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Annual Subscription : PUCL BULLETIN
 w.e.f. March 1, 2010

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Who are the Guilty?

Mahi Pal Singh

In yet another case of travesty of justice Seema Azad, a young journalist and editor of a bi-monthly magazine - Dastak, and also the Organising Secretary of PUCL Uttar Pradesh, and her husband Vishwavijay were convicted under Sec 13 (punishment for indulging in unlawful activities), 18 (punishment for conspiracy to commit a terrorist act), 20 (being member of a terrorist gang or organisation), 38 (membership of a terrorist organisation), and 39 (providing support to a terrorist organisation) of the UAPA amended 2004 and 2008, and u/s 120, 121 and 121(A) of the IPC for being in possession of objectionable literature, to life imprisonment by a court at Allahabad on 8 June 2012.

Seema Azad, a grassroots journalist and a well known civil liberties activist was returning after attending a book fair in New Delhi and her husband had gone to the station to receive her when they were arrested by the Special Task Force on February 6, 2010 from the Allahabad station, under the Unlawful Activities (Prevention) Act, for their alleged links with Maoist organizations. There is absolutely no incriminating evidence against her. The only evidence provided was a book carried by Seema Azad containing information on Maoist politics. From then on, they have been detained in custody, and have been refused bail. It is clear to human rights activists that Seema Azad and her husband were charged under the draconian laws for political reasons. Ms. Seema has relentlessly raised her voice against local scams and injustices, denouncing the working condition of mining workers, exposing the practices of the local mafia and its nexus with the police force.

"On a number of occasions, she (Seema Azad) had taken up the cudgels on behalf of poor labourers and exposed the nexus between the police and the illegal contractors, who used to deploy labourers for unauthorised mining of stone or sand in various regions of Uttar Pradesh, particularly the Sonbhadra district," PUCL UP Vice-President Ram Kumar said in a statement after the judgement was pronounced.

It has become a trend for the governments to book those dissenters, who criticize their anti-people policies and expose the misdeeds of politicians-police-bureaucrats and mafia nexus or give voice to the exploited, suffering, displaced and disinherited masses, under the most stringent laws, brand them as anti-national or Maoists and keep their voices muzzled by incarcerating them. What is even more worrisome is that the judiciary, which is supposed to be the protector of the freedom and liberties of the people, also fails to do so. And the worst is that those who book innocent people on false and concocted charges always go unpunished even when higher courts reverse the judgment and set them free, of course, when

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they have already spent several years of their prime life in prisons. Seema Azad and her husband's case has again brought these questions into focus and for all freedom loving people and human rights activists to take up the cause.

Seema's is not a solitary case of its kind. Thousands of innocent citizens are languishing in different jails in the country today on charges of sedition and waging war against the country, for being Maoists or their sympathizers, or Terrorists, merely because they tried to raise their voice against the anti-people policies of the government. Earlier Dr. Binayak Sen, a well-known pediatrician, public health specialist and human rights activist, and the national Vice-President of the People's Union for Civil Liberties (PUCL) was also sentenced to life imprisonment by a Chhattisgarh court on similar charges, including that of sedition, and on similar grounds. In sharp contrast, the same Binayak Sen was presented with the International Peace Award by the Gandhi Foundation along with Bulu Imam for the "humanitarian work and practice of non-violence" on 13 June 2012 at London, England. The award honours individuals and groups who have advocated and practised Gandhian non-violence but who have received little recognition for doing so.

The judgement again raises many wider and serious questions for which answers have to be found out. Why is it that in free and democratic India innocent people are being charged, convicted and awarded even life sentences on charges of sedition merely for possessing some books or pamphlets whereas under the British rule leaders of the freedom movement like Gandhiji and Tilak were awarded much less sentences even though they were really revolting against the British government? Why is it that today convictions are taking place on a large scale under the same kind of laws though hardly any convictions took place under the

equally draconian laws like the Maintenance of Internal Security Act (MISA) or the Defence of India Act (DIA) even during the Emergency rule when thousands of people were booked under these Acts? Why is it that such undemocratic and illegal laws as the UAPA, AFSPA, the sedition law and the like have existed on the statute book though they clearly violate the letter and spirit of the fundamental rights of life and liberty and the right to freedom of speech and expression guaranteed under the Constitution of India, the supreme law of the land, and why does the higher judiciary, which is mandated to protect the fundamental rights of the people, fails time and again to declare such laws and Acts as ultra vires? Why is it that the executive branch of the State conveniently ignores the suggestions/orders of the apex court when it says that instead of letting the food-grains rot, they should be supplied to the poor starving people free of cost and why do the lower courts ignore its remarks when it says that mere possession of literature does not make a person a Maoist (15th April 2011 while granting bail to Dr. Binayak Sen), or membership of a banned organization will not make a person a criminal (3rd Feb 2011 Criminal appeal No(s) 889 of 2007), and continue to award even life sentence on those very charges? And why is it that even at the level of the highest court a dispute regarding the share of natural gas between the Ambani brothers is heard and settled within months while an appeal for grant of bail to someone, who according to its own opinion, cannot be held guilty on the charges mentioned above, drags on and on for years and years? Where was the need to set up the National Human Rights Commission if the courts had effectively protected the rights of the people? But has the NHRC also not failed in its mandate to do so and forfeited the right to exist after it has stopped conducting independent inquiries into the complaints and started to function

as a government department, only endorsing the illegal actions of the government officials based on the reports of the police officers, the Secretaries/Chief Secretaries of the governments etc. only legitimizing their illegalities? Why are those politicians not punished for producing Maoists, who for their own greed placate Multi-National Corporations and big industrialists by adopting anti-people policies and forcing the harassed toiling and poor masses into joining the ranks of the Maoists, and the bureaucrats and police officers for acting at the behest of their political masters, multiplying the miseries of these hapless people by indulging in high-handed behaviour, even resorting to burning of their houses, rapes and killing with impunity thereby unleashing a reign of terror? And the last, but not the least, are we living in a free and democratic country where we will decide for ourselves what we would eat or not eat, wear or not wear, think or not think and read or not read, or the process of Talibanisation has started and the State will decide such things and those who do not conform to their whims and dictates will be tagged as either Maoists or Terrorists and decimated?

All of us must find answers to these questions if we have to save our hard earned freedom and democracy for which lakhs of our forefathers laid down their lives. We must think and decide whether those who are acting as the agents of the MNCs and in order to promote their business and protect their interests are uprooting farmers and tribals from their lands and forests and forcibly displacing them, in utter disregard of their economic and social rights as enshrined in part IV and also the Fundamental Rights enshrined in part III of the Constitution, have become instruments of loot of the mineral wealth of the country, have given birth to Naxalism and Maoism in the country by adopting anti-people and partisan policies and continue to promote and intensify their activities

Letter Sent to Seema Azad (in Naini Jail in UP) by Prabhakar Sinha, President PUCL

Dear Seema Azad,
June 14, 2012

Our heart goes out to you as one more victim of the ruthlessness of the Indian rulers. I am not writing this to condemn the court which convicted you nor to pass a judgment on its verdict because doing so would be barking up the wrong tree and walking straight into the trap laid down by the powers that be. The wily ruling elite of India maintains two sets of laws in its arsenal: one purportedly to punish the enemies of the nation comprising the corrupt politician, the big business and the corrupt bureaucrats while in reality it is to provide them with an impregnable shield, and the other for the rest of the people. While the former continues to be effectively used to save them, the latter is a trap for the people from which escape is well nigh impossible. While they, who should be in the prison, rule the roost, the common man is caged in hordes with a lightning speed regardless of their innocence. There are laws to keep secret the names of the enemies of the nation who

have stolen and stashed away hundreds of billion in foreign banks and there is maximum resistance to any law which may hurt the ruling elite. The phenomenon is not new, only the weapon and their targets have been changing. They enacted PDA, 1950 within weeks of India being declared a Republic followed by the MISA, 1971, TADA, 1985 and POTA, 2001 in addition to UAPA, 1967 and a large number of their siblings. Several lakh innocent citizens have been victimized since 1947 without the slightest sign of remorse in the ruling elite. Thirty five thousand were detained under MISA during the emergency. Seventy six thousand were detained under TADA all over the country including Gujarat where there was no trace of terrorism in the 1980s. POTA was similarly let loose on the countless innocent without judicial let or hindrance. It is the rulers who decide who we are and what can be done with us. Jayaprakash Narayan and the thousand others detenued during the emergency were 'Fascists' because Indira Gandhi said so. Thousands became 'terrorists' because the

rulers branded them so (under TADA), and Vaiko, an NDA M.P. from Tamil Nadu became a terrorist because Jayalalithaa, the TN C.M. said so. Under the lawless laws of the land, it is the ruling elite which decides what we are and what should be done to us. Indira Gandhi decided that the people of India should be without the right to life and personal liberty during the emergency and the government should be free to kill, maim and cage them at its will and the Supreme Court said 'be it so.' So, you must be as good a 'Maoist' as J.P. was a Fascist and Vaiko a terrorist.

It is not our (PUCL) agenda to change the rulers, and we do not have the might to compel them to yield, but we have the spirit of a crusader and must go on relentlessly exposing the sins of the ruling elite and exhort the people to fight for their life and liberty till the end. This is our goal and we will pursue it relentlessly and tirelessly.

Yours affectionately,

Sd/-

(Prabhakar Sinha)

President, PUCL National ☐

Letter: 24 June 2012

Invitation for National Council Meeting on 4-5th August 2012

Dear colleagues,

As you are aware, the next National Council Meeting has been fixed for 4-5th August 2012 at the Gandhi Peace Foundation, 223, Deen Dayal Upadhaya Marg, (Near I. T. O. Chowk), New Delhi-110002. All the National Council members and office bearers of the National Executive are cordially invited to attend the same.

Apart from electing the National Executive of the PUCL, it is expected that the National Council will discuss organizational matters comprehensively to improve its functioning and to reach out to more and more people given the challenges before the human rights and civil liberties activists in the country. As such you are requested to come prepared for an open discussion on all organizational matters and also with your suggestions for improvement in the functioning of the organization.

