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The Plight of Life, Personal Liberty and Dignity of the Common Man under the Ordinary Laws

Prabhakar Sinha

The elite who stepped into the shoes of the colonial government, on account of their newly acquired position, had no reason to fear the ordinary but fearful laws enacted by the imperial government. They felt no need to change them because they had very little concern for the plight of the common man, who had to bear the brunt of these laws. It was not unnatural because they did not identify with them for various reasons. For centuries, Indians had been taught that they were not equal and were not the same as human beings. To Indians, the people were unequal by birth and their relative position of superiority and inferiority vis-à-vis one another was unchangeable. Not only those who occupied a high position of undue advantage due to their castes but even those maltreated as untouchable and subjected to the inhuman order had been brainwashed into believing in the caste system. Subsequently, wealth, position in the government and education further widened the gap between the elite and the common man making identifying with each other nearly impossible. This chasm is at the root of many of the grave problems the country has been facing and has the potential to lead to unpredictable and disastrous consequences. Immediately after independence, it was imperative for the rulers to restore the dignity of the individual by according him equality of status as a human being to the highest and the mightiest. No sincere effort was made to achieve this though it is a minimum condition for a civilized society and a democratic polity. The Constitution speaks of securing for all social, political and economic justice and minimizing inequalities of income and status, but there has been no effort to fulfill these promises. In fact, the Governments have been following policies to maximize inequalities of income instead of minimizing them. The increasing gap in the income of individuals has been adding to the gap in their respective status. On the top of the social ladder are the billionaires and their partner politicians and bureaucrats and at the bottom are more than 100 million people living on 20 to 100 rupees per day. Though the State functionaries should treat them alike but the truth is that the rich are held in reverence while utter contempt is the fate of the poor.

A poor uneducated man is addressed as 'Tum' (you) even by a class IV employee, a police constable feels it his right to abuse or even slap a 'Rickshaw puller' or any other poor man. A rich criminal is treated with courtesy or even respect if he has political influence, but an honest poor

man going with a complaint to a police station is addressed as 'Tum', kept waiting and standing till the officer feels like paying attention to him. The Supreme Court held that handcuffing is against a person's dignity and should not be done except under stated conditions, but handcuffing of poor prisoners continues unabated even in full view of the judicial officers. Poor undertrial prisoners taken to the court for production before it are locked in small-overcrowded rooms in inhuman condition and treated with utter contempt. Even the visitors of the poor prisoners have to grease the palm of the junior jail staff before they could have a glimpse of relations or friends. Though an undertrial prisoner is presumed to be innocent unless proved guilty, his life in most of the jails is hellish.

The downgrading of the common man to the status of second class citizens is evident from the contempt and disdain with which they have been treated as well as by the retention of the imperial laws enacted to keep the subjects of the empire in awe and subjugation. The Police Act, 1861, enacted only four years after the freedom struggle of 1857, was naturally repressive. The police was totally under the control of the government with accountability to none but its masters. Its object was to keep the people in fear of the empire and prevent acts of defiance against it. It enjoyed unbridled power of repression. A police station stood as a symbol of the mighty empire ever ready to strike back at its opponents. Such a police system was totally inimical to democracy, yet it was retained by those who had adopted Parliamentary democracy as practiced in U.K. though they were knowledgeable about the police system compatible with democracy existing in the U.K. and several other democracies. Even 62 years after India became a Republic, the common man continues to be

tormented by the police maintained by the tax he pays

A police station inspires fear in the law-abiding citizens who consider it a misfortune to have to visit it and approaches it with trepidation. It is a citadel of corruption, repression and a source of miscarriage of justice. You cannot register an F.I.R. or get your complaint impartially investigated without paying a bribe. If you have the misfortune of your tormentor being richer or influential the report is bound to be in his favour and he is sure to go scot-free. This ensures that a poor man would never get justice because he is unable to grease the policeman's palm. The use of the third degree against an accused who is poor is rampant occasionally leading to the death of the victim. The post mortem report by a government doctor certifying his death to have been caused by some disease almost always saves the culprit. If sometimes cases are registered against the policemen for murder, they are investigated by other policemen who either give them a clean chit or make the case so weak that conviction is almost impossible. Implicating people in false cases at the behest of their political masters or otherwise and creating false evidence to secure a conviction are common and well-known phenomena. It was not without justification that Justice A.N. Mulla had held that the police in our country was the biggest band of organized criminals. The Supreme Court did not agree, but it is well known that the 'Truth' and the 'Judicial Truth' are different.

The rulers of democratic India are as much, if not more, intent on maintaining their control of the police and retaining its repressive character as the previous colonial government. It is evident from the fact that they made no effort to reform the police and evaded implementing the directions of the apex court to even slightly loosen the government's

stranglehold on it

The Criminal Procedure Code was first enacted by the British Imperial government in 1861 but was given its final shape in 1898. The code was meant to deal with the subjects of the empire and contained harsh provisions. One of them gives an unbridled power to the police to arrest any person without a warrant. The provision (S41 of Cr.P.C.) has been retained till date (i.e. in the Cr.P.C. 1973 which replaced the 1898 Code.), which has been the greatest source of terror of the police. Under it, the Police can arrest any person he suspects of having committed a cognizable offence. It has been the most misused power of the police against the common man, specially the poor. The Law Commission was quite concerned and sought the suggestion of the National Human Rights Commission regarding its amendment. The question was raised as to why in all cases of a complaint of commission of a cognizable offence an arrest should necessarily be made? The section has been amended recently to provide that a person accused of an offence carrying a sentence of less than seven years should not be arrested subject to certain conditions. However, it has again been left to the subjective satisfaction of the police to decide whether he fulfills the condition for not being arrested or not. As a result, once again our personal liberty depends on the sweet will of the police. The amendment, in any case, is going to make no difference to the poor, though the not so poor may pay to buy the subjective satisfaction of the police officer and manage to remain free.

The sweeping power given to the police has no justification. A person should be arrested only if his arrest is necessary for some justifiable reason. For instance, if he may abscond, may terrorise witnesses, may destroy evidence, is likely to

commit a crime again or himself may be under threat of his life or limb etc. It is also irrational to empower the police to arrest in the case of commission of all cognizable offences. Rash driving, fouling the water of a tank, harbouring people for unlawful assembly, threatening a person to give false evidence, etc. are some of the cognizable offences. Arresting anybody for these minor offences is plainly unnecessary. The power has been given only to retain the terrorizing image and effect of the police.

Though along with these, the direction of the Supreme Court given in (D.K. Basu v W. Bengal) on how to make arrest has also been incorporated in the Code, in the absence of a provision for complaint against failure to comply with it, there is no difference in the conduct of the police in making arrests. Similarly, the provision that the arrested person must be produced before a Magistrate within 24 hours is often not complied with in cases in which the police intends to use third degree before remand of the arrestee or kill him in a fake encounter. The unbridled power of the police to investigate an offence continues to be misused. In the absence of any accountability, they use it as their discretionary power and give a clean chit to those criminals who can afford to pay or whom they fear or frame innocent persons in false cases for the same reason.

In cases of people accused of minor offences sending them to jail is quite unnecessary; but still to add to the sweeping and arbitrary power of the police S 167 of Cr.P.C. provides that when it appears that the investigation cannot be completed within twenty four hours, the Magistrate will remand him to judicial custody. When the police is not legally bound to begin and complete the investigation within 24 hours, there can be no question of the completion of the investigation within 24 hours

and the arrested person is bound to be sent to jail. The provision exists only as a ruse to empower the police to arrest and send anyone to jail if they like. It was introduced by the British government with the same aim and has been retained by the government of independent India with the same intent. The lower judiciary is no less contemptuous to the people's personal liberty presumably due to its old mindset or force of habit. S437 of Cr.P.C. was amended in 1973 to make bail the rule and jail an exception, but the lower judiciary continues to follow the old practice of jail the rule and bail the exception. According to the amended S 437, bail should be denied to a person arrested without a warrant only if he is accused of an offence carrying a sentence of death or imprisonment for life and there is reasonable ground to believe that he is guilty or if he has previously been convicted of an offence carrying a sentence of death, imprisonment for life or seven years or has been previously convicted on two or more occasions of a cognizable offence punishable for three years or more but not less than seven years and again is accused of a cognizable offence. It clearly means that only these two categories of the accused should be sent to jail and the rest should be granted bail. It has been also provided that even the accused belonging to the two categories may be granted bail if he is under the age of sixteen years or is a woman, or is sick or infirm. They may be granted bail for some special reason also if the Court thinks it proper. Thus, the law is for bail not jail, but the judges are for the very opposite. Had the letter and spirit of the law been followed, the overwhelming majority of the undertrial prisoners would have been free. The Supreme Court holds that the right to life means to live with human dignity and not 'mere animal existence' yet due to the unlawful judgments of the lower courts, the

common man all over the country is living a mere animal existence in the judicial custody.

