maoist infested areas

With the entry of Multi National Corporations (MNCs) in the country in the name of globalisation, the government at the center declared a new development policy by setting up of Special Economic Zones (SEZs) in the country providing special incentives and facilities to the MNCs to establish enterprises for exploitation of the mineral wealth of the country, more for their own benefits (and the benefits of the politicians, if the example of Madhu Koda, who was caught with 4,000 Crores of Rupees of unaccounted wealth, is an example) than for the benefits of the people who own lands and resources of the targeted SEZs. When the various State governments started usurping their lands, mostly in tribal areas of central India like Chhattisgarh, Jharkhand, Orissa, Andhra Pradesh etc., at throwaway prices to be handed over to these MNCs, dispossessing the people of not only their lands but also of their only source of sustenance, the people arose in revolt. This gave chance to the Naxalites/Maoists to gain their sympathies and promote their ideological influence by supporting their cause against the various State governments. As a result there were violent protests

against forcible land acquisitions resulting into ruthless suppression of these protests by police and paramilitary forces which resorted to large scale violation of human rights, rapes, burning of their houses, disappearances and extra judicial killings. Nandigram in West Bengal saw large-scale violence and the entire tribal belt of Lalgurh became alive with Maoist activities where, for a long time, no Naxalite activity was observed. POSCO and Tata projects faced strong protests in Orissa. Almost the whole of the mineral rich tribal belts of Chhattisgarh and Jharkhand became the epicenter of Maoists activities. But instead of listening to the genuine grievances of the poorest tribal population of these areas, the government at the center and the States resorted to the policy of suppression named 'Operation Green Hunt', on the face value against the Maoists but in truth against the tribals. Human rights activists working among the masses in their areas for their education, medical services etc. were also targeted. The arrest of Dr. Binayak Sen, a human rights activist and well-known doctor who had been working to provide medical services to the people in those areas for the last 25 years, was in effect a declaration of war by the State against all those who raised the voice of concern for the life, liberty and rights of these tribals. The State today is bent upon pursuing a model of development, which seeks to promote the interests of big capital and MNCs to the detriment of the poor farmers and the tribal population of the country. Accordingly, anyone who espouses the cause of the tribals is labeled 'Maoist sympathizer' and put behind the bars. It is precisely for this reason that the PUCL has been named in the Kobad Ghandi charge sheet as a front organization of the Maoists, in spite of the fact that the PUCL has from its very inception denounced violence by any individual, political group and the State alike.

In a press statement published in the newspapers in June 2010 the Union Home Ministry threatened to use Unlawful Activities (Prevention) Act, 1967 for arresting those who criticize the policy of the home department of the Govt. of India in dealing with the tribal Maoist problem. It shows the stringent character of the provisions of this Act on the one hand and the blatant act of intimidation to suppress the right of every citizen to unrestrainedly criticize the wrong policies of the government under the right to freedom of speech and expression guaranteed under the Constitution on the other. The PUCL condemned this statement in strong words demanding immediate withdrawal of the statement.

Emergency-like situation in the country

Situation in the country today is no better than during the Emergency regime. In fact, it is worse.

In such a scenario, in which none of the three branches of the State seem to care for the human rights of the people, in spite of their commitment to them under the Constitution of the country, the United Nation's Declaration of Human Rights of 1948 and the Covenant on Civil and Political Rights that followed the Declaration, to which the country is a signatory, the people of the country are left with no other alternative except to organize themselves into a movement against such draconian laws which act as an instrument of

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constitution except the aims and object of the organization and the criteria of membership as specified in clause (3a) above.'

The criteria of membership mean that nobody would be denied it on the basis of his political or any other belief, but it may be denied if a person is known to be guilty of conduct incompatible with our aims and objects and the values we stand for. For example, a person guilty of rape, arson or any act unacceptable to the PUCL would not be enrolled as a member. However, eligibility

depriving them not only of their civil liberties but also of their right to life with impunity. As Justice P.B. Sawant (Retd.) observed in the Twenty-third JP Memorial Lecture organized under the auspices of the People's Union for Civil Liberties, Pune, on March 23, 2003, "A citizenry well-empowered to assert itself, sufficiently well-informed to take proper decisions on public issues, active enough to participate in the day-to-day affairs of the state, and always alert to call the governors to account for their acts of omission and commission – these are the minimum prerequisites of a successful democracy." The people have to be vigilant because, to quote him again, the powerful people "are in a position to control all the key institutions – the media, the bureaucracy, the police etc. and manipulate and corrupt them, manufacture consent in their favour, and sabotage not only the will of the people, but also the law of the land." (Human Rights in Retreat: P.B. Sawant, Mainstream, June 28 and July 5, 2003).