You are also requested to inform the National PUCL office regarding your participation and arrival and departure timings, and also the requirement of accommodation so that necessary arrangements may be made accordingly.

Thanking you,

Mahi Pal Singh, Secretary, PUCL ☐

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by creating conditions which provide them the support and sympathy of an increasing number of hungry and naked people by forcing them to seek protection from them instead of the State, and have waged a war, in the name of fighting the Maoists which is their own creation, against their own people, who raise their voices against this injustice, by using the State's authority and fire power, in effect waging a war against the

country itself and its interests, are guilty of these crimes or those like Dr. Binayak Sen and Seema Azad, who have been and are trying to give a voice to those voiceless millions who are being exploited, intimidated and killed and their houses burnt to evict them from their lands so that the mineral rich land becomes available for mining and setting up of industry for the benefit of multi-nationals and the rich and powerful

of the country, though these Binayak Sens and Seema Azads have never supported the use of violence by anyone, be it any individual, the Maoists or the government machinery? And how long will the peace loving and innocent people continue to suffer at the hands of this so-called 'justice administration system', in which they continue to have faith though it hands out more injustice than justice to them? □

Travesty of Justice in the Seema Azad and the Vishwa Vijay case

A critique of the Allahabad Court Judgement

*To ask for papers proving guilt in black and white
Is useless for there need be no such papers
The guilty have proof of their innocence
The innocent often have no proof.*

– Bertolt Brecht

Fact Sheet: Miscarriage of Justice in the Seema Azad and Vishwa Vijay Case

The case of Seema Azad and her husband Vishwa Vijay is based upon instructions from higher authorities to arrest them. The case of the prosecution in the FIR quite clearly shows that they were arrested on such instructions. The material allegations in the FIR are as follows:

1. On 06.02.2010 the Special Task Force (STF) headquarters received information that - similar to the state of Bihar, Jharkhand and Chhattisgarh - the banned organisation Bhartiya Communist Party (Maoist) [Communist Party of India (Maoist)] is increasing its activities in this state also. The Allahabad unit of STF received instructions to collect information regarding the same. The Allahabad unit was receiving instructions from the headquarters of the STF and there was going on a continuous exchange of instructions and information between the two.
2. On 6.2.2010 Sh. Manoj Kumar Jha, the Addl. Supdt. Of Police informed that one Ms. Asha alias Hira Mani Munda, wife of Balraj alias B.R. alias Arvind alias Baccha Singh r/o Tilkar P.S. Ekma, Distt. Chhapra (Bihar), an active member of CPI (Maoist) has been arrested and she informed that:
 - (a) In District Allahabad Seema Azad and VishwaVjay, the two accused are active members of CPI (Maoist),
 - (b) They live near Durga Puja Park, EWS colony Govindpur, Allahabad and
 - (c) Information regarding them should be obtained forthwith.
3. On receiving this information, the informant along with a large number of police personnel proceeded to search the two accused. Ultimately they were arrested near Khusro park, Jan Sansthan, near railway station, city side Allahabad.
4. At the time of arrest, some documents and pamphlets (mentioned in the FIR) along with some money and a camera were recovered from them. They informed the police (recorded separately in the FIR) that
 - (a) The accused are the members of the CPI (Maoist). Balraj is General Secretary, CPI (Maoist) and is responsible to increase the activities of this organisation in UP. Balraj met the accused VishwaVijay and appointed him (Vishwa Vijay) as the chief of the State Organising Committee of the CPI (Maoist),
 - (b) Seema, accused, is also an active member of the CPI (Maoist) and overlooks literary work and publicity and she motivates other women to join the organisation,

(c) Balraj keeps on coming to Kanpur, where a meeting was to be held. In that meeting, other office bearers from Bihar, Jharkhand and Chhattisgarh are also likely to come. They were also going there. Their aim was to wage armed war against the Government of India and to establish Maoist regime after uprooting the Government.

5. The prosecution's story in the FIR further is by the perusal of the literature recovered from the possession of the two accused, the police reached the conclusion that the two accused are members of the banned organisation, CPI (Maoist). From the anti-national literature, recovered from them, it is apparent that they are liable to be prosecuted under Sections 18/20/21/23(2) of the Unlawful Activities (Prevention) Act 1967 and Sections 120B/121/121A of the IPC.
6. The only material or evidence against the two accused was the recovery of some documents, some money and a camera. That is all. The investigating agency was not able to make any headway in the case and did not find any evidence whatsoever after lodging the FIR. The documents and the other material recovered at the time of arrest were sealed in separate covers, which were to be produced in the court as evidence.
7. Pausing for a moment, it is appropriate here to note that even if the recovery of the documents and money etc. at the time of the arrest is assumed without admitting to have been made, no offence whatsoever can be said to have been made out. Besides the recovery, there were confessions alleged to have been made before the police. This can also not be used as evidence. Moreover, according to the judgement of the Supreme Court in Siddhanki Ram Reddy vs. the State of Andhra Pradesh (72) SCC 332 mere membership of a banned organisation cannot constitute an offence unless there is further averment of an overt act of unlawful activity.
8. It is extremely important to notice here that the material recovered at the time of the arrest which was kept in a sealed cover was tampered with in as much as during investigation the seals were broken without any order of the magistrate on the pretext that the prosecution wanted to have zerox copies of the documents for their perusal. After this tampering, the prosecution was left with no evidence at all.
9. After the investigating agency failed to find further evidence after the arrest, they had been asking for police remand. The first application for police remand was rejected by the magistrate 20.2.2010. The revision against the same was dismissed on 4.3.2010 by the Sessions judge. Subsequently another application was filed on 5.3.2010 for the police custody which was also rejected on 6.3.2010. However, ultimately the investigating agency succeeded in having an order on 19.7.2010 from the magistrate concerned for a police remand. On the basis of this police remand it is alleged that, at the pointing out of the accused, some documents and a mobile were recovered from the house of the accused on 20.7.2010. This recovery being on an illegal police remand cannot be a valid piece of evidence.
10. Even if the recovery of some documents and a mobile on 20.7.2010 be deemed to be "evidence" within the meaning of Evidence Act, mere recovery of documents cannot prove the offences with which the two accused were charged

By Ravi Kiran Jain, Senior Advocate, Allahabad High Court who argued the case of Seema Azad

Introduction

On the 8th June 2012 Additional District Judge, Sunil Kumar Singh, Presiding officer of the District and Session Court, Allahabad, pronounced life imprisonment to 36 year old Seema Azad, writer and editor of Dastak (a monthly magazine) and the Organising Secretary of the People's Union for Civil Liberties, Uttar Pradesh branch, under waging war against the Government of India and for offences related to being a member and supporter of a terrorist organisation. Her husband Vishwa Vijay too was similarly sentenced. The Judgement came exactly after the two had spent

twenty seven months (two years and three months) in Naini Jail.

This Judgement has once again exposed how the Indian Security Establishment, the Police and the Intelligence are working in tandem with a section of the Judiciary and that any arrest made in the name of Maoism and Terrorism can be justified by invoking the draconian laws like the UAPA and the colonial era security provisions of the Indian Penal Code. Through this judgement there is also an attempt to send a warning to all activists of their fate if they are going to be questioning Government policy or hold alternative views.

Thus it becomes very important to examine the case, critique the judgement and build a campaign against this injustice demanding the release of Seema Azad and Vishwa Vijay. It is also important that we do so at this juncture when disappearances, false cases and illegal detentions have become rampant in the name of fighting Maoism and Terrorism. An undeclared emergency persists with life and liberty of the people of India being the biggest casualty. There is an effort to silence Human Rights activists and all voices of dissent. We need to fight it back NOW!!

About Seema Azad

Seema now almost 37 years was born on 5th August 1975, soon after the emergency was imposed. She initially studied in Gorakhpur and later in Allahabad after her family moved following her father's transfer to the city. She completed her B.A. and a master's degree in psychology from Allahabad University. Till 1995, her interests were mainly confined to scientific quests in understanding the mysteries of the universe. But very soon she connected these inquiries with societal movements through books such as J.D. Bernal's book, *Science in History*. She also tried to understand the obstacles slowing down the speed of the society she lived in through other books such as Julius Fuchik's *Notes from the Gallows*. In 1995-96, she became active in student and gender politics. Seema remained active on the women's liberation front till 2001. The bonds forged with the revolutionary students movement continued till 2004.

Seema made her own choice in marriage and married Vishwa Vijay and left home. She got rid of the caste identity reflected in her name and replaced her surname, Srivastava, with 'Azad'. A new Seema was born: Seema Azad. She put together some money and bought a motorbike. She went amongst people to write about their lives, their struggles, their dreams. Her constant effort was to ensure publication of ordinary people's struggles in newspapers. Till 2006 she wrote regularly for Sahara. Many other newspapers in Allahabad also prominently featured her reports. Seema also became a part of movements associated with human rights and those that were taking place against the exploitation and oppression of peasants and workers.

After 2006 she decided bring out a magazine which she decided would privilege people's movements and sociopolitical thoughts. The magazine, *Dastak*, became a part of the movement. Through the magazine, she did a thorough investigation of the Ganga

Expressway plan which threatened to displace thousands of farmers. In order that the threats posed by the Expressway plan be known to more and more people, she published the findings of her survey in the form of a booklet and distributed copies. *Dastak* also published a long report on the arbitrary arrests and excesses by the STF upon Muslim youth in Azamgarh. Seema Azad became more and more active in the human rights movement. One issue of 2009 also focussed on whether Obama was really talking of the change that poor people living in the third world countries wanted to see.

Seema's inspiration in life was also her father who retired as Labour Commissioner from the Government of UP. He was well known for making efforts at ensuring justice for workers. After his retirement he also published several books on Labour Laws and its Praxis the State and the Country.

She also joined the PUCL branch in Uttar Pradesh in 2009 where she was entrusted with the responsibility of the Organising Secretary.