Sections 129, 130, 131 and 132 of the Cr.P.C. give the police a license to kill. Apart from an Executive Magistrate even a Sub Inspector of Police can declare an assembly unlawful and order it to disperse and use force if they do not obey. If there is firing at the assembly resulting in death or grievous injury no criminal case can be filed against the officer of the armed forces or the police officer concerned without the sanction of the government concerned. This protection u/s 132 is a license to kill with impunity resulting in the death of hundreds of unarmed demonstrators every year. In fact, there is no basis difference between Sections 129, 130, 131 and 132 read with S 41 of the Cr.P.C and the Armed Forces (Special Power Act). In both, the police or the officers of the Armed forces can kill with impunity or arrest without a warrant. The only difference is that while the provisions of Cr.P.C. empower the police to kill and maim unarmed persons in peaceful areas in the name of dispersing an assembly, the AFSPA empowers killing with impunity in disturbed areas by firing on an unlawful assembly of five or more persons or the people carrying arms etc. Vesting the police or armed forces with the power to kill with impunity should have no place in a democracy, However, they exist, but their use is far more undesirable in the peaceful areas against unarmed persons than in a disturbed area against persons genuinely believed to be armed. From the Police Manual prepared by the colonial rulers, it appears that they, unlike the rulers of democratic India, were not trigger-happy and were in favour of causing loss of life only as a last resort. The manual makes provision (Rule 621e) for giving effective warning to the unlawful assembly before opening fire. To

avoid catching the people unawares before the firing, the authorities (the Magistrate or the Police Officer in Charge) was mandated to unfurl the 'Riot flag' having the following inscription:

"The mob should disperse immediately. If not, it will be shot at with guns."

It was rightly assumed that most of the people would disperse if they knew that they were going to be fired

upon immediately if they did not disperse.

Now, the police never uses the Riot flag to warn the assembly before opening fire and almost always takes shelter behind the plea that they opened fire in self-defence. Though the police have no special right to private self-defence, they have the 'dubious' right to escape prosecution without the sanction of the

government concerned u/s 132 of the I.P.C.

It is clear that the ordinary laws, which are the legacy of the British Raj, are extremely oppressive and incompatible with a democratic system. In fact, they are only a little less destructive of life and personal liberty than the draconian laws and deserve to be opposed on the same footing as the black laws because they affect the entire population.

Part II

Some Suggestions for a Plan of Action

The most important thing is to ensure that the State accords to the people the dignity, which is an inalienable human right of every individual as well as the democratic right of every citizen of our Republic. This has been denied by the State as is evident from the treatment the common men receive from the so-called public servants in their interaction with them. The present equation in which a public servant treats the common man (supposedly his master) with contempt must be changed immediately. The following simple step would make a revolutionary change:

(i) There should be a mandatory code of conduct for public servants in which using 'TUM' or its equivalent in any language in dealing with any person in his official capacity should be declared a misconduct making him liable for disciplinary action.

They must be required to use 'AAP' or its equivalent in any language, which is used for an equal. Of course, it would not apply to languages in which there are no different pronouns to indicate difference in status and respect for each other.

(ii) Any form of greetings which indicates that one is higher and the other lower in status should be prohibited in all government offices and it should be mandatory for the public servants to shake hands (as a form of greeting) with a member of the public who visits them in his office.

(iii) It should be mandatory for a public servant to offer a visitor a chair and treat the members of the public visiting him courteously.

The laws, which are the legacy of the British Raj, should be reviewed to make them suitable for a democratic country. The following

should be given top priority:

The Police Act, 1861 should be replaced by an Act containing provisions to ensure that the policing is compatible with and conducive to democracy, effective accountability to ensure the rule of law and a fair and just criminal justice system.

3. The Cr.P.C. 1973 similarly should be replaced by a code, which is appropriate for a democracy.

4. The Prison Act, 1898 and The Prison Manual should be replaced by an Act, which guarantees that the prisoners live with human dignity and go out of jail reformed and better human beings.

5. Other laws also may be added.

A group of our experts should prepare a charter of demands based on the study to be presented to the government and the political parties. □

"Heed the Ides of March" - Shakespeare

Rajindar Sachar

I was reminded of the ancient maxim "Those whom the gods wish to destroy they first make them mad (with power), the very moment Government announced policies approving majority F.D.I. in retail (read Wal-Mart stores USA) increase in Foreign Investment because this very step united the disparate opposition in one strong single fist cuff, as shown

by massive opposition bringing the country to a halt.

How deep is political weight of Wal-Marts in Indian government is evident by a cable sent by US Secretary of State Hillary Clinton to her Embassy in New Delhi in September 2009, (As per Hindu-Wikileaks India cable series: March 18, 2011), enquiring "How does (Commerce Minister) Sharma view

India's current Foreign Direct Investment guidelines? Which sectors does he plan to open further? Why is he reluctant to open multi-brand retail?"

Wal-Mart International Division chief John Menzer prided by claiming, "We've energized the FDI lobby and pre-empted the anti-FDI lobby in

India." June 6, 2005.

The apparent tempting sop held out by Minister of Commerce that Wal-Mart will have to procure 30% of its value from the local market is a non-starter in the light of actual practices followed by Wal-Mart orders - it is universally known that over 90% of the products in Wal-Mart are sourced from China which in view of already cheap Chinese imported goods will ruin the local Indian industry. Moreover, Article III of GATT explicitly forbids regulations like specific sourcing requirement from domestic industries.

This touching faith in the all-pervading positive result of Wal-Mart incursion in India is ironically not shared in its home country. Thus on September 14th, 2012 New York City shut Wal-Mart out. Mass marches in Los Angeles city (known for Hollywood Billionaires) protested with "we do not want you in Los Angeles". That the closing down of small shops at 35% - 60% immediately flows from the entry of Wal-Mart is the finding in a study made by Economic Development Quarterly.

That Indian farmers will benefit by Wal-Mart building refrigerated warehouses is a lie. In the USA out of the 1578 refrigerated warehouses, 839 are in the public sector and 739 are private or semi-private. The public warehouses are much larger, accounting for 76% of the general storage capacity, with private and semi-private accounting for only 24% - as against, to Indian government's shame over 95% of India's cold storage capacity is in the private sector whereas only 0.44% is in the public sector. Does the government need Wal-Mart's permission to increase the number?

The touching faith of the governments in talism of globalization is repudiated by Joseph Sliglitz, the noble laureate economist, thus: "Globalization is neither socially benign nor has it been instrumental in reducing poverty; it

has been detrimental to the poor and other weaker sections of society. In fact, globalization has been associated with a growing divide between the richest countries and the poorest, and growing inequalities within most countries around the world."

To the plea by the corporate sector that businessmen need incentive to invest, let them listen to the jibe of biggest votary of capitalism, Warren Buffet of USA who felt compelled to publically confess, "My friends and I have been coddled long enough by a billionaire-friendly Congress. It's time for our Government to get serious about shared sacrifice." Is the Central Government listening?

I wish the votaries of reform when talking of increasing the growth rate were to pay a little attention to the paradox of gross poverty which shows that while Delhi is supposed to have the highest per capita income in the country, in terms of actuals, according to data presented in the 65th Round of the National Statistical Survey Report (2010), embarrassingly shows that 70% of households in Delhi have a monthly per capita expenditure of less than Rs. 1500, which even the self opinionated Planning Commission has been forced to accept as the poverty level.

Heaps of statistics are thrown at us by Union Government to show that we have no internal resources and therefore must invite Foreign Investment. How deliberately misleading - 500 listed Indian companies have enough cash on their books to double India's power generation capacity of 2,00,000 mw or build over 40,000 km of six-lane highways every year (compared with the current 800 km), (Economic Times Dated, 20/08/2012). At the end of fiscal year March 31, 2012, these companies were sitting on cash and cash equivalent - the legend investments that can easily be converted to cash - of over 9.3 lakh

crores or 160 Billion dollars.

How false is the government's pretended claim of shortage of dollars for investments in India is shown by the fact that in the year ending 2011 there was record level of Rs. 9.8 lakh crores. The further concentration of wealth is shown by the fact that top five companies in BSE 500 held about Rs. 2.07 lakh crores or 22.3% of total cash of these companies. And yet by the collusion of Central government these companies are permitted to take Indian money out of the country by being permitted to invest in countries like England, Australia, Belgium. The result is that coal, the strategic metal for increase in our economic growth is not being mined in India but is being imported from Australia and other foreign countries. Is the Central Govt. working for people of India or for their erstwhile colonial lords of yesterday?

Government cannot silence the discontent in the country arising out of extreme poverty by putting a claim which is false that prosperity so generated will move down and improve the condition of the poor. This is a false claim as given in a warning by Noble Laureate Joseph Stiglitz - "The theory of trickle-down economics is a lie".

Governments should realize that such ugly poverty and disparity in our country is contrary to the mandate given in Article 39 (c) of our constitution, namely that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment. In that connection it may be instructive to remind the Central Government of the warning given by Mr. Justice Brennan of Supreme Court of U. S. A. who put it succinctly: "Nothing rankles more in the human heart than a brooding sense of injustice, illness we can put up with. But injustice makes us want to pull things down."