If the people of the country are to be saved from the onslaught of inhuman laws and not to be pushed against the wall by them into taking to arms, which, in any case, are no solution of the problems facing them and the country, they must organize themselves into a strong people's movement to oppose such laws. Human Rights groups and other NGOs engaged in securing the rights

does not mean a right, and the National Council or the State Council may refuse membership to a person by a two third majority.

The PUCL was not envisaged as an organization of persons who do not understand and subscribe to our aims and objects or who may wish to join it out of a sense of gratitude for the help the organization might have given them or in the belief that it might serve some purpose. The declaration in the application form stating "I subscribe to the aims and objects of the People's Union for Civil

of the people should lend full support to their peaceful efforts directed to this end. Some organizations from Nagaland, including some people engaged in the protection of human rights and civil liberties there, had approached PUCL, PUDR etc. some time ago to get their support for the movement to repeal Armed Forces (Special Powers) Act. It was decided to co-ordinate the efforts of various human rights groups in this regard and form an all India Committee to take up this cause. In this connection a convention was organized at the Constitution Club in New Delhi and a resolution was passed there. Another convention was organized at Gandhi Peace Foundation in which PUCL-Delhi played a very significant role. At the latter meeting, an action plan was also passed – including contacting various political groups and also individual MPs to muster their support for the cause. It was also decided to form sub-committees or regional committees, which can take up the matter with the governments and political parties at the level of various states where this law is in force. An awareness campaign about human rights education should also be started among the people so that the State can be pressurized to tackle such political issues politically through talks with all concerned groups instead of resorting to the use of armed forces which are best kept confined to their barracks except in times of external aggression. (**To be continued**) □

Liberties and agree to abide by its Constitution" is not a mere formality and is meant to be taken with utmost seriousness. In fact, it has been taken seriously from the beginning and the State units advised against indiscriminate enrollment. If the enrollment had been done against the letter and spirit of the Constitution, the figure of our membership would have been thirty to forty times more than the present figure of 4456; but then the PUCL would have retained its name lost its character. □

Who is Eligible to be a member of the PUCL?

Prabhakar Sinha

In course of my interaction with our members from different parts of the country, I have found that there is a lack of clarity regarding the criteria of membership of the PUCL. There are many who believe that a Marxist is not eligible to be a member of the organization just as there are others who believe that a member of BJP is ineligible to be a member since the former believes in violence and the latter in communalism. Both the points of view may have some merit, but the founders of the PUCL wanted to create a unique organizations consisting of individuals who were committed to the defence and promotion of civil liberties regardless of the ideology of the party to which they belonged. The idea was to bring together all those who were committed to protect and promote civil liberties, specially because civil liberties had been under attack for long and almost by all parties which came to power at one place or the other. So, it was felt that all persons committed to civil liberties regardless of their party affiliation should join hands to protect them. However, it was made clear that the members of political parties joined the organization as an individual in their personal capacity and not as representatives of their parties. Like all other members, they were also required to sign the declaration, "I subscribe to the aims and objects of the *People's Union for Civil Liberties* and agree to abide by its Constitution. Please enroll me as a member." It ensured that as members of the PUCL, they were honour bound to act to achieve the aims and objects of the organization. In case of a conflict between the interest of their parties and PUCL, it was for them to make a choice and leave one or the other. There are instances when such choices were made, and while we were critical of their politics, we respected them for parting honourably without a fuss or without dragging the PUCL in a

controversy.

Bringing together all those who are committed to the defence of civil liberties is so cardinal an aim of the organization that our '**Aims & Objects**' begin with this objective unambiguously stated as follows: "**The People's Union for Civil Liberties will try to bring together all those who are committed to the defence and promotion of civil liberties in India, irrespective of any differences they may have in regard to political and economic institutions suitable for the country (clause 2 of the Constitution)**". The criteria for membership also is categorical about the organisation being inclusive and eliminates the possibility of denying membership on the basis a person's membership of any political party. The criteria for membership (under clause 3 a & b) state that "Every adult person shall be eligible to be a member of the organization if he/she believes that civil liberties must be maintained in India, now and in the future irrespective of political changes that may take place in the country (Cl.3a)." Cl 3b specifically provides that 'members of the political parties will be entitled to be members of the organization in their individual capacity if they subscribe to its aims and objects.' However, the members of the political parties are not eligible to be office bearers of the organization (3 b i) The founders of the PUCL were apprehensive of the fact that there might come a day when efforts might be made to exclude some people on one ground or the other or change the aims and objects of the organization in such a way as to be destructive of the very purpose for which the organization was formed. To prevent such an eventuality, it has been provided in the (Cl.10) constitution that National Council will be entitled' to alter any part of this

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