At the time of Seema's arrest, there was a generation of youth in Uttar Pradesh vocal in raising human rights issues, the profiling of Muslims, Corrupt politics, a plundering economy, growing social insecurity, violence-inciting politics, the manipulations resorted to for winning the votes of Dalits and Minorities and then oppressing the same people: all these were creating anger and discontent amongst people. Such a reaction was seen as a threat by both the centre and the state. One name expressing this protest was that of Seema Azad's.

The Arrest of Seema and Vishwa Vijay

Like every year this time too Seema was at the International Book Fair in Delhi. She left Delhi on the 5th February evening and took Rewa Express back to Delhi. It was after their train had crossed Kanpur in the morning of the 6th, that she felt that something was amiss when strange tall men all with a police look, got

into her coach. Very soon she knew that they were from Andhra Pradesh as she realised they were speaking Telegu. When she got off at Allahabad she was surrounded by more men, but she continued to move towards the Civil Lines exit, where her husband Vishwa Vijay was waiting for her. When Vishwa Vijay was getting his moped off the parking, they were arrested. The time was 11.30 am.

However the **FIR number 33/ 2010 (Criminal Case number 37/ 2010) dated 6th February, 2010** was lodged at the Khuldabad police station, Allahabad, shows the timing of arrest as 9.30pm from the other exit of the Railway Station which is the Khushrubag. The section under which they were booked were sections 18, 20, 21, 23 (2) of the Unlawful Activities Prevention Act, 1967, amended 2004 and 2008 and IPC sections 120 (b), 121, 121(A) of the IPC.

The family of the Seema only learnt about it the next day through the newspapers, following which they rushed to the police station and had to find their way through a maze of cameramen and photographers to even get a glimpse of her.

The local magistrate didnot grant the police the remand of Seema and Vishwa Vijay and on the 7th of February and they were sent to Naini Jail in Allahabad soon after.

The Police Story against Seema Azad and Vishwa Vijay

Interestingly the charge sheet made out by the police does not go beyond the FIR. The only movement in the story of the FIR come from what the police tries to show from what they obtained in the house search, a procedure that was carried out through an illegal remand 5 months after her arrest. Thus we have combined both and are presenting a summary of it.

The story on the basis of which charges were made out by the prosecution against Seema Azad and her husband is as follows:

1. Information that Seema Azad and her husband Vishwa Vijay

were CPI (Maoist) activists was made available to them by a CPI Maoist party by a person arrested in Gorakhpur on 06.02.2010, some hours before the couple were arrested. Which is how they came under surveillance and were tracked them down.

2. That Seema Azad and her husband were at the railway station at 9.30 pm on the 6th of February in order to board a train to Kanpur for a CPI(Maoist) meeting of Bihar, Jharkhand and UP representatives, where some important leaders who were wanted were also reaching.
3. Their sling bags (jholas) contained some literature ostensibly published by the CPI Maoist party. (Interestingly the FIR claims that the policemen as per the rules carried out a search of each other and only after being satisfied that nobody had anything that could be planted that they searched the two. There was a woman constable who searched Seema)
4. Interestingly according to the FIR they both stated to the police (supposedly while standing at the railway station) that they were activists of the CPI Maoist party and that they wanted to establish Maoist rule by overthrowing the state and that it could only be achieved through an armed resistance.
5. Since they were unable to show the papers of the moped their two wheeler had to be seized and that they were also charged under the Motor Vehicles Act.
6. Prior to their arrest in Gorakhpur and subsequent to their arrest, the people who were arrested in Kanpur and in Delhi who were all CPI (Maoists) or sympathisers of the CPI (Maoist) party were found with published literature, of which some was the same as that found in the possession of Seema Azad.

7. That the disclosure statements made to the police of the other arrested persons referred above states that Seema Azad and her husband were activists of the Maoist party. (please note that no confessional statements were made out in front of the magistrates of anybody. The entire case moves on statements made to the police).
8. That recoveries were made from her house included copies of the magazine Dastak, a report on the Ganga Expressway project, and 'secret' document of the CPI Maoist party and a cell phone. That Seema Azad and Vishwa Vijay was taken on police remand over five months after her arrest.
9. That the call details obtained concerning the cell phone of Seema Azad show that she travelled widely to "secret" places.
10. That the 'secret' document owned up to killing of security personnel by the CPI Maoist Party and waging a war against the Government of India.

On these details hangs the story that claims that Seema Azad and her husband are activists of the CPI Maoist party and that they are also conspirators and participants in the waging of war against the government. Hence Seema and her husband were charged under S. 120B, 121, 121A of the IPC and S. 13, 18, 20, 21, 23(2), 38, 39, 40 of the UAPA.

Seema's Version

Seema's story is a far cry from the police version. She boarded the Rewa express at the Allahabad railway station at 11:30 a.m. on 06.02.2010 and her husband had come on their two wheeler moped to receive her at the railway station. Outside the station, they were approached by the police, her belongings, money, Dastak magazine, cell phone, camera were forcibly taken away and taken to Khuldabad P.S. at Allahabad. Her backpack laden with books

purchased from the Book Fair at Delhi was also taken away. There the police prepared a false seizure list that included documents and literature that was not in her possession along with clothes and money that were with her. The books that she had bought from the Delhi Book Fair were never returned to her or made part of the seizure memo.

As stated earlier the Judicial Magistrate Court and later the Sessions Judge refused police remand for Seema Azad and her husband. The prosecution applied to the Allahabad High Court which directed it to apply afresh at the lower court. This order was stayed by the court upon the application by Seema Azad and the stay was vacated by the High Court after dismissing her petition on 7th July, 2010. This was done ex-parte, so the lawyers of Seema filed a recall application in the High Court, while the hearing on this was still awaited the prosecution on the 19th July, 2010 moved the lower court and obtained an order that she be sent on police remand for 2 days from 20 July till 22nd July, 2010.

According to Seema, her lawyers and her family members, the police took Seema Azad and her husband from the Jail in the evening of the 20th July, 2010, just before sundown. She was brought to her house near Durga Puja Park at 8 pm. Without the presence of any public witnesses, her lawyers or her family members the police brought them for a house search. When they started breaking the lock of the house, Seema urged that her parents be contacted and the key could be brought. But they paid no heed and the lock was broken. It was only after the house was opened and Seema refused to cooperate if her father would not be called, they called him. Mr Srivastava came rushing with a neighbour. The police then went around the house and collected only **three** items, copies of Dastak magazine, a booklet on the Ganga expressway project and her articles published in Sahara Samay, on the basis of the disclosures made by

Seema and Vijay. .

Seema's father was then asked by the police to purchase a lock so that the house could be locked as they wanted to hand over their possession to the father. When he returned with the lock, he was asked to sign on a sheet of paper on which was mentioned that he was being handed the key to the house. He signed it. Seema's father went home and Seema and Vishwa Vijay were taken to the police station as they were to undergo a medical test the next day, before sending her back to the Jail.

In the police station the police that had taken her for the search asked Seema to sign on the same paper which she refused to do since the paper at the top was mentioned annexed papers. She insisted that she be shown all the papers only then she would sign it. She was never shown the continuation sheets so the search papers were never signed by Seema and Vishwa Vijay. It is clear that the so called recoveries could never be used legally.

In the Trial Court

In the Trial court, the STF police presented 16 witnesses, of which 14 were policemen and only two non-police witnesses. Who were officials of the Government. One was an engineer of the BSNL and another a bureaucrat of the UP Government. None of the witnesses had evidence to offer against Seema or her husband except re-stating the police story provided in the FIR. Neither did they have any eye-witness account to allege involvement in any specific crime. Nor any confessional statement.

The police witnesses merely stated that they had been informed through disclosure statements made by others arrested in different places, both before and after the arrest of Seema Azad, that Seema Azad and her husband were Maoist activists. Disclosure statements are statements to the police extracted in police custody. Such statements have no sanctity as evidence in a court of law. Moreso, when the

prosecution did not consider it fit to get the persons making such "disclosures" to present their evidence during the trial. Thus there was no valid claim presented in court that could pass the test of a trial in court.

What the court inferred

The District and Sessions Court at Allahabad pronounced its judgment on 8.6.2012 convicting Seema Azad and her husband under the Unlawful Activities (Prevention) Act, 1967 amended 2004, 2008 (UAPA) for involvement in unlawful activities (Sec. 13), for conspiracy to commit a terrorist act (Sec. 18), for being a member of a terrorist gang or organisation (Sec. 20), offence relating to membership of a terrorist organisation (Sec. 38), for giving support to a terrorist organisation (Sec. 39), and under the IPC for criminal conspiracy (S.120B), waging war against the government of India (S. 121) and conspiracy to wage war against the government of India (S.121A). They were acquitted by the court against sec 13, sec 21 and 23 (2) and sec 40 of the UAPA.

To reach this conclusion the arguments presented by the court are as follows:

1. That it is stated in the FIR that Seema Azad and her husband were questioned by the police at the time and from the place mentioned in the FIR and that upon their confession to the police they were arrested and the FIR prepared. Hence, though the law states that the confession before the police is not valid as evidence, the contents of the same being part of the FIR make it valid evidence. This is then used to conclude that Seema and her husband were arrested on the way to the railway station when they were leaving Allahabad for a meeting of the CPI Maoist party.
2. Seema has categorically stated that she was returning to Allahabad and her husband was there to receive her and that the police took her into custody many hours prior to the formal

arrest. Her brother has also stated before the court that he purchased her railway ticket and a copy of the same was produced. This evidence was rejected since it merely proved that Seema arrived in Allahabad in the afternoon, while the police states the time of arrest during the night. And the court held that what the police officers state before the court has to be assumed to be true. And since Seema was in the custody of the police from the afternoon, she cannot humanly provide any proof of the lies. ***Interestingly the phone calls details of the 6th of February, 2010 were never presented to the court which would have proved her location.***

3. Contrary to the law of the land, the court has held that the disclosures made by Seema Azad and Vishwa Vijay to the police are valid in court. This is done through an ingenious deception. It is argued that if recoveries are made on the basis of previously recorded disclosure statements, then the statements themselves become valid evidence. Thus, since the police claims that it recovered the mobile phone and a Maoist document from her house when Seema was taken into police remand, the disclosure statement magically transforms itself into a judicial confession.
4. Seema Azad has stated that her mobile phone was taken away from her at the time of her arrest which was never shown on the seizure list and that the Maoist document of 26 pages was planted on her during the search on her house. The desperation of the police to obtain her police remand even after the permissible 90 days in jail can be seen in the judgment itself. The District, Sessions and High court had all previously refused police remand for her. The importance of the police remand and the subsequent search of her house and recoveries

becomes visible through this judgment as a ploy to convert inadmissible police confession into valid legal evidence.