Dated: 02/10/2012 □

At Kovalam Lit Fest, Binayak Sen offers food for thought, literally

by F wire

Thiruvananthapuram, Oct 6, 2012 (IANS) India needs to revive indigenous traditions of growing food and "privilege community-based" food storage and distribution to battle the problems of hunger and starvation, noted social activist Binayak Sen said Saturday.

Sen called for changes in the Food Security Bill to ensure food for all. "Once the Food Security Bill becomes an Act, instead of taking us further towards food security, it will take us several steps backwards," Sen contended, as he addressed the audience at the K.C. John Memorial Lecture in Thiruvanthapuram at the opening of the Kovalam Literary Festival.

"The process of categorisation, which has bedeviled the existing PDS (Public Distribution System), will be much more complex and liable to misuse in the Act. The amount of grain available may be significantly smaller. Moreover the entire process of grain distribution may in the end be replaced by cash transfer systems," Sen said.

Sen, a trained paediatrician who has long worked in Chhattisgarh and campaigned for the health of tribals there, is the national vice-president of the People's Union for Civil Liberties (PUCL).

Sen was arrested on charges of sedition by the Chhattisgarh government for allegedly aiding

Naxalites and granted bail in 2011. "For the last twenty years in India, we have been functioning in a regime that specifically repudiates constitutional injunctions for economic justice and equity embodied in the Directive Principles of State Policy, and valorizes the argument that having the rich get richer and the poor get poorer is good for the economy," Sen said.

He said, "India needed to build a society that privileges equity in food, of course, but also in living together peacefully".

Sen pointed out that there is no real scarcity of grain in the country. "As I have already pointed out, starvation has been occurring in a regime in which there is an abundance of grain - in what is known as the green revolution."

"This so-called revolution is the result of the concentrated subsidized application of exogenous energy in the form of synthetic fertilizers, pesticides, water, and logistical inputs in the form of mechanical tillage, transport and storage, to grow almost exclusively rice and wheat," Sen said.

He said the entire effort has "resulted in the devastation of the indigenous traditions of low input sustainable agriculture, devastated our soils and not only exhausted our ground water but contaminated what water there is in the ground with widespread

contaminants like arsenic and fluoride".

Sen lashed out at the abysmal state of nutrition in the country, quoting a survey by the Nandi Foundation, which had conducted an assessment of children's nutritional status, which found that around 44 per cent of all under-five children it surveyed in several states in the country were malnourished.

Sen, known for his sympathy with the radical Left, analysed the food situation in the country in the context of the 1943 Bengal famine that killed millions.

"We would do well to look at some recent history. Three million people died in the 1943 famine. I heard stories about that famine from my mother, as did many middle class Bengalis of my age. There was no shortage of grain in Bengal in 1943, just as there is no shortage of grain in India today - indeed, there is so much excess grain that the government is hard put to store it so it does not rot," he said.

"The point I am trying to make here is that famines, and, by extension, the other major human rights abuses that go on and on in our country and around the world, do not just happen on their own account. They are perpetrated as the result of policies that privilege the rich and powerful, and, by implication, harm the poor and disenfranchised," he said.

(Courtesy IANS) □

Is 'Hindu' our identity and Nationalism?

Ram Puniyani

Religious identity has come to the bigger prominence in the social-political space during last few decades. The rise of communal and fundamentalist politics has vitiated the popular perceptions about 'who are we' and this in turn has deepened the divides in the society. Recently RSS supremo, Sarsanghchalak, Mohan Bhagwat stated (September 2012) that, "When we use the word

'Hindu', we refer to everyone in the Indian society-be it Hindus, Muslims or Christians-since it is a word that gives us our identity and nationalism." Will it be acceptable to all Indians? The statement operates at two levels, one religious and two political-national.

Are we all Indians, Hindus, as being stated by Bhagwat? It is true that

the word Hindu itself came into use since around 8th century, when those coming from the West, Iraq, Iran to this side of the continent coined the word Hindu for those living on East of Sindhu. In their language word H is used more often for S, so Sindhu becomes Hindu. This word initially begins as a geographical category. Later various religious traditions, Brahmanism, Nath,

Tantra, Siddh, and Bhakti, prevalent in this part of the continent started being called Hindu, and Hinduism became the broad umbrella for these different religious traditions. Today while in some parts of the World word Hindu still has geographical meaning, here in India and broadly at most of the places this word is primarily used as a religious category.

Ambedkar, pained by the ignominies hurled on untouchables by Hindu caste system, expressed his sorrow by stating that, I was born a Hindu; that was not in my hands but I will not die a Hindu. He embraced Buddhism and left the Hindu religion. As communal politics started coming up to oppose the emerging Indian Nationalism, the feudal sections and Kings came together to give a religious colour to their opposition to emerging nationalism. In contrast to Indian national movement, they, feudal-lords-kings, posited Muslim Nationalism or Hindu nationalism. The parent organization which in due course gave rise to religious nationalist organizations, was United India Patriotic Association (UIPA) formed in 1888. In the formation of this organization Nawab of Dhaka and Raja of Kashi were the main people. Later some other middle class educated elements also joined in. This UIPA was the parent organization from which Muslim League and Hindu Mahasabha emerged.

While Islam, being a Prophet based religion, did not require any redefinition, Hinduism being an umbrella of various religious tendencies required to be defined for providing a base to Hindu religious nationalism. That's how Savarkar came up with the definition that all those whose Punyabhū (Holy Land) and Pitrabhū (father land) is in this part of the World are Hindus. This was a political definition of Hinduism, as Savarkar was championing Hindu nationalism and wanted to exclude Muslims and Christians from being a part of nationalism envisaged by him. This definition of Savarkar also

included Jains, Buddhists and Sikhs into Hindu fold, calling them as mere sects of Hinduism, which is not unacceptable to the followers of those religions. As these religions are also full-fledged religions.

Now to say, as Bhagwat is doing, that all Buddhists, Jains, Indian Muslims and Indian Christians have a Hindu identity is far from true. It is in a way a political imposition of Hindu identity and thereby Hindu rituals etc. on religious minorities. In the similar vein, nearly two decades ago Murli Manohar Joshi, another RSS Pracharak, then BJP President, stated that we are all Hindus, Muslims are Ahmadiya Hindus, and Christians are Christi Hindus and so on and so forth.

During freedom movement, two concepts of nationalism developed. One was the Indian nationalism, which was the hallmark of the founders of Indian National Congress. This was the defining principle of World's largest ever mass movement, India's freedom movement. Here nationalism is geographical and religion is personal. Majority of Indians supported this concept and joined the movement, which not only aimed to throw away the yoke of British colonialism but also laid the foundations of caste and gender transformation, and gave the defining principles of Liberty Equality and Fraternity, which came to be enshrined in our Constitution. The other Nationalism was religious nationalism, which began from the landed élites primarily and was later to divide in two parallel nationalisms, which had similar principles. These were Muslim Nationalism (Muslim League) and Hindu Nationalism (Hindu Mahasabha and RSS). These nationalisms not only kept aloof from the freedom movement, were opposed to the mass movement for freedom struggle but they also subtly protected the caste and gender hierarchy of feudal times in the name of 'our glorious traditions' or 'our religion' and so on. These religious national streams took back their nationalisms to ancient times.

Muslim League claimed that 'We Muslims are a Muslim Nation since the time Mohammad bin Kasim, established his kingdom in Sindh'. While Hindu nationalists claimed that we are a 'Hindu nation since times immemorial'.

In this understanding projection of Nationalism to the earlier times is totally flawed. The very concept of Nationalism begins from last three centuries or so, while putting an end to Kingdoms due to changes in industries and education. Even before kingdoms, there were other patterns of society, which can by no stretch of imagination be called as Nations. These concepts of nations glorify the kings belonging to their religions, while they also demonize or look down upon kings of 'other' religions, forgetting that the very system of kingdoms is highly exploitative and hierarchical.

At the same time during freedom movement, the 'religious nation' concepts gave a status to other religious minorities as the status of second-class citizens. This has what has happened in Pakistan with the logic of Muslim nationalism unfolding there and this is what is happening to Indian minorities with the ascendance of Hindutva nationalism. Hindutva word is again not synonymous with Hindu religion, it is parallel to 'political Islam'; Hindutva is 'political Hinduism' so to say. Golwalkar the major ideologue of RSS-Hindutva had formulated in his book 'We or Our Nationhood defined' that the Muslims and Christians must subordinate themselves to Hindus; else they will not deserve any citizenship rights. In India unfortunately his prophesy is getting actualized by and by, with the rise of communal violence and its aftermath.