5. That the lack of any public witnesses at the time of arrest and seizure does not make the seizures at the time of arrest less believable, even though the arrest and search of belongings was done in a public place by the police itself. This is justified in the judgment by the argument that it should be assumed that the official work done by the police is done in a proper manner. That there are serious allegations by Seema regarding the time of arrest were brushed aside.
6. The highlighted contents of the Maoist document purportedly seized from Seema's house, then, forms the basis for an understanding the actions of the Maoists as well as the association of the accused with the CPI Maoist party and the involvement of the accused as conspirators and perpetrators of the actions referred to in the Maoist document. **This inference is drawn in the Judgment without the mention of a single incident of violence in which either of the accused was either a conspirator or a participant.** This seizure it may be recalled also was done without public witnesses and that the accused refused to sign seizure list since they were only presented the last page to sign on. This apart, the

judgment argues that the Supreme Court judgment that mere possession of a document does not prove complicity, is not applicable since the contents of the document are so objectionable. A perfect example of a paradoxical argument.

7. The documents seized from Seema and her husband at the time of the arrest were sealed and kept in the store at the police station. However, the police, without any permission from the court, broke the seal ostensibly, without taking permission from the magistrate to examine the contents, and sealed it again. This blatant disrespect of procedure that should have in normal circumstances made the police subject of the wrath of the court and raised serious questions on the authenticity of the contents, was held in this judgment to be no violation of procedure at all.
8. Finally the judgment states that a clinching piece of evidence showing connection with other members of the Maoist party is a letter written by Seema's husband to Kanchan A.K.A. Anu who was in judicial custody at Delhi, accused with Maoist affiliation. That Anu stated that she had previously stayed at the Seema's house is seen as a damning piece of evidence. Incidentally, Anu has been released on bail by the court at Delhi.

Conclusion

How did the reach court reach this

conclusion? It can only be explained by the fact that the court refused to assume the innocence of the accused. For, if it were to do that, it is apparent that the entire evidence brought forth is wholly consistent with the inference of innocence.

What makes the judicial mind lose its way, is the labyrinthine world of UAPA, and the section of crimes against the Government which are a part of the IPC. These provisions on our statute book define crimes that are trumpeted to be the most heinous and at the same time the most ill-defined.

Since these are mainly crimes to do with intention, rather than the action, disbelieving the police story by itself is regarded as the lack of concern for the nation. And then the UAPA messes about with the established procedures in a manner that innocence and guilt become relative categories, easily capable of being turned around on the current disposition of a judge or of a government.

In sum, the Judgment pronounced by the sessions court at Allahabad in the case of Seema Azad and Vishwa Vijay is a perfect example of how a large number of half-truths, inadmissible evidence, procedural violations and an obnoxious piece of legislation can convert a free citizen into a threat to national security.

This note has been prepared jointly by Kavita Srivastava (PUCL) and Harish Dhawan (PUDR)

Released on 24.06.2012 ☐

Dr. Binayak Sen Presented with the International Peace Award

On behalf of the whole PUCL family I congratulate Dr. Binayak Sen, Vice-President, PUCL on being presented with the International Peace Award at London on 13 June 2012 by the Gandhi Foundation in recognition of his "humanitarian work and practice of non-violence".

The award honours individuals and groups who have advocated and practised Gandhian non-violence but who have received little recognition for doing so.

The presentation of the award made in the Committee Room of the House of Lords was chaired by Lord Bhikhu Parekh, Emeritus Professor of Political Philosophy at the Universities of Westminster and Hull, himself a noted Gandhian.

Mahi Pal Singh, Secretary, PUCL ☐

Press Release: 15 June 2012

'Conviction of Seema Azad is a glaring travesty of Justice' Convention on 26th June, on the anniversary of Emergency

New Delhi, 15th June 2012: "The conviction of civil rights activist Seema Azad for terrorism, unlawful activities, sedition and waging war against the state is a glaring travesty of justice." This was the view shared by all the speakers at a press conference today. Justice Rajindar Sachar argued that judgment of the sessions court is based on little evidence and little application of mind. The only allegation against her is that she was in the possession of literature that the prosecution argued was illegal. But between possessing literature and committing an offence is a wide chasm that cannot be bridged by the flimsy arguments brought forth by the prosecution and accepted by the judge.

Senior Advocate Ravi Kiran argued that filing of the criminal case against Seema Azad was premeditated. This is clearly visible from even a cursory reading of the FIR. Even after the arrest of Seema Azad, the prosecution continued with its sinister motives. The literature ostensibly seized from Seema Azad which had been sealed as evidence,

was opened by the prosecution without any authorization. In normal circumstances this would make the entire evidence suspect. But the judge continued to rely on this evidence. Furthermore, he argued that Seema Azad was given on police remand after the completion of the statutory period of 90 days. It is in this illegal custody that the police claim to have seized two cell phones which are also being used as evidence against her. Given the delay and the circumstances of this custody, the possibility of wrongdoing by the prosecution cannot be ruled out.

Senior Journalist Anand Swaroop Verma has been spearheading a campaign against the verdict in the Seema Azad case and arguing for her release. He argued that the judgment was prejudiced and is an attempt to silence protest against government policy. He argued that Seema was being targeted since she was a bold voice against the takeover of farmers' lands and livelihood and exposing the reality of the witch-hunt of Muslim youth promoted by the government and its security

establishment in Azamgarh.

Writer and poet Neelabh, who met Seema more than 6 times since her incarceration urged all writers and cultural activists to come together and put their weight behind this unjust conviction and ensure that Seema and Vishwavijay are released urgently. He also said that Seema Azad's case should become the rallying point for all to come together and begin a discussion on how we can prevent the State from becoming vindictive.

A large number of academics, journalists, and representatives of various social organisations have already pledged their support to campaign for the immediate and unconditional release of Seema Azad and her husband. Justice Sachar pointed out that it is within the powers of the state government to withdraw prosecution. He urged the new government in Uttar Pradesh to nullify the wrongdoings of the predecessor government and withdraw the false charges against activists by that government.

**Mahi Pal Singh &
Kavita Srivastava**

(National Secretaries, PUCL) □

PUCL-Bangalore: 16 June 2012

Press Release on Seema Azad's Conviction

Members of People's Union for Civil Liberties, Bangalore, and several other organisations* gathered today in front of Town Hall, Bangalore to express their outrage at the unjust sentencing of Seema Azad and her husband Vishwavijay Kamal by the Allahabad lower court to a rigorous life imprisonment. The ruling was based on fabricated charges of 'waging war against the state',

'criminal conspiracy' and various sections of the draconian Unlawful Activities (Prevention) Act [UAPA]. Seema and Vishwa were picked up on Feb 6, 2010 under the outdated and abused Sedition and UAPA charges for carrying 'objectionable' and supposedly Maoist literature. PUCL condemns the prolonged and false incarceration of Seema Azad and Vishavijay Kamal and demands

the current travesty of justice be rectified.

Arati Chokshi, General Secretary,
PUCL Bangalore

***Alternative Law Forum, People's Democratic Forum, Sangama, Visthar, Women Studies-United Theological College, People's Solidarity Concern, Sadhana Gumpu and individuals** □

Report on Meeting of the PUCL National Secretaries and other Office Bearers

A meeting of the PUCL secretaries and others was held in the national office on 29 April 2012

The following attended the meeting: Justice Rajindar Sachar, Prabhakar Sinha, Ravi Kiran Jain, Binayak Sen, Pushkar Raj, Kavita Srivastava, V. Suresh, Chitaranjan Singh, Mahi Pal Singh.

The following issues were discussed.

1. It was reported that there are a large number of interns, about 90 or so are coming this summer. Pushkar Raj has delegated the responsibility to supervise the interns to Mahipal ji who will give them projects to work on. It was stated in course of discussion that some interns had told some people that the interns were required to pay Rupees one thousand and become Life members of the organization. Pushkar Raj clarified that it was purely voluntary and there was no question of its being a requirement. However, it was decided not to enroll the interns as life members as it might be misunderstood. Suresh suggested that we could organize a workshop on legal issues for the benefit of the interns. The suggestion was received with appreciation and accepted in principle.

2. Pushkar Raj leaves the country by 24 May 2012. The national office work needs to be continued in his absence till a regular arrangement is put in place after the national convention. Regarding the mails that come to the national office Mahi Pal Singh will look at them first and then forward them to the other Secretaries and the President for information and the needful.

3. Regarding the petition against the sedition law to the petition committee it was reported by Pushkar Raj that a rejoinder has been sent to the committee arguing further on the issue and for repeal of the law and shortly the committee is likely to call us for oral or written submission. Besides representation to the committee it was suggested that we shall try to meet the Law commission also.

4. The National Council meeting will be held in Delhi on 4-5 August 2012. The National Convention will be held before the end of the November. Kavita has proposed that it could be held at Jaipur. In case any other state is willing to hold it, the views can be elicited and place can be finalized with mutual consultation.

5. The Jharkhand issue was

discussed in the meeting. It was reported by the General Secretary that elections of the new executive of Jharkhand has been held under the national office observers in early April 12. It was decided that the new executive committee should be encouraged to be inclusive and adjusting in its functioning and it should try to strengthen the activities of the organization in the state.

6. It was reported that many people who were the members of Uttar Pradesh PUCL were not called for the state convention recently held in Benaras. The National PUCL has received a complaint on this. It was suggested that a letter should be sent to the UP PUCL General Secretary asking for her response to it.

7. It was suggested that a fact-finding should be sent to Jammu and Kashmir on threat to witnesses that have deposed on extra judicial killings. The meeting decided that a fact-finding could be sent to Kashmir with a limited mandate to inquire into the aspect of threats to the witnesses which is an interference in functioning of process of law.

Pushkar Raj, General Secretary, PUCL National □

Qateel Siddiqi Killed in Judicial Custody. Who is Responsible?

Twenty-seven year old Qateel Siddiqi, arrested in November 2011 by the Special Cell for his alleged IM links, has been killed in Yerwada Central jail in Pune today. The murder has ostensibly been carried out fellow inmates for unknown reasons. Qateel had been shifted to Yerwada only a few days ago after the Maharashtra ATS had taken his custody for a test identification parade.

- Qateel's killing raises several important questions:

- Siddiqi was kept in high security jail and not in the common barracks. How then did the attack take place?

- Could the attack have taken place

without the complicity, even if passive, of the Yerwada jail authorities?

- Given the claim of the investigating agencies that Qateel was the key to unraveling the IM network, what happens now to those investigations?

- The fact that Siddiqi was to be moved out of the Yerwada Jail and was eliminated just before that smacks of a conspiracy.

While custodial violence is endemic and almost institutionalized, Maharashtra Jails are also notorious for attacks on accused, particularly on those accused of terrorism. The brutal violence unleashed on the

Mumbai train blasts accused in the Arthur Road jail three years ago, at the behest of the jail authorities, comes immediately to mind. It is obvious that undertrials, especially those charged with crimes like terrorism, are not safe in Maharashtra jails.

All accused in judicial custody are directly under the care of the judiciary and as such it is the judiciary's responsibility to ensure their well-being and safety. We hope therefore that the Mumbai High Court will take suo motu notice of this killing and initiate action in the matter.

We demand that:

1) An FIR under section 302 be filed

immediately for the Killing of Qateel Siddiqi

2) Compensation should be granted to the wife of Qateel Siddiqi for his killing in judicial custody

3) An impartial enquiry should be constituted to investigate into the

killing.

Further, the dead body of Qateel Siddiqi must be transported for his burial to his hometown at the cost of the Maharashtra State, given also that the family is too poor to bear the expenses.

Sd/-

Manisha Sethi, Sanghamitra Misra, Ahmed Sohaib, Adeel Mehdi, Tanweer Fazal (for JTSA), **Shabnam Hashmi and Bhawna Sharma** (for ANHAD), **Colin Gonsalves, Harsh Dobhal and Mahtab Alam** (for HRLN) □

Press Statement on the Murder of Qateel Siddiqui: All India Muslim Majlis-e-Mushawarat

New Delhi, 9 June 2012: The cold-blooded murder of Qateel Siddiqui in Pune's Yarvada high security jail yesterday is yet another proof that the life of a Muslim is no longer safe in India even behind the walls of a high security jail.

This cold-blooded murder comes in quick succession after a number of cases where security agencies' high-handedness in dealing with Muslim youth on flimsy charges and mere suspicion gives away the game of the administration's war against the Muslim community in the name of fighting "terror".

Only days ago two Kashmiri young students were kidnapped by unknown security agencies at Aligarh and only one of them was later released after the educational institution filed a habeas corpus case in Allahabad High Court.

It is now almost a month that Fasih Mahmood, an Indian Muslim engineer, suddenly disappeared in Saudi Arabia at the request of Indian authorities which are still not clear

about the charges against him.

Earlier Journalist Kazmi was arrested on unknown charges and remains in custody while Hindutva terrorists are getting bail and feeling confident enough to hold a conference in Goa.

The murdered accused, Qateel Siddiqui, was a law-abiding citizen of this country. Despite the passage of seven months on his arrest, the agencies have not been able to file a chargesheet against him, while he has been consistently tortured in custody to force him to sign a fake confession as it happens now in almost all such cases. His murder has been arranged at the hands of a criminal already incarcerated on murder charges. It seems the reason is to use Qateel's fake confession in courts against other accused since he will no longer be there to deny and refute the forced confession attributed to him.

We hold the Maharashtra ATS chief Rakesh Maria, the head of National Investigation Agency Sarat Chandra Sinha and the Home Minister P.

Chidambaram personally responsible for this cold-blooded murder. We demand a judicial enquiry by a sitting high court judge. We reject with contempt the mere suspension of the jailor and a CID enquiry. The jailor will be reinstated soon and the CID enquiry will not go against their own ilk.

We appeal to the national and international human rights organisations to take notice of the situation in India where sections of the administration are fighting a war against the country's largest religious minority in the name of fighting "terror", while the security agencies themselves are the biggest culprits and excel in fabrication of cases and use torture to force the accused to confess to crimes they never committed. The aim is to demoralise the Indian Muslim community and to slow down its educational and social progress.

Dr. Zafarul-Islam Khan, President, All India Muslim Majlis-e-Mushawarat □

Targeting Innocents: State and Human Rights of Minorities

Ram Puniyani

In Kalyan a Muslim youth Bilal Shaikh was slapped with a non-bailable cognizable offense (May 2012) under section 333, after he jumped the traffic signal. He was assaulted brutally by the police for having arguments with them, suffered a fracture in right arm and was in jail for eight days. The policemen who beat him up got released with the non-cognizable warrant.

Another Muslim youth Mohammad Amir Khan, age 18, preparing for his school exam, was abducted by police, charged with being the mastermind of serial blasts in Delhi, was charged under all the possible sections, tortured in jail for 14 years and finally released in 2012 when no evidence was proved in the courts.

In the series of blasts, for which now Aseemanand-Pragyasingh Thakur and company is now cooling the

heels in jails, many a Muslim youth were arrested after every blast in Malegaon, Mecca Masjid (Hyderabad), Ajmer and Samjhauta Express. In all the cases the Muslim youth had to be released as police had no credible evidence of any sort. In the meanwhile many of them had to drop out from their studies and their careers were ruined.

In the recently released (June 2012) report by Tata Institute of Social

Sciences, the observation is that 36% of the jail inmates in Maharashtra are Muslims while the population of Muslims in the state is close to 10.6%. The report was sponsored by the Maharashtra State's Minorities Panel. The findings of the report are in conformity with the Sachar Committee report and general observation of Human rights activists.

Most of the arrests of Muslim youth are prompted by the prevalent stereotype of 'Muslims are criminals, terrorists'. These stereotypes are highly prevalent not only in society but also amongst the bureaucracy, particularly the police and amongst intelligence agencies. Many in the police force are totally in the grip of communal thinking and with their infinite power they unleash themselves against the Muslim youth at every conceivable opportunity. The rise of communalization of society and more particularly after the coming up of the terrorism of Al Qaeda variety, the stereotypes about Muslims have worsened. One recalls that this type of terrorism was subtly brought up by United States for pursuing its goal of controlling the oil wealth. The attitude of authorities has become more anti minority and this in turn has undermined their professionalism and they are guided more by their biases than by the rules of law.

There are multiple reasons for the Muslim youth being targeted by the state authorities. True, that some Muslim youth have fallen prey to the illegal activities due to the abject poverty which they have to suffer. Still the major reason for their being indiscriminately arrested by the police relates to the misconception regarding acts of terrorism and communal violence.

In communal violence, the major culprit instigating the violence are the majoritarian communal forces. The study of different inquiry committee reports by Teesta Setalvad (Communalism Combat, March 1998) shows that in most of the cases of violence it is the RSS related organization, already prevalent or floated specially for the occasion, which is in the lead. Even

in Mumbai violence, Shrikrishna Commission held Shiv Sena as the major factor leading the violence. As such Muslims are 13.4% of the Indian population according to 2001 census, but amongst the violence victims 90% are Muslims. Police and many a times political leadership takes the attitude which increases the insecurity of the community.

The worst part of this phenomenon is that in popular perception it is alleged that it is Muslims, who start the riots. Dr. V.N. Rai, who has done a major study on the communal violence points out that generally a situation, is created where the minority community is forced to throw the first stone on many occasions. To worsen the matter, after the violence the majority of those who are arrested for communal violence are Muslims again.

The recent acts of terror and attitude of police are very reflective of the whole process. In most of these acts of terror, Malegaon, Ajmer, Jaipur and Samjhauta Express blast, many a Muslim youth were arrested as the ones who have done the act. Police machinery produced evidence of their involvement with some Pakistan based terror group; SIMI was always blamed for many of these acts. Even at that time there were enough pointers that police investigation and action defies common sense. Police had the standard formula for arresting Muslim youth after every blast. They made it a practice to implicate the Muslim youth and put on their head the charge of blast and their link with Lashkar-e-Toiba, Indian Mujahideen, SIMI or some such group. Social activists kept pointing to the authorities about the leads showing in another direction from where the acts of terror were emerging. Police totally biased with prejudiced mindset kept on repeating the same pattern over and over again.

Once Hemant Karkare's immaculate investigation showed the link of Malegaon blast to Sadhvi Pragya Singh Thakur's motor cycle and her links with many Hindutva groups the matters came to a halt. Sadhvi's links with Swami Dayanand Pandey, Lt Col Prasad Shrikant Purohit, retired Major Upadhya, Swami

Aseemanand and many others of Hindutva ideology revealed that police till then was totally acting in a wrong manner. In this light Human Rights organization ANHAD (Act Now for Harmony And Democracy), organized a tribunal in Hyderabad, 'Scapegoats and Holy Cows'. The report of this tribunal was very damning of the actions of the investigation authorities and the state. Logically with the arrest of Saffron terror gangs the acts of terror seem to have come to a halt.

Despite this, the attitude of police remains as biased as before and in the day-to-day life they display this partisan behaviour. This biased attitude of state machinery, police and intelligence authorities in the main, has been ruining the life and careers of many a Muslim youth. The feeling of insecurity amongst the community as a whole is on the rise. This feeling of insecurity is crippling the possible growth of the community. Those implicated in such acts are also boycotted by the community and have faced immense personal, social and economic losses. It is time that the Human Rights groups intensify their campaign to protect the innocent Muslim youth, the legal measures need to be strengthened whereby the police cannot exercise its biased attitude in arresting any Muslim youth. Measures are needed to ensure that police-intelligence agencies takes up more professional attitude overall and more particularly in the matters related to minority youth. The Government needs to wake up and apply the correcting measures.