To say that we are all Hindus is a political assertion to subjugate religious minorities on one hand and to uphold caste and gender hierarchy on the other. The later part related to hierarchical inequalities is the unspoken part of religious nationalism, political ideologies

based on religion. To identify Hindu with our nationalism-identity is to oppose the very concept of Indian Nationalism, values of freedom movement and values of Indian Constitution. Such political agenda of RSS as articulated by Bhagwat is to stifle the democratic space offered to us by our Constitution to

all of us, including religious minorities, and is an attempt to bring back the Golwalkar's articulation in a more shrewd way. It will also be the beginning of telling the minorities that they will have to follow Hindu rituals, and Hindu holy books, Hindu deities amongst others. So, saying that we regard all as Hindus, is not

an expression of magnanimity but is a way to impose Hindu identity on religious minorities. In sum a substance, Hindu is not the identity of all Indians, its religious identity only of Hindus. And of course 'Hindu' is not nationalism in any sense of the word as our nationalism is Indian. □

Enquiry Report of the PUCL Uttar Pradesh, In Respect of the Rape and Murder of A Dalit Girl in Aasthaan Village of Kunda Tehsil, Pratapgarh, and thereafter well-organised Atrocities and Attacks on the Members of the Muslim Minorities and their Migration From the Village

Members of the Enquiry Committee

1. K.K. Roy, Vice President, PUCL, Allahabad.
2. Khursheed Naqvi, PUCL, Allahabad.
3. Poonam, Advocate, General Secretary, Pragatisheel Mahila Sangathan (PMS), Delhi.
4. Alok, Convener, Progressive Democratic Students Union (PDSU).
5. Shabnam, Pragatisheel Mahila Sangathan, Allahabad.
6. Alok Ranjan, Student, PVCHR, Manavadhikar Jan Nigrani Samiti.

This report of the Enquiry Committee is being released by the PUCL on the basis of its enquiry conducted on 4th August 2012 in respect of the afore-mentioned incidents of 21st and 23rd June and 23rd July 2012.

Basis of the investigation:

On the basis of newspaper reports of the 22nd June and thereafter, as also information gathered from various organisations, persons of the Muslim minority, intellectuals and social activists, it was decided that a detailed fact-finding enquiry in the whole matter be conducted. For this purpose, the PUCL held a meeting on the 2nd August 2012, at Allahabad.

The following organisations participated in the meeting:

1. People's Union for Civil Liberties (PUCL)
2. Pragatisheel Mahila Sangathan (PMS)
3. Progressive Democratic Students Union (PDSU)
4. Janwadi Adhivakta Buddhijeevi Manch, Allahabad.
5. Manavadhikar Jan Nigrani Samiti, PVCHR.

In the meeting, with the concurrence of Mr. Ravi Kiran Jain, Senior Advocate and National Vice-President of the PUCL, an Enquiry Committee (EC) was constituted to visit Aasthaan village on 4th August and submit a report on the following basis:

- paying a visit to the Aasthaan village, and collecting the details of the burnt and looted houses;
- having talks with the victimised families and persons;
- study of documents and records;
- having talks with the police and the administrative officers; and
- study of newspapers.

Accordingly, the EC visited Aasthaan village on 4th August 2012, in which the following members participated:

K.K. Roy, Khursheed Naqvi, Poonam, Alok, Shabnam, Alok Ranjan

Newspaper reports of the incident:

22nd June: Hindustan: Hindi Daily (Hindustan) published 3 news items according to which Rekha (aged 13 years) d/o Ramsajivan was raped and murdered by 4 youths.

Chandni d/o Ramdev saw all the four accused running away. She also heard the screams of Rekha. Rekha's brother Samarjit says that the police is saving the accused. Even after receiving the complaint it has not registered the FIR.

It is also reported that in the same Dihwa jungle 10 years ago a similar incident had taken place and that that matter is now in the High Court.

25 June: Hindi Daily 'Janmorcha' reported that after the incident of gang rape and burning of houses there is complete silence in the village. There is not a single person in the basti. People have set fire to all the houses of the basti of one community on fire. Infuriated people also prevented the fire brigade, which reached the site of incident from dousing the fire. They also threw stones on the police.

27 June: Amar Ujala printed a news item stating that the DM and SP of Pratapgarh have been suspended. According to the news DM, YK

Bansal, SP OP Sagar, SDM Kunda Ramprakash Misra and CO Kunda BS Rana have been suspended on the directions of the Chief Minister.

30 June: A big news item titled "Is Pratapgarh incident a big conspiracy" was printed in Amar Ujala from Lucknow. According to the news, the atmosphere in the Vidhan Sabha on Friday was quite heated over the incident of rape, violence and setting fire. Along with the opposition ruling party members also alleged there was a deep conspiracy behind the incident and demanded an enquiry.

On July 2, 2012 Sahara Urdu Allahabad wrote that victims of Aasthan are still waiting for justice and on July 24 the paper wrote "Again fear haunts Aasthan village, Praveen Togadia spews venom", 8 houses burnt. Peace and rule of law undermined, State govt proves ineffective.

The govt announced a compensation of Rs 5 lacs for the family of the deceased girl and Rs 50,000 each for those whose houses have been burnt.

Inquilabi Urdu, Allahabad wrote under the heading "Samajwadi Party on path of Congress..... Present situation of Aasthan" on July 4 that in a meeting held in Allahabad people expressed their worry on the burning of 46 houses in Aasthan and the fact that people are unable to go back to their houses. It wrote that the worry is on account of the fact that 46 houses and the masjid were burnt in front of the police and they remained mute spectators. If the police had acted with responsibility then possibly such a menacing destruction would not have taken place.

Aasthaan Village:

This village is located 7-km away on the road at the right side of Nawabganj police station at Allahabad-Lucknow road in Kunda Tehsil, Pratapgarh, in which 53 families of Muslim minority inhabit.

All are from the 'bunkar' (weaver) community. Most of their men folk either seek employment in Mumbai or earn their livelihoods in and around the neighbourhoods. Womenfolk do tailoring or bidi-making jobs.

Background of the incident:

From the talks with the villagers and other sources, the EC came to know that on the evening of 20th June, 2012, a 12-year-old Dalit girl, Rekha, went to the jungle located at the border of the village to pluck 'moong', but did not return till night. The family members searched her but could not get any clue. Her dead body was found in the jungle on the morning of the 21st June. She had injury marks on her body and was brutally raped. The mother of the victim-girl told the EC that she had also gone to the jungle to collect her goats on 20th June where she had seen 4 Muslim youngsters.

In the FIR lodged by the brother of the victim, 4 boys were named regarding rape and murder of the girl and they were arrested. Their names are Mohd. Imran (25), Mohd. Saif Ali (14, still studying in a school), Mohd. Farhan (17), Mohd. Hafiz (17). Notably, the body of the victim-girl was found next day, 21st of June morning at around 5 - 6 am and her body was handed over to her family after post-mortem on 23rd June.

It was revealed from the talks with the local people that all the aforesaid accused were arrested after the FIR; but, before it, the police had returned the report of the brother of the deceased four times and had asked him to change the version. The Dalits are deeply aggrieved by this conduct of the police.

The EC has been told that the Muslim youths used to go with air-guns to hunt in the jungle. Despite having been named in the FIR, these four youths did not flee the village; in stead, the village pradhan summoned and presented them. All the four youths were arrested and sent to jail on the 22nd June.

The Dalits of the village expressed their ire against the police, saying that enquiry after enquiry was being conducted; the police elicits their names and thereafter arrests some of them on the allegation of attacking and looting the Muslim basti of the village. Of them, 23 men are still in jail.

Acts of attack, aagzani, loot in the Muslim habitation of 'Aasthaan' village:

When the EC reached the Muslim basti (locality) of the village on the 4th August there was complete silence. After many attempts, the EC could summon 4-5 youths and one woman for talks. From the narrations of these eye-witnesses and the victims, the following scenario has emerged:

It was revealed that after the fateful day, 23rd June, the Muslim families had fled the village. None of the families had returned even after 40 days of the incident except for a few days as is revealed in subsequent paras of this report.

In a well-planned and organised manner, in the forenoon on 23rd June, a crowd in hundreds, after crossing the canal by the side of the village, entered the Muslim locality of the village, raising slogans. The crowd distinguished the houses of the Muslim and burnt them selectively. They had cans of petrol and kerosene oil, iron rods and saris (iron rods) in their hands. They were raising provocative slogans, exhorting to burn and loot the houses of the Muslims and kill them. This continued for 4 to 5 hours with the police watching silently from a distance and making no attempt to stop them.

The crowd consisted of about 500 persons. First, they broke open the doors of all the houses, looted the households to the extent they could; thereafter they burnt whatever remained.

The EC inspected every such house and found that all of them had been

burnt. Mud-houses were raged to the ground. Cots, chowkis, utensils, almirahs, fans and other things were scattered in the houses.

The articles meant for community-use (degs, utensils, carpets) were also looted. The Muslim youths gave details of looted 17 motorcycles, 4 fridges and 20 sewing machines.

According to these Muslim youths, most of the attackers were outsiders.

A press report published in Jan Morcha of 25th June also reported "There is complete silence in village Aasthan after the incident of gang rape and subsequent arson. No person was found in the basti. Only the sound of police and PAC personnel's boots echoed throughout the day. Police SP OP Sagar camped in the village and gave a report of the incident to the govt."

Contradiction between Kotedar and Gram Pradhan:

The enquiry team was told a number of interesting facts, which reveal a lot about the organized attacks of 23rd June. The EC was told that this Hindu majority village as elected a Muslim (woman) Pradhan for the first time, which is deeply resented by the strong men in the village. In this election the dalits of the village had supported the Muslim Pradhan.