Apart from preventive legal steps we also need to work against the prevalent social biases against Muslims in particular. The myths against the community, which are historical and contemporary issues, which are related to the causes of acts of terrorism need to be countered by spread of truth about these myths. It is the duty of state and social organizations to undertake and promote such awareness programmes through lectures, workshops, popular booklets and through mechanisms like T.V. and media in particular.

The other viewpoint:

Babasaheb Ambedkar Cartoon: On Sensibilities, Lies and Half Truths

Umakant*

The cartoon controversy evoked strong condemnation from the academic community against the move by the government and the political parties to curtail academic freedom and also the right of freedom of speech and expression under which political satires in the form of cartoons and caricatures should be preserved or else the new pedagogical initiative will lose its significance. In this age of finding quick fix solutions and lampooning politicians as boor and uncultured has become a norm with which even liberal and secular intelligentsia is not free. An attempt has been made here for an informed debate by giving an honest assessment by picking up issues which certainly deserve to be judged on their merit. There are certainly more issues involved than what meets the eye!

Babasaheb Ambedkar cartoon in a text book for Class XI entitled "Indian Constitution at Work" prepared by National Council for Educational Research and Training (NCERT) created a storm in the Indian Parliament where the Dalit Members of Parliament raised the issue and forced the Government to order a review and the subsequent withdrawal of the offensive cartoon in which Jawaharlal Nehru is shown whipping a snail on which Dr. Ambedkar is sitting. This and other cartoons are part of the new text books prepared by the NCERT under the National Curriculum Framework (NCF 2005). It claims to start a new pedagogical shift in the school textbooks wherein classroom teaching is to be done with the help of cartoons, caricatures and illustrations so as to make the teaching as well as the learning process in a more relaxed way and which is also easier for students to comprehend and learn.

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judged on their merit. There are certainly more issues involved than what meets the eye!

Let us first examine whether the issue of slow pace of writing the Indian Constitution was based merely on hearsay or was it based on facts and logic. One will have to revisit the Constituent Assembly Debates to know the truth. This is what Mr. T.T. Krishnamachari had to say after Dr. Ambedkar tabled the first draft of the Constitution for discussion in the Constituent Assembly of India on 5th November 1948.

"Mr. President Sir, I am one of those in the House who have listened to Dr. Ambedkar very carefully. I am aware of the amount of work and enthusiasm that he has brought to bear on the work of drafting this Constitution. At the same time, I do realise that the amount of attention that was necessary for the purpose of drafting a Constitution so important to us at this moment has not been given to it by the Drafting Committee. The House is perhaps aware that of the seven members nominated by you, one had resigned from the House and was replaced. One died and was not replaced. One who was away in America and his place was not filled up and another person was engaged in State affairs, and there was a void to that extent; one or two people were away from Delhi and perhaps reasons of health did not permit them to attend. So it happened ultimately that the burden of drafting this

Constitution fell on Dr. Ambedkar and I have no doubt that we are grateful to him for having achieved this task in a manner which is undoubtedly commendable...."

While replying to the motion after members finished their intervention for the third and the final reading of the Draft Constitution, Dr. Ambedkar in his speech on 25 November 1949 said,

"Sir, looking back on the work of the Constituent Assembly it will now be two years, eleven months and seventeen days since it first met on the 9th of December 1946... Coming to the Drafting Committee, it was elected by the Constituent Assembly on 29th August 1947. It held its first meeting on 30th August. Since August 30th it sat for 141 days during which it was engaged in the preparation of the Draft Constitution. The first Draft Constitution as presented by the Drafting Committee to the Constituent Assembly contained 315 articles and 8 Schedules. At the end of the consideration stage, the number of articles in the Draft Constitution increased to 386. In its final form, the Draft Constitution contains 395 articles and 8 Schedules. The total number of amendments to the Draft Constitution tabled was approximately 7,635. Of them, the total number of amendments actually moved in the House was 2,473.... In making comparisons on the basis of time consumed, two things must

be remembered. One is that the Constitutions of America, Canada, South Africa and Australia are much smaller than ours. Our Constitution as I said contains 395 articles while the American has just seven articles, the first four of which are divided into sections which total up to 21, the Canadian has 147, Australian 128 and South African 153 sections. The second thing to be remembered is that the makers of the Constitutions of America, Canada, Australia and South Africa did not have to face the problem of amendments. They were passed as moved. On the other hand, this Constituent Assembly had to deal with as many as 2,473 amendments. Having regard to these facts the charge of dilatoriness seems to me quite unfounded and this Assembly may well congratulate itself for having accomplished so formidable a task in so short a time".

Dr. Rajendra Prasad, President of the Constituent Assembly had this to say on 26 November 1949:

"It has undoubtedly taken us three years to complete this work, but when we consider the work that has been accomplished and the number of days that we have spent in framing this Constitution, the details of which were given by the Honourable Dr. Ambedkar yesterday, we have no reason to be sorry for the time spent".

Considering the clarifications given by Babasaheb Dr. Ambedkar and Dr. Rajendra Prasad in the Constituent Assembly, is it fair to accept Shankar's cartoon worthy of being included in a textbook on Constitution of India? If yes, then why this note of explanation is missing in the book? These questions must be looked into with an open mind and a proper perspective and should also be answered by all the stakeholders. The Shankar's cartoon on Ambedkar has to be seen in a context to understand the meaning and also perhaps the motive behind it. The time when the cartoon came in 1949, there was a general sense of

expediting the process of Constitution making exercise by the Indian National Congress members. The overwhelming presence that the Indian National Congress enjoyed in the Constituent Assembly had made them little impatient and this was reflected in their attitude and also the views that they displayed after Dr. Ambedkar submitted the first draft of the Constitution. Dr. Ambedkar was accused for disregarding the traditional value system, gram swaraj, for borrowing everything from the American, European and Australian Constitutions. There were members who wanted that more Congress-minded members should have been in the Drafting Committee so as to represent the principles and thoughts of the people who brought this Assembly to fruition and whose desire could have been reflected in the draft. While other members accused Dr. Ambedkar for not following the Objective Resolution. Some members were also miffed about Dr. Ambedkar's bold statement wherein he equated village republic to, 'a sink of localism, a den of ignorance, narrow mindedness and communalism'. On the other hand there were members who accused Dr. Ambedkar for going beyond the terms/ main principles laid down by the Constituent Assembly. They were of the view that in the draft Constitution, they did not find any trace of Congress outlook, and no trace of Gandhian social and political outlook. And that is how the Drafting Committee's work was not worthy of any commendation, it was below par. It was even called "Drifting Committee" by a non-Congress member.

On a careful reading of the Constituent Assembly debates one could find that most of these members did not like the work done by Dr. Ambedkar and the Drafting Committee. These were also perhaps reflected in media coverage around that time. But when the article and clause wise discussion started Dr. Ambedkar was able to clarify their misgivings and also convinced a large number of them for going beyond traditional mindset and prepare a Constitution for a modern India and not an India of the past. Equality is always among the equals!

In a society where there are no level playing fields in any sense of the term be it social, cultural, religious, economic and political, how could one assume that every section of society would have same kinds of sense of humour? A sense of humour is always embedded in caste, racial, gender, class and religious norms. It is very easy to blame the victims for their wretchedness but difficult to understand their predicaments. Empathy is good but when it turns into patronising and sermonising tendencies then it loses its sanctity. The sensibilities are always grounded in greater understanding of social and cultural disabilities that defines an individual's and even community's standing in society. Manu- the Brahmanical Hindu law giver, may have died long ago, but the code of conduct as propounded by him has not only survived but is alive and ticking in several overt and covert forms even now. Whereas on the other hand the reverence that Babasaheb commands symbolises the urge for excellence in the face of adverse and hostile situations and the urge to change the iniquitous socio, cultural, religious, economic and political order into an egalitarian system based on the notion of liberty, equality and fraternity. Babasaheb has certainly emerged as a symbol of hope, equality and justice.

The response that has come so far from the media and by several of the social scientists raises some vital questions and should force every right thinking person to search for answers if they believe in being fair, objective and judicious. Arrogating cartoonists, artists, writers, academics, judges and several others beyond criticism and according a super human status meaning thereby that whatever they do is all fine and good and everything that they produce should be protected at all cost in the name of right to freedom of speech and expression. Are all rights that are enshrined in our Constitution 'absolute'? Does freedom of speech and expression give a license to denigrate someone or something? Is it not an example of Brahmanical knowledge system?

While speaking on the motion after introducing the Draft Constitution on 4th November 1948, Dr. Ambedkar observed that what the Draft Constitution has done is that instead of formulating fundamental rights in absolute terms and depending upon our Supreme Court to come to the rescue of Parliament by inventing the doctrine of police power, it permits the State directly to impose limitations upon the fundamental rights.

Similar Kinds of Cases from Other Countries in Recent Times

Cartoons/caricatures, political satires, paintings, books etc. have all been accused of being biased on one pretext or the other since a long time. India is not an exception in this regard. One such controversy arose in the United States of America in 2009. New York Post, a newspaper belonging to the Rupert Murdoch group, apologised over a 'racist' Barack Obama cartoon linking him to a chimpanzee. (<http://www.telegraph.co.uk/news/worldnews/barackobama/4724866/New-York-Post-apologises-over-racist-Barack-Obama-cartoon.html>). Even as recent as February 09, 2012, a fresh cartoon controversy featuring Barack Obama was reported from New Orleans. Some parents complained that some of the political cartoons created for a Middle School assignment could incite violence and should not have gone on display. They were particularly upset by an image of President Barack Obama on which a bullet hole was drawn. The cartoons were among many drawn for a social studies class at Boyet Junior High in Slidell, a predominantly white suburb of New Orleans. Administrators took down the entire exhibit. (<http://www.wbrz.com/news/middle-school-obama-cartoons-causes-controversy>).

On April 19, 2012 news item was reported about a genocide cartoon in French school which shocked Turkish students. Two Turkish students in a French school reacted after a cartoon depicting a Turk carrying a basket full of skulls with the words "Armenian Genocide" written on its side was shown in class. The incident occurred at the College Anatole France high school

in the city of Montbéliard in France's Comte region. A teacher displayed a cartoon during a geography and history class and asked students: "What do you understand from this cartoon? Why can Turkey not join the EU according to this cartoon?" The families of the students notified the anti-racism COJEP International foundation. COJEP President Ali Gedikođlu said they would bring the cartoon to the attention of the authorities in France and file a complaint with the French Education Ministry to have the cartoon removed from the curriculum. (<http://www.hurriyetdailynews.com/genocide-cartoon-in-french-school-shocks-turkish-students.aspx?pageID=238&ID=18820&NewsCatID=351>). South Africa is currently witnessing a court battle over a painting depicting President Jacob Zuma with his genital exposed. The art work forms part of Bret Murrey's Hail to the Thief II exhibition running at the Goodman Gallery. It is inspired by an iconic image of Lenin, and shows the President with his genital on display. "The presidency is shocked and disgusted at the grotesque painting by Brett Murray depicting President Jacob Zuma in an offensive manner," spokesperson Mac Maharaj said. "We are amazed at the crude and offensive manner in which this artist denigrates the person and the office of the President of the Republic of South Africa." "Nobody has a right to violate the dignity and rights of others while exercising their own," he said. (<http://mg.co.za/article/2012-05-17-ancillate-over-spear-of-the-nation-artwork>). The battle over the controversial artwork is being currently fought on the streets and in the Court after first coming to light in the middle of May 2012. The court hearing has been postponed and even the City Press has withdrawn this controversial artwork from their website. The original artwork was defaced by two persons in the third week of May. (<http://mg.co.za/article/2012-05-28-mthembu-denies-any-split-in-anc-over-spear>). Zuma filed a case against political caricaturist Zapiro and sued him for R5-million after he depicted Zuma

about to rape a blindfolded Lady Justice, unbuckling his belt as she was held down by his political partners in the tripartite alliance. The matter is still before court after Zuma first laid the charge in 2009.

Are we to learn any lesson from the cases cited above? I would leave it here to readers to take an informed decision of their own by judging each case on its merit.

Glaring Omissions, Lies and Half Truths

Any book on Constitution of India should ideally start with a brief history of legislative initiatives that were taken during the British rule and how they paved the way for future political development. It is also surprising that there should be three cartoons on the inability of people in other countries to frame up their Constitution. The cartoon on page no. 5 about inability of people to frame up a Constitution for European Union and again on page no. 9 a cartoon depicting warring groups- Shia, Sunnis and Kurdish and thereby unable to get ready to write a Constitution in Iraq and again on page no. 14, a cartoon entitled 'castle of cards' with reference to the new Iraqi Constitution with a caption asking students, "Would this description also apply to the Indian Constitution?" is highly unwarranted and may create negative impressions about internally divided Muslims in Iraq. It certainly defies a rational logic. What have the author/s of this book tried to do? Where was the need for taking such high moral grounding?

The section on composition of the Constituent Assembly on page no. 16 could also have been prepared in a much better way. What was guiding principles on which members were to be elected? How many provinces were to be covered? What was mode of electing the members? Who were the stalwarts who got elected from the Congress Party? Is it enough to say that Congress Party had an overwhelming majority as it occupied 82% of the seats? Which other Political Parties were represented? This section also provides information about 26 members from what were then known as the 'Scheduled Classes'. The question that needs to be asked

here is this: "From where did the author/s get this information that they were called Scheduled Classes?" Right from the time the list was prepared and appended to the Schedule 1 of the Government of India Act, 1935, it is always mentioned as Scheduled Castes. Even the figure of 26 is little doubtful. Initially there were 30 members belonging to Scheduled Castes. But with partition of the country, some of the Scheduled Caste members lost their membership. Dr. Ambedkar while speaking in the Constituent Assembly on 11 October 1949 indicated there were only 28 members belonging to Scheduled Castes as on that day. It is wrong to say that the Constituent Assembly had only eight major Committees on different subjects and usually Jawaharlal Nehru, Rajendra Prasad, Sardar Patel, Maulana Azad or Ambedkar chaired these Committees. This information is mentioned under the title: 'Procedure' on page no. 18. It would have been good if the author/s had done some more research and mentioned about 17 different Committees along with the names of chairmen respectively, which were set up during this period of constitution drafting. This information about 17 important Committees along with the name of its Chairmen is available on the website of Indian Parliament. (<http://parliamentofindia.nic.in/ls/debates/facts.htm>). It is also important to see how the issue of 'Objective Resolution' has been presented and what has not been shared in this book. In the second paragraph under the title 'Inheritance of the Nationalist Movement' on page no. 19, it is written like this: "Perhaps the best summary of the principles that the nationalist movement brought to the

Constituent Assembly is the Objective Resolution (the resolution that defined the aims of the Assembly) moved by Nehru in 1946. This resolution encapsulated the aspirations and values behind the Constitution". Yes, there was near unanimity on this as the Constituent Assembly was in complete control of the Congress. But there were dissenting voices too. Dr. M.R. Jayakar and Dr. Ambedkar had serious objections to certain aspects of the resolution that was piloted by the Congress leadership. But it does not find any mention here. The resolution was adopted on 22 January 1947 without the presence of the Muslim League and any representative from Indian States, meaning Princely States. A short note on points raised by Jayakar and Ambedkar would have certainly been a good example of a balanced and more nuanced approach to dealing with this resolution. The minority situation in the country still remains unresolved to great extent and we must try for a sincere and genuine effort for a peaceful co-existence on equal footing i.e. integration at par with each other in place of assimilation that was advocated by Patel and the Congress leadership, which unfortunately continues in many forms even now. In a highlighted item on page no. 42, the information about National Human Rights Commission (NHRC) of India is an example of gross error. It has been mentioned that it was set up in the year 2000. Is there any need to remind them that NHRC was established in 1993 after the Parliament of India enacted Human Rights Act, 1993? The question that needs to be raised here how could other Constitutional and Statutory bodies like National Commission for Scheduled Castes, National

Commission for Scheduled Tribes, National Commission for Women and National Commission for Minorities be completely ignored? It is also quite baffling to find cartoons, collage of news items and even reproduction of news items in Hindi language in a book which is written in English language and that is meant to be taught in English medium schools. How could the writer/s assume that teacher and students would be able to understand these knowing it fully well that Hindi is neither a mother tongue nor a medium of instruction in schools in different parts of India? There are other critical issues like Fundamental Duties, Constitutional Safeguards for Scheduled Castes and Scheduled Tribes and a host of several other matters that has not been sufficiently dealt with. Issues like separate electorate continues to be demonised whereas the defects of joint electorate system and the first past the post system are never highlighted. It is in this regard that a need has been felt for a revision/ review of all the text books that have been prepared under NCF- 2005. This will certainly help not only in rectifying errors but also in putting several issues in perspective and also with required sensibilities. This appeal must be taken in right earnest to further strengthen the new pedagogical shift that started with NCF- 2005. *Dr. Umakant earlier worked at Indian Institute of Dalit Studies, New Delhi and has been associated with National Campaign on Dalit Human Rights for close to a decade. He currently works as an independent researcher and human rights advocate based in New Delhi. He could be reached at: <uk4in@yahoo.co.in> **Courtesy Countercurrents.org, 06 June 2012** □

Humour is by No Means Exempt from Prejudice

A petition submitted to Prof. Sukhadeo Thorat, Chairperson, NCERT Textbooks Review Committee, by leading Dalit and non-Dalit writers, scholars and activists.

When NCERT's Class XI Political Science textbook, Indian Constitution at Work, came to the attention of some Dalit activists, they objected to the manner in which

the Chairman of the Drafting Committee of the Constitution, Dr. B.R. Ambedkar, had been depicted riding a snail representing the Constitution, with Prime Minister

Jawaharlal Nehru wielding a whip behind him and an entire crowd smiling and watching the spectacle. Six weeks later, the issue was raised in Parliament and a chorus of MPs

cutting across party lines sought the withdrawal of the cartoon, and some even of the NCERT textbooks. Many sections of the public had not been privy to the contents of the textbooks in the past six years. It is only now that these textbooks are being debated.

We, the undersigned, are dismayed by the two polarised sets of reactions that have emerged. Firstly, many members who were part of the textbook advisory committee for the senior secondary level, including Chairman of the committee Prof. Hari Vasudevan, and Chief Advisors Suhas Palshikar and Yogendra Yadav, have since protested against the demand for reconsidering the use of this insensitive cartoon. Subsequently, many members who have been part of various textbook development committees have argued that the textbooks should remain unchanged; and have been silent about the violence of the cartoons. This is a rather untenable position. We find it insulting when some intellectuals suggest that people protesting the cartoon fail to understand the "productive power of laughter" or that there's a "fear of cartoons". The textbooks, however good they are and even if they mark a radical departure from past efforts, cannot be above criticism, discussion and improvement. This logic, in fact, goes against the stated aim of these textbooks: to engage sceptically and critically with what one reads. Indeed, each of the new NCERT textbooks solicits feedback, criticism and suggestions. The textbook writers may have tried their best to overcome their caste bias, but none of us is exempt from the baggage of caste, gender or other interests. As the feminist movement has so clearly shown, humour is by no means exempt from prejudice. Cartoons and jokes can be vicious about minorities. Hate speech often masquerades as humour. Jokes and cartoons need to be subjected to

critical scrutiny.