For the last 30 years, fair-price shop owner of Aasthaan village has been a strongman (dabang), Awadhesh Singh. This shop is about 6-km away from the village, which opens only once a month, without any prior information. Only a few get the rations. Most of the poor of the village do not have BPL-cards. The whole village simmers with dissatisfaction and anger against this kotedar.

After a Muslim became gram pradhan, voices started being raised by the locals against the kotedar. Complaints in writing were made against him to the Supply department, SDM and DM and, by and by, the demand grew to open

the fair-price shop regularly to distribute the rations.

The EC has been told that Awadhesh Singh became quite active after the rape and murder of the girl. He began contacting and exhorting people menacingly to teach lessons to the Muslims. The 23rd June attack also his role is regarded to be important and he has had full support of the police.

Importantly, the Muslims say that prior to the attack and arson (aagzani), Samajwadi Party (SP) MLA Vinod Saroj, reached the village in the early morning hours of the day and, a day before that, SP MP Shailendra had visited the village. On their arrivals, slogans like 'blood for blood' were raised.

Muslim minority fled the village:

During the talks, the youths told the EC that they had apprehension of attack. Therefore, when people saw the crowd approaching the village, all the families locked their houses and took shelter in two big-bricked houses. Thereafter, when they felt dangers even to those houses, they were obliged to take shelter in a dargah (a Sufi Ibadatkhana, Aastana Kadariya Chishtiya), which is located by the side of the basti. Later on, all these families were compelled to take shelter in a madarsa located in Barai village of Kunda tehsil. These people included the village pradhan, Reshma, wife of Nizam Ahmad.

Suspension of Officials:

Viewing the extreme seriousness of the situation and wide spread opposition developing the Chief Minister ordered the suspension of the District Magistrate, the Supdt. of Police of Pratapghar, of the SDM and CO of Kunda and of the SO Nawabganj.

Aasthaan Visit of Praveen Togadia:

Soon after the 23rd June attack, the Muslims had started returning to their homes and repairing their houses. But the atmosphere around

still smacked of fear and insecurity. In such a charged situation, the UP Government and the district administration permitted Hindu leader of the VHP (Vishwa Hindu Parishad), Dr. Praveen Togadia, a provocateur, to enter Aasthaan village with hundreds of his followers, who were raising provocative slogans, and to hold a public meeting.

The EC has been told that Togadia held a meeting in a nearby market place, Pariyawan Bazaar, in presence of the police force. Thereafter, he led a rally to the Dalit basti via Muslim habitation of the village, where inflammatory slogans were raised. During this rally, Muslim basti was attacked once again and 8 houses were burnt. During its visit on 4th August, the EC has seen everywhere banners and flags welcoming arrival of Dr Togadia.

Social and political organisations had raised voices to stop Dr Togadia's visit to Aasthaan village. Charter of demands was given. Gram pradhan and others faxed to the CM and other six high officers, including the Home Secretary of the State, to stop Togadia's visit.

A delegation of Welfare Party had met Commissioner, Devesh Chaturvedi, on 21st July and demanded of him to stop the visit of Dr Togadia. Javed Mohammad, one of the members of the delegation, told the EC that the commissioner in his presence had given some directions on telephone to the district administration in that regard; but, without heeding to that, the district administration continued to facilitate convening of Togadia's meeting. At 2pm, when the crowd started to attack a few Muslims, who had still remained there, Javed, on being informed, again informed the commissioner. The commissioner assured him to send police force, but, in fact, did nothing. The visit of Dr Praveen Togadia to the Aasthaan village raises questions on the

intentions and motives of the UP Government.

The Role of the Police:

The EC gathered from the eye-witnesses that local police was not only a mute spectator; it was vicariously an accomplice in the 23rd June attack by remaining (in groups) inactive on the other side of the canal, witnessing houses of the Muslims being burnt and looted. The attacker crowd indulged freely in burning and looting the houses one by one and the police remained a mute spectator.

The people told the EC that they remained in awe for hours witnessing from the darghaah flames and smokes billowing from the houses. They informed the police station time and again but the police did not intervene. Neither did they lathi-charged nor used tear gas. They did not summon fire-brigade either.

The people told the EC that they informed their relatives in detail about the ghastly incidents taking place and they (relatives) solicited help from high police officers (IG, DIG, SP) and DM, but, it appeared, the administration wanted the incident to take place.

The police personnel, including the LIU officials, present on the spot, told the EC that they were trying to bring peace to the place but they had no well thought-out plan for it. SI, Namwar Singh, told the EC that he was part of the police force on both the fateful dates [23rd June and 23rd July]. He said that due to wrath of the crowd the police force was rendered incapacitated to do anything; and they did not try to stop the crowd.

Role of People's Representatives:

Regarding the incident, the EC talked with the locals and elicited also the opinions of the social organisations. They had talks with some of the victims as well. They all told the EC that when the dead body of the hapless girl was found, there erupted

no anger against the Muslim community of the village. There were no rantings for retaliation, and even after the arrest of the four Muslim boys, there was no mood to attack the Muslims on communal line. After three days of the murder, the way and the manner in which the outsiders, in an organised crowd, armed with petrol and kerosene cans, iron-rods, etc., raising inflammatory slogans, came to the village in groups and for more than 5 hours kept on looting and burning the Muslim houses, with the police force remaining a mute spectator to all this, speaks unequivocally that the roles of local MP, Shailendra, Kunda MLA, Raghuraj Pratap Singh and another MLA, Vinod Saroj, were anti-Muslim and that the attackers had their support.

The victims told that their relatives and others kept on informing the police but they did nothing.

It is notable that in his early days of politics, name of the Kunda MLA, Raghuraj Pratap Singh, had cropped up in the Dilerganj massacre, in which Muslims were brutally murdered and the village had been burnt.

All the three - local MP, Shailendra, Kunda MLAs, Raghuraj Pratap Singh and another MLA, Vinod Saroj - are the SP (Samajwadi Party) leaders. SP is the ruling party in UP.

The FIRs:

Three FIRs have been lodged between 21st June and 24th July 2012

The first FIR was filed on 21.06.12 by Samarjit Saroj, the brother of the deceased girl Rekha. Case Crime No 87/12, u/s 376, 302 IPC, PS Nawabganj. In this 4 persons are named. The FIR states that the body of Rekha was found at 5-30 am on 21st June.

The second was lodged by Faiyaaz Ahmad on 23rd June in Nawab Ganj police station, on the basis of which a case, Crime No. 88 of 2012, under

sections 147/148/149/307/452/436/382/295/506/435 IPC and section 7 of the Criminal Law Amendment Act, has been registered. In this crime 25 persons by name and 500-600 unknown others, have been named for looting and burning the houses and attacking the Muslims.

The third has been lodged by Nawabganj SO on 24th July in Nawabganj police station for the offences under sections 147, 236, 427 IPC and 7 of the Criminal Law Amendment Act, in which 4 persons have been named. This FIR relates to the incidents of attack and loot during the visit of Praveen Togadia.

Situation as of now: Forced Ostracism of the Muslims:

The EC remained in Aasthaan village the whole day of 4th August. After 40 days of the incident, none of the families, who left the village after the acts of vandalism, had returned to their homes. They had no faith that the district administration and the police would secure their presence in the village. And it was when the village pradhan is a Muslim lady.

The Muslims are not able to repair their destroyed houses because they are not getting the mistris, labourers, artisans, electricians, plumbers, etc. Interested quarters are implementing forced ostracism of the Muslims. They, 10 families who have fields, are not able to sow seeds in them, though the seeding in all the fields around has been completed. Nobody is renting them their tractors for the agricultural purposes. The villagers told the EC that before the incidents there was never any difference or animosity between the members of the two communities and they had been living in social harmony and peace. None of the students of both the communities is attending their school.

The locals were in such an awe of the local strongmen that, on being asked, they simply uttered 'ilaaqe ke

bade log' and thereafter kept mum. They did not name any person.

With the visit of Togadia, the whole incident is being communalised, and the strongmen of the area are attempting to foment mutual fear, distrust and animosity amongst the villagers.

The district administration did not convene any meeting with the representatives and respected and influential people of the concerned communities, nor did they try to instill confidence in the people of the Muslim community.

Solatium/Help:

The EC has been told that SP MP Abu Hashim, along with representatives of the Muslim community, led a delegation to the UP Chief Minister and every victim family was granted an aid of Rs. 4 lacs.

The family subjected to murder and rape was given Rs 5 lacs by the UP govt and Rs 205 lacs by other sources as aid.

Arrests:

As per the facts gleaned by the EC, 4 persons have been arrested on the charge of murder, 23 local Dalits have been arrested on the charge of loot and attack, and they are still in jail. The Dalits told the EC that for the 23rd June incident, 23 local villagers were arrested, while the attackers came from the outside. Amongst the arrestees are one person of 80 years, and a student who was not in the village at the time of the incident.

The EC was told that on 21st June at about 7.30 the police reached the spot where the body of the girl had been found. There itself the police called for the named accused through the village pradhan and from there itself it took the accused to the thana for enquiry and then on 22nd June they were sent to jail.

Question regarding time of FIR:

The family of the deceased girl told the EC that after the body was found

the police returned the complaint four times and pressurized them to change the FIR. In the end in the evening on 21st June they accepted the complaint. While on the other hand the time registered in the FIR is 6.30 am. The EC feels that the police registered the report later in the day and has deliberately changed the time of the FIR and ante timed it.

Role of the UP Government and the Administration:

After the new government took oath of office, many incidents of attacks on the Muslim community have taken place. The roles of the police and the PAC are not neutral in these occurrences and obviously have been anti-Muslim.

A riot took place in Kosi Kala, in which human lives have been lost and properties damaged. Curfew in Bareilly is unceasing. The incidents of the 17th August in Allahabad and Lucknow show that the Muslim youths are greatly becoming disenchanted with the new government. The present government has done nothing to instill confidence in the Muslim community.

The burnt and looted houses in the Aasthaan village are telling a story of the government's intentions, motives and policies.

Conclusion:

After the enquiry, the EC has reached to the following conclusions:

1. The dead body of the raped and brutally murdered young Dalit girl, found on 21st June, is a proof that this crime has been committed by powerful people, criminals of cruel and brutal nature.

2. Arson attack on the houses of the Muslim community on the night of the 23rd June was an act of design and had been organised, in which criminals indulged in a great way in loot and arson for many hours by sprinkling petrol and kerosene. Police was on the spot, but chose to remain a mere spectator. Throughout the

attack it made no effort to stop the arsonists and by they felt encouraged to perpetrate the attack because of this inaction.

3. Police and the administration openly supported and lent helping hands to the visit of Togadia, convening of his public meeting, acts of arson, and issuance of threats to the Muslims. He should not have been allowed at all to reach such a sensitive spot (Aasthaan village). His propaganda materials and banners are still there and they are indicative of the apprehension that the attacks may recur. On account of all these reasons, the Muslims of the village are not able to summon courage to return to their homes and presence of the police is giving them a sense of insecurity.

4. The roles of the police and the kotedar in all these ghastly crimes are extremely suspicious. After the incident of the rape and murder of the girl, the police went to the spot but delayed registering of the FIR; on the other hand, at the time of the loot and arson of the houses of the Muslims and Togadia's visit, the police was present at the spot. This clearly exposes connivance and concurrence of the police.

5. The SP leaders and the government have obviously used this incident to give it a communal colour (Muslims versus the Dalits) and to spread communal hate between these communities; thus, they have pushed the peaceful atmosphere of the village towards communal tension and riots. They have tried to incite the Dalits to attack the Muslims, though they could not be successful in their design. They have deliberately kept many innocent people behind the bars and frightened both the communities. In order to win the sympathies of the Muslim community, they have set in motion some leaders from outside and through them have granted some compensation. But nothing has been

attempted to create an atmosphere in which both the communities may live in harmony and eke out a living. Fear of local strongmen has still not lessened.

Demands: The EC demands that:

1. The UP Government should issue a White Paper on the attacks being perpetrated on the minorities, especially in Aasthaan, and regarding other riots that have occurred in the UP and to explain its role.

2. In respect of the the incidents in Aasthaan village:

(a) The government should institute a judicial enquiry by a Retd. Judge of the High Court in respect of the rape and murder of the Dalit girl and attacks on the members of the Muslim community;

(b) In the attacks of the Muslim houses, the roles of the MP Shailendra, MLAs Raghuraj Pratap Singh and Virod Saroj, local kotedar Awadhesh Singh and other strongmen of the area should be investigated;

(c) Political and administrative

responsibilities of allowing Praveen Togadia to reach Aasthaan village and convene a meeting there should be fixed, and the roles of the VHP and its henchmen should be investigated; and

(d) the roles of the police administration, SHO of the Nawabganj PS and other police personnel should be investigated and, if found guilty, FIRs should be lodged against them.

3. The responsibility in the whole incident should be fixed in a time-bound process so that no innocent person should languish in jail without trial.

4. On the findings of this investigation, the guilty should be prosecuted and punished.

5. The Pratapgarh administration should encamp in Aasthaan village and re-establish the Muslims honourably in their homes, who have left the village in utter fear of revenge. They should be provided adequate security and given a guarantee that they can earn their livelihoods peacefully and without fear of

violence. To maintain peace in the village, the high officers of the administration, including the District Magistrate, should visit the village every alternate day. It should be ensured that children of both the communities go to school as usual.

N.B.: Amongst the persons who talked to and answered queries of the EC, the Muslims have requested the EC to withhold their names, otherwise they have apprehension that they would be subjected to political and police atrocities. Only one person, Mushtaq, agreed for his name to be disclosed publicly.

Enclosures:

1. Photocopies of the FIRs

2. List of 44 persons, whose houses have been burnt and looted

3. Photographs of the burnt houses.

Poonam, Advocate, General Secretary, *Pragatisheel Mahila Sangathan, Delhi*; **Khursheed Naqvi**, PUCL Allahabad; **KK Roy**, Vice President, PUCL Allahabad; **Alok, Convener**, PDSU Allahabad; **Shabnam**, *Pragatisheel Mahila Sangathan, Alld*; **Alok Ranjan**, Law Student, A.U. □

PUCL TN & Puducherry: Press Release dated 13.10.2012

PUCL Demands Immediate Release of Human Rights Activists from Across India, Arrested When Heading to Kudankulam for a Fact Finding Mission & To Drop All Cases against them

PUCL-Tamil Nadu and Puducherry learns from the press reports that a group of 11 human rights activists heading to Koodankulam on 12th Oct.2012 for a fact finding mission on police repression and firing on KKNP protestors last month, were illegally arrested without any rhyme or reason at Moondradaipu toll gate in Tirunelveli district under sections 353 of IPC (assault or criminal force to deter public servant from discharge of his duty) and 7(1) (a) (The Criminal Law Amendment Act, 1932). It is learnt that they were

remanded and taken to Palayamkottai jail.

The details of the arrested activists are as follows:

K. Kesavan (33), an advocate and State Joint Secretary of Centre for Protection of Civil Liberties (CPCL), Madurai

Jehan (23), member of Student Apprising Movement for Social Welfare, Madurai

Palanisamy (48), Anti Imperialist Movement, State Secretary, Tamil Nadu

Hameed (43), member of Andhra Pradesh Civil Liberties Committee (APCLC)

Damodar Puri (32), Member, Ranchi Dist., People's Union for Civil Liberties (PUCL)-Jharkhand

Aravind Kumar Avinas (50), President, Ranchi Dist., People's Union for Civil Liberties (PUCL)-Jharkhand

Dastagiri (24), Rayalseema Student Federation, Andhra Pradesh

Pratima Das, an advocate, Odisha High Court & part of Committee for Release of Political Prisoners

Priya, Democratic Students' Union,
New Delhi

Agarathi, a woman advocate, part
of CPCL, Madurai

Varalakshmi, General Secretary of
Revolutionary Writers Association,
Andhra Pradesh

PUCL, Tamil Nadu-Puducherry
strongly condemns the arbitrary
arrest of these activists and
spreading of news by the police that

these activists possessed serious
and sensitive literature. This is
deliberate misinformation campaign
by the police. This is totally
unwarranted and is meant to
intimidate the rights activists and
prejudice the public. These activists
are educated and concerned citizens
of the society and it is their
constitutional duty to go for a fact
finding mission of this nature.

Hence, PUCL demands the

immediate release of arrested
activists and to drop all cases
against them. PUCL also condemns
this persistent assault of the police
to repress human rights defenders
which is inconsistent with the
mandate of UN conventions which
provide for the protection of human
rights defenders.

S. Balamurugan

General Secretary

PUCL Tamil Nadu & Puducherry □

PUCL Rajasthan: Letter to the Chief Secretary, Rajasthan for implementation of the High Court order dated 13.9.2012

Jaipur,
21st September, 2012
Sh. C.K. Mathew, Chief Secretary,
Government of Rajasthan, Jaipur

**Subject: Immediate
implementation of the order in
the D.B.PIL Petition 7114/2011 and
7140/2011 dated 13.09.2012**

Dear Sir,

Please find enclosed the photocopy
of the order in the two petitions
numbered 7114/2011 and 7140/2011
dated 13.09.2012, passed by
Hon'ble Chief Justice of Rajasthan
Mr. Arun Mishra and Hon'ble Mr.
Narendra Kumar Jain-1. These two
petitions were related to stopping
mining operations by way of heavy
blasting, cancellation of mining
leases, stopping the operations of
stone crushers and cancelling the
stay order passed by the single
bench of the High Court recalling the
order made by the Collector, Sikar
dated 1.05.2011 by which he had set
apart a road through the Charagah
land.

This Judgement is a clear step
forward for the people of Dabla in
their struggle of stopping illegal
mining and stone crushing
operations. We would like to state
that in the last 16 months, the
people of Dabla faced police and
state repression, including filing of
false cases to the tune of 5 to 8
police cases per person. All this

happened, in their non-violent
engagement with agencies of
Government. However, we are very
glad that the Rajasthan High Court
heard them and has directed the
executive to implement the law. We
hope that justice will finally prevail
now.

Sir, the above stated order very
clearly takes a position on page 9
that ".....it is worthwhile to mention
here that in the present scenario, the
ecological imbalances and the
consequent environmental damage
has become alarming due to
reckless mining operations.
*Preservation of ecology, flora and
fauna is necessary for human
existence. There is great and urgent
necessity to preserve ecology.
There are complaints in Rajasthan
that mining has become a menace.
The scale of injustice occurring in
Indian soil is catastrophic....."*

The court has passed 3 kinds of
orders for 3 different agencies to
comply with -

**1. Order related to the setting apart
of a road through the charagah
land in Dabla: State Government's
approval sought:**

The order very clearly indicts the
Collector, Sikar for his first order
dated 1.05.2011 by stating on page
14 "....with respect to the order dated
1.05.2011, the Collector was not
competent to pass such a order

*without prior approval of the state
government, as provided in the
circular dated 25.04.2011,."* and
further states in its final order on
Page 21 that "....with a direction to
the State Government to decide the
matter regarding grant of approval.
*Let Collector concerned write the
State Government within a period of
15 days from today. Let the State
Government to take a decision in
the matter within 3 months. The
order dated 01.05.2011 is held to be
illegal and order dated 11.05.2011
passed by the District Collector,
Sikar is found to be appropriate."*

Sir, despite this order being in the
public domain for the last 9 days we
wish to bring to your notice that the
road set apart through the charagah
land is still in use. 50-60 heavily
loaded trucks carrying stones are
plying everyday through the
charagah. We would like 3 decisions
in this regard:

i). The use of the charagah land for
the purpose of a road carrying trucks
needs to be stopped immediately.

ii) We also hope that keeping to the
spirit of the Hon'ble Supreme Court
order in the case of **Jagpal Singh
and others Vs State of Punjab and
others**, the charagah must not be
put to any other use but that of a
pasture land. Iii) Therefore the State
government must not grant approval
for the road.

The people of Dabla panchayat must be allowed to develop the charagah, plants, trees, grass and bushes so that the cattle and other livestock reared by the villagers are able to graze in the village itself. It may be known that at the core of the area's economy is the agri-livestock livelihood base which needs to be promoted.

2. Order relating to the running of stone crushing units: Rajasthan State Pollution Control Board to decide on their closure:

Sir, since all the 5 stone crushing units operate inside the prohibited distance of 1.5km from abadi area (see page 18 of the order), the court states "such crushers within distance of 1.5km cannot be permitted to run, however, let final decision be taken by the Rajasthan State Pollution Control Board considering the report (Special Investigation Committee constituted by the Court consisting of Hon'ble Mr. Justice K.S. Chadhari (Retd))."

In its direction the court states: "Let the RSPCB to take a decision within a period of ten days from today on show cause notices. The stone crushers, which are running within 1.5km area, as per the report of SIC, shall not operate, till final decision is taken by the RSPCB."

Sir, 2 stone crushers NECC Grit Udyog and Shiv Ganga Associates are still functioning despite clear orders of closure. Electricity is being provided by the Electricity department which is facilitating their functioning. Incidentally the other which were closed earlier in 2011 continue to have electricity connections despite the illegality of their existence.

3. Order relating to Collector Sikar to monitor deep blasting operations and examine the damage caused to houses, harvesting structures etc.

The court order also directs the Collector Sikar "to consider the question whether damage/cracks have been caused in the houses and random checking of the blasting operation be made to ensure that blasting operation is kept within the permissible magnitude. Collector is also directed to ensure that no damage is caused by mining operation to the 'Charagah' land, water harvesting structures as well as to the houses in the Abadi area, trees and to the other plantation, which has been made."

Sir, the present Sikar Collector Mr. Dharmendra Bhatnagar we do not trust. He is a part of the problem. We would prefer if the divisional commissioner is made to supervise this part of the implementation of the court order. The divisional commissioner during his trip last year on 12 August to Dabla and adjoining areas stated in his report (See page 6) that several houses in the hamlet of Gangledda had developed cracks, roof slabs had broken and this was found even in those houses which were under construction. The community centre and the cooperative society building had also not been spared.

Sir, his report goes on to say (see page 7) that the cracks in the constructions could well be due to blasting goin beyond the danger zone of 300m.

We are hopeful that you will ensure fair examination of the issues under the supervision of the divisional commissioner so that justice prevails.

Sir, we hope that you will issue appropriate orders and ensure that the spirit of the Rajasthan High Court Judgement is implemented in a just manner.

With regards,

**Kailash Meena, Jairam Singh Vrc,
Udmi Ram Swami, Sunil Sharma,
Ex-Captain Krishan Singh,**

Moharchand Swami, Kavita Srivastava and Sawai Singh

CC: Director, Rajasthan State Pollution Control Board, Principal Secretary, Mines, Govt of Rajasthan, Divisional Commissioner, Jaipur, Collector, Sikar

List of Fabricated cases against men and women of Dabla and those of Neemkathana, particularly against those who are leading the anti-mining and stone crusher movement, attached as annexure.

All cases have been lodged by the Patan Police station, except for 2 which was lodged by the Neem Ka Thana Police station.

All the leaders of the struggle living in Dabla like, Jairam, Sunil, Surendra and Mohar Chand have 6 cases against them and Udmi has 4; Jairam has been charge sheeted in 3 cases, removed from the charge sheet in 1 and investigation is underway in 2. Similarly Sunil, Surendra and Mohar Chand have been charge sheeted in 4 cases and Udmi in 3. It is important to note that none of them had any cases against them before April 2011.

KailashMeena leader of the anti mining struggle in the entire region of Neem Ka Thana had 5cases against him, however it was learnt through the SHRC and NHRC that they have charge sheeted him in only in 2, closed investigation in 2 and investigation is underway in 1.

Sawalram, another activist has more than 7 cases against him with 2 relating to Dabla and the rest at Neemka Thana.

All Cases filed by the stone crushers and the officials have been charge sheeted. Those filed by the ordinary villagers have either closed or investigation is still

New Land Bill will Further Intensify Conflicts

New Delhi, October 17: Draft Land Acquisition, Resettlement and Rehabilitation Bill (retitled as Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation and Resettlement Bill, 2012) is touted by UPA government as a remedy for infusing animal spirit in economy, satisfying investor's sentiment and addressing the ongoing land conflicts. However, the current draft of the Bill, which has been accepted by the Group of Ministers, is a retrograde step will only facilitate the transfer of precious natural resources to the private corporations and facilitate further corruption and fuel land conflicts.

Historic Failure to Learn from Past

65 years of developmental process in the country has thrown up enough experience - starting from a mixed economy to current crony capitalist model - even then the Bill has not taken in account any of those lessons. Failure of resettlement and rehabilitation in Bhakra dam and many other projects to withdrawal of World Bank from Sardar Sarovar citing environmental violations and complete lack of R&R or death of farmers in Nandigram, Kalinganagar and other places should have given enough reason for the government to give up the whole framework of acquisition of land using the 'eminent domain' principle. It is extremely unfortunate that putting aside every possible democratic precedent and institutions, progressive pronouncements of the Supreme Court, UPA government ruling in the name of aam aadmi is bringing a law to legitimise forcible acquisition by the government for private and PPP projects in the name of development and to placate the investors and their representatives in the Ministry of Trade & Commerce, Finance, Urban Development, Planning Commission and other Ministries.

It is no wonder and seems to be only expected from a government which is being run on the life support given

by the private corporations and on their money, especially after completely anti-people decisions in form of allowing FDI in retail and aviation, hike in diesel prices and electricity tariff, disinvestment of public sector units and other related measures.

The Bill will be placed before the Cabinet but we would like to express our opposition to such a legislation which is going to deprive the nature resource based communities of their livelihood and fails to accommodate key recommendations of the Parliamentary Standing Committee comprising of members from different political parties.

Acquisition for Private Corporations and PPP Projects

PSC very clearly has said that no acquisition should be allowed for the private and PPP projects, since they are nothing but a loot of natural resources. The unfolding corruption cases involving auction of coal blocks and spectrum, irrigation scam and others, all testify to greed and illegality in private and PPP projects. It is time for shunning the eminent domain framework of the state rather than expanding it to be a tool in service of private capital. It will be a move for the worse and fundamentally damage the socialist and egalitarian fabric of the constitution, as propounded in the directive principles of state policy or mandated in the Article 243.

Consent of Gram / Basti Sabha

NAPM along with many other movement groups under the banner of Sangharsh have been demanding free prior informed consent of the Gram / Basti Sabha for deciding nature of public purpose, to approval of the project and their participation in R&R and various steps of project implementation. Unfortunately under the pressure from industry and their lobbyists even a 80 percent consent clause of the project affected people is now being reduced to the two third

of the land losers alone. Similarly, small benefits like a house plot to those displaced are being taken away by increasing the time of residence from three years to five years prior to displacement. In spite of numerous deliberations with the Ministry, displacement in urban centres seems to be nowhere on radar, a separate legislation on the urban evictions and displacement is the only way out now.

Retrospective Application of the Bill

The new formulation says that the Bill shall apply prospectively only, i.e., for new acquisitions only, and not retrospectively. Earlier the Bill was to apply retrospectively, i.e., to ongoing land acquisitions where Award had not been made or possession not taken.

This is nothing but further dilution, since we have been saying that nearly 10 Crore people have been affected by various 'development' projects since independence with a very low rate of R&R, nearly 17-20 percent. A new legislation should move forward in addressing the historical injustice committed on the scheduled caste and scheduled tribe who constitute the majority of PFAs by setting up a National Resettlement and Rehabilitation Commission to address their claims of R&R rather than feeling proud in denying their share in development of the nation. It is shameful and nothing else!

Land Conflicts

A concerted effort is being made by the UPA to say that they are trying to protect the interests of the farmers and communities dependent on the land but unfortunately none of the actions by the government seem to demonstrate that. No wonder if approval to such a Bill by the group of Ministers will only add to discrediting the government, since it seems to be ruling for the interests of the private and

multinational corporations alone and not for the people who voted it to power.

The Bill if accepted in current form will not only increase the conflicts surrounding the land across the country as being witnessed around the various infrastructure projects but will prove fatal for it in the next general elections. UPA must heed to the voices of the people, real investors' and not to the investors holding fictitious wealth. People and communities are real investors, who hold control of land, water, forest, minerals and most important their labour.

Role of Ministry of Rural Development and Other Ministries

Ministry of Rural Development

recently signed an agreement with Ekta Parishad and talked about formulating a policy for ensuring homestead titles for landless; we wonder how serious they are, given the Bill which has just been agreed. The Bill in current form will take away the land rights or titles given to anyone either under the Forest Rights Act or by the proposed new legislation. Let the message be clear that no matter what the Cabinet decides but ultimately the Bill has to be passed through the Parliament where we hope the will of people will prevail and not of market. We will continue to struggle against such draconian laws and pose stiff resistance to loot of precious natural resources and strive for land rights.

Finally, we would also urge that Ministry of Social Justice and Empowerment, Tribal Affairs, Environment and Forests and Urban Housing who are mandated to look after the interests of the marginal communities must assert themselves and protect their rights or else what is the point of having such ministries, when their rights are being trampled in the interest of business and commerce?

Medha Patkar, Dr. Sunilam, Prafulla Samantara, Roma, Gautam Bandopadhyay, Vimal Bhai, Suniti S R, Bhupinder Singh Rawat, Dr. Rupesh Verma, Advocate Aradhana Bhargava, Rajendra Ravi, Madhuresh Kumar □

Justice for Soni Sori Campaign: Press Release dated 10/10/2012

NCW Shamed into Reopening the Soni Sori Case after Gherao!

Today afternoon, activists from women's groups and several people's organisations stormed the National Commission for Women (NCW), protesting against the continued inaction for a year in the Soni Sori case. It has been one year since the arrest of 36-year old Soni Sori, an adivasi school warden from Dantewada, Chhattisgarh, and her custodial torture at the behest of the then SP of Dantewada, Ankit Garg. Soni Sori's right to life and dignity have been violated by various jail and police authorities several times over - from foisting false cases against her, sexually torturing and humiliating her in the police station, denying her medical attention, and most recently, humiliating her by publicly stripping her in prison in the name of conducting physical search. It is also one year since women's groups first met the NCW to seek their intervention.

Since the first meeting last year, these organizations have approached the NCW on several occasions to take steps against Soni Sori's custodial torture and continuing ill treatment. Every single instance of illegality by police and

jail authorities was brought to the attention of the NCW. Soni Sori herself wrote to the NCW seeking their help. But all this has fallen on deaf ears.

On 27 September 2012, when the NCW was once again approached regarding this case by representatives of some women's organisations, Hemlata Kheria, the Member-in-Charge of Chhattisgarh was not even aware of Soni Sori's case. It took two hours for her file to be dug out, and it was then discovered that a reply of the Chhattisgarh police had been lying in the NCW office since 17 February. The NCW has neither taken cognizance of this reply, nor forwarded it to the complainants.

Today, to the shock and consternation of the protesting organizations, they were informed by another member secretary Charu Walikhanna that the Soni Sori case had been closed on 4 Oct 2012, that too once more without informing the complainants! Clearly, the NCW had satisfied itself by reading a "report" by the accused in the case, the Chhattisgarh Police. The closure report says, "At our end, nothing

seems more to be done". Various members of the NCW came up with frivolous excuses of not having the "power" to take up a case which is pending before a court. The activists were then forced to read out the provisions of the NCW Act, which give the commission the power to intervene or/and assist in any pending case.

After prolonged discussion, the NCW finally relented and has reopened the case. Also, the NCW has given in writing that within a week it will "consider intervention in the Supreme Court case" and carry out a fact-finding.

NCW has frequently denied reports of sexual violence by security forces in several parts of the country, instead of seeking to investigate and end impunity granted in such crimes. It's apathy has been criminal - it refused to get involved in the Shopian case where Nilofer and Aasiya Jan were sexually assaulted and killed; it remained a mute spectator when the Chhattisgarh police whisked away Sodi Shambho, the crucial witness to Gompad massacre, from right under its nose in New Delhi to some place where

she still remains untraced three years later; it is still to take any action on a 15-month old petition asking the NCW to investigate the human rights violation of Irom Sharmila, who is being illegally

detained by the Government.

The protesting groups today also pointed out that Members and Chairpersons of the NCW are chosen not by virtue of their involvement in and championship of women's rights

and struggles, but by their participation in and patronage by the ruling political parties.

In Solidarity,

Delhi Forum, F-10/12, Malviya Nagar, New Delhi - 110017. □

Convention Held in Solidarity with Maruti Workers

Demands Industrial Democracy and Upholding of Labour Laws

The AICCTU and AISA held a Convention on September 7th at the Indian Social Institute, Delhi, in solidarity with Maruti workers. The Convention was on the theme, 'Intensified Assault on the Working Class: Challenges Before Democracy.' It was attended by workers from the Delhi-NCR area, students, as well as concerned citizens and activists.

Several Maruti workers addressed the Convention, describing the exploitative conditions of work at the Manesar plant, in which they were given just 7 minutes to have tea and use the toilet, where pay was cut for every leave taken, and where the bulk of workers are employed on contract and paid less than permanent workers for the same work, in violation of labour laws. They described the incident of 18th July, pointing out that the Maruti management had introduced bouncers into the factory in order to intimidate the negotiating union leaders. They alleged that the violence was unleashed by the bouncers, who were responsible for the fire in which a manager lost his life due to asphyxiation.

The workers asked, "We are being described as criminals and killers. But can we ask - was it not illegal and provocative of the management to suspend an innocent worker and then introduce bouncers in the factory?"

Comrade Matthew, former President of the Maruti's Plant I Union who was terminated after the struggle in 2000-2001, also described the repression faced by workers at that time.

Rakhi Sehgal of the NTUI painstakingly recounted the many unanswered questions and inconvenient facts regarding the 18th July incident that contradict the 'official' version. There is ample evidence to suggest that bouncers in workers' uniforms were introduced into the factory by the management in connivance with the police. She highlighted the fact that the investigation was being conducted by police officials who themselves are under a cloud regarding their role on 18th July. She said that the workers of the Maruti factory firmly believed that the 18th July incident was a conspiracy to finish off the Union. A significant majority of the Maruti Manesar plant's workers are from southern Haryana, from a belt where they receive some support and backing from their agriculture-based families, and are therefore more difficult to intimidate or suppress. Therefore, it is likely that the management wanted an excuse to replace them, once and for all, with more pliant migrant labour.

Speaking at the Convention, S Kumarasami, the All-India President of AICCTU, and also the President of the union of the Pricol Automobile workers of Coimbatore, described the struggle of the Pricol workers from 2007 onwards, and the incident of 2009 in which an HR manager was killed. He said that in a situation where workers are having to work in a state of virtual 'rigorous imprisonment,' deprived of legal rights, basic democracy, and an atmosphere of intimidation, where unionisation and peaceful struggles are suppressed, and managements

seem to enjoy impunity in the eyes of Government, it was all too natural for conflict to erupt. Such incidents were bound to increase as long as industrial democracy is suppressed. He said that the Pricol workers sustained their Union and their struggle in the face of repression, by forging strong links with the struggles of local people.

Describing the situation in Manesar now, Comrade Kumarasami said 'industrial terrorism is being unleashed on the working class,' with ex-army personnel and police being deployed right on the factory floor. Just as corporate plunder was being encouraged, as shown in the coal, 2G and mining scams, capital backed by the State is also focusing on maximum extraction of profit by maximizing exploitation of workers. The result, he said, was '21st century technology and 19th century labour conditions.' He called for the Trade Union movement to reach out to the vast army of contract and apprentice labourers and for the working class to forge links with the struggles of contract workers as well as non-factory workers and common people.

He highlighted the demand for the TU Act 1926 to be amended to make it mandatory to give recognition to the majority union in each factory as chosen by workers by secret ballot.

Labour historian Prabhu Mahapatra mapped the