Secondly, we do share the fear that in the name of handling the contentious cartoon on Dr. Ambedkar, the UPA government might attempt to remove many cartoons and other visual/textual material from the textbooks. Crucially, these textbooks feature several posters from the women's movement, the Dalit movement and the environmental movement. Also to be commended is the inclusion of a wide range of literary texts by Dalit writers. However, the textbook writers must realise that they have not done a favour to Dalits by such inclusion, which was long overdue. There's a lot that is good about these textbooks - a result of the pressures that the women's movement, the Dalit movement, environmental and farmers movements, anti-SEZ mobilisations exerted - that may be lost if the final say about what may or may not appear in a textbook is to be with the state.

These textbooks have been drafted collectively by a wide range of social scientists, including some academicians who happen to be Dalit, and in consultation with activists, NGO representatives and educationists working at the field level. However, it is not as if these textbooks are completely error-proof. Besides the offensive cartoon, the text in the Class XI textbook does not ever properly introduce Dr. Ambedkar. The text does not inform the students that a Drafting Committee chaired by Dr. Ambedkar drafted the Constitution. In the absence of a proper discussion of Dr. Ambedkar's role in the Constituent Assembly, the violence of the cartoon is all the more palpable. We urge the Thorat Committee to make the necessary changes in the text as well.

We wish to express dismay over the adamant attitude of some of our academic friends who seem to treat the cartoon as sacrosanct. The

implication that "dalit intellectuals have unwittingly played into the strategies of politicians" is indefensible to say the least. The lack of understanding expressed by the "intellectual classes" towards the Dalit viewpoint has been saddening. The Dalit question has always been historically deflected and postponed in this manner. When Dr. Ambedkar and the early Dalit movements raised the question of caste, the nationalist movement said the anti-colonial struggle was more important; when the issue of caste was raised in the feminist or Left movements, it was considered divisive; when Adivasis raised the question of representation in the leadership of dam evictees' movements, the stopping of the dam was made paramount.

We wish to bring to your attention that many Dalit activists and scholars, including some young Dalit students in the University of Pune, not only condemned the act of vandalism at the office of Prof. Palshikar, but even guarded his office from further attacks. This went unreported in the media.

We are also deeply saddened that because of this one aberrant act, the otherwise democratic and rational engagement with this issue that Dalits and some non-Dalit intellectuals opposed to the cartoon have engaged in - through news media, blogs, Facebook, and the Internet - has been portrayed as emotional and infantile. The Dalit movement has been one of the most democratic movements in this country. And for Dalits a whip is a vulgar reminder of everything feudal and casteist about this society. As the dalitbahujan feminist blog Savari says: "The whip is inseparable from violence against slaves, dalits, women, animals and children. Almost all histories of protest against injustice, be it feminism, anti-slavery, anti-caste or anti-apartheid movements have protested and continue to protest the symbolic

violence in imagery that uses instruments of violence such as the whip, noose or chains." That the advocates of critical pedagogy do not see this as such is regrettable.

It is time we realised that there is a permeable boundary between the symbolic violence of such a cartoon and the tolerance of such cartoons by academics on the one hand, and atrocities like Bathani Tola, Melavalavu, Chunduru or Khairlanji on the other. Quite often the iconicity of Dr. Ambedkar has been used by Dalits to assert their democratic rights. And the struggle against the cartoon is indeed a democratic struggle - even if the mainstream and alternative media have portrayed it as otherwise.

At this stage, we petition the Thorat Committee set up to examine the textbooks to reconsider the Ambedkar cartoon (and possibly other such insensitive material). While we demand that the NCERT take into account the wide range of criticisms and feedback the textbooks have elicited, we also urge Kapil Sibal, the Union HRD Minister, to desist from seeking any major overhaul of the basic NCF framework of the textbooks.

We also think this is the occasion to seek fair representation of Dalits and other social minorities in NCERT's various committees, as well as in the Senates and Syndicates of Central and State Universities; and

to introspect on why Dalits and Adivasis, despite constitutional provisions for 22.5 per cent reservation, occupy less than three per cent of faculty positions.

Omprakash Valmiki, Namdeo Dhasal, Bama, Siddalingaiah, Urmila Pawar, G. Kalyan Rao, Imayam, Ravikumar, K. Satyanarayana, Susie Tharu, S. Anand, M.R. Renukumar, Rekha Raj, Ajay Navaria, Rajni Tilak, Gogu Shyamala, P. Sivakami, Paul Divakar, Sharmila Rege, Raj Kumar, N. Sukumar, Sanal Mohan, Ajay Skaria, Radhika Menon, Meena Kanasamy, V. Geetha, S. Japhet, Uma Chakravarti and Bharat Patankar. □

Trust Deficit: People's Struggle at Koodankulam

S.G.Vombatkere*

People demand information

Before locating a mega or large project on the ground, the suitability of suggested or possible multiple sites is based upon site evaluation of each, which is a scientific-technical-managerial-administrative process. Comparison of the advantages and disadvantages of the sites obtained by the evaluation studies determines final choice of the site, which is essentially a political decision. The final responsibility rests, as it should, with the political executive.

Ideally, the people who live in the intended sites and surrounding areas - the affected people, who are the primary stake-losers - and their political representatives should be kept in-the-loop from the early project proposal stages so that their collective prior informed consent is obtained. But ideal situations do not exist. Experience over decades shows that when affected populations come to know of projects planned in their neighbourhood, they are apt to object on various grounds. More recently, objections have been more frequent and more intense. Objections lead

to questioning government decisions and demands for information. Among the documents demanded, people seek information that led to the decision to choose their particular area over other possible areas for the project. That is, they call for the site evaluation documents. But even democratically elected governments are reluctant to provide documents, and the Right to Information Act is frequently invoked to literally squeeze information out of unreasonably secretive governments.

Koodankulam

With considerable effort and commendable patience, the people who are protesting against the Koodankulam Nuclear Power Plant (KKNPP), invoked the Right to Information Act and succeeded in moving the Central Information Commissioner (CIC) to issue an order (No. CIC/SG/A/2012/000544/18674 dated 30.4.2012) to the Nuclear Power Corporation of India Limited (NPCIL) "to provide an attested photocopy of the Safety Analysis Report [SAR] and Site Evaluation Report [SER] after severing any proprietary details of

designs provided by the suppliers to the appellant before 25 May 2012." This order follows NPCIL's refusal to share the SAR with the argument that though it is prepared to show it to the CIC, it cannot place it in the public domain without the consent of the third party, namely the Russians who are the suppliers of the design and hardware for KKNPP. Thus, NPCIL has not complied with the CIC's order to provide the SAR. It is difficult to fault the people who filed the RTI application when they say that " ... NPCIL [appears] more interested in the safety of the Russian company and the Russian benefactors [than] in the safety of the people of India".

As any thinking citizen would agree, the details of the safety studies of KKNPP affecting public safety and health cannot be denied to the public. In the circumstances, the question that even a school child would ask is, "Why is NPCIL not merely reluctant but unwilling to provide public information?" and "Does the Department of Atomic Energy (DAE) have something to hide?" However, a kicking and screaming NPCIL was forced by CIC to provide a document

purporting to be a photocopy of the SER. So let us try to understand what has so far been provided so reluctantly.

Official competence and integrity

A cursory glance at the "SER" shows that its 12 pages are of limited legibility, with no title page, no authorship, no ownership, no publisher, no date, no index, and no names of the site selection committee. This means of course, that the original document is also barely legible if DAE, a department with access to huge funds, can be credited with having decent photocopy machines. Again another doubt arises: With it bearing no authorship, no publisher, no names, etc., could this "orphan" SER be an attempt to dodge responsibility for a haphazard site selection carried out by this highly scientific and technical department staffed by the best brains in India?

But, giving DAE the benefit of the doubt, it does not give confidence to an ordinary citizen, leave alone competent scientists or engineers, that site evaluation for a multiple-thousand crores nuclear mega-project involving demographic, geological, seismological, hydrological, soil engineering and oceanographic evaluations, could be contained in just 12 pages. But perhaps it is an Executive Summary of the SER; if so, it is violation of CIC's order that called for the SER and shows NPCIL's reluctance to provide information. In any case there is little excuse for providing a document that would be disowned by an incompetent, part-time engineer.

Besides the above general observations, even within the 12 pages there are inadequacies and contradictions concerning fresh water source, population-evacuation, radioactive waste disposal and tectonic events. Details of these shortcomings cannot find a place in

a commentary directed at the average reader. The DAE (NPCIL) appears to assume that the recipients of the "SER" that they have provided are ignorant, and can be fobbed off with a document that any responsible department would disown.

Democracy by force

If this is the face of efficiency, trustworthiness and responsiveness that DAE (NPCIL) chooses to project, it is no wonder that people, particularly those immediately and directly affected by its projects have little confidence in its scientific-technical-managerial abilities that are supposed to save them in case of an Indian Fukushima.

This is quite apart from the fact that both central and state governments are attempting to ram the KKNPP project down the throats of thousands of people organized as the People's Movement Against Nuclear Energy (PMANE). These people have been patiently, peacefully and cogently arguing against KKNPP, bravely facing police brutality and the executive and political might of "people's" governments. Do people's democratic rights, safety and welfare have any value in today's India?

**S.G.Vombatkere retired as major general after 35 years in the Indian military, with combat, technical and instructional experience. He is a member of the National Alliance of People's Movements (NAPM) and People's Union for Civil Liberties (PUCL). As Adjunct Associate Professor of the University of Iowa, USA, he coordinates and lectures a course on Science, Technology and Sustainable Development for under-graduate students from USA and Canada. He holds a master of engineering degree in structural engineering from the University of Poona and a Ph D in civil structural dynamics from I.I.T, Madras. Courtesy Countercurrents.org 29 May, 2012* □

Regd. Office :
270-A, Patparganj
Opp. Anandlok Apartments
Mayur Vihar-I, Delhi-110091
Tel.: 22750014
Fax:(PP) 42151459
E-mail : puclnat@gmail.com
puclnat@yahoo.com
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Printed and Published by:
Pushkar Raj, General Secretary, PUCL,
270-A, Patparganj, Opp. Anandlok
Apartments, Mayur Vihar-I, Delhi-110091
for People's Union for Civil Liberties
Printed at: Dixit Printers, 108, Basement
Patparganj Indl. Area, Delhi-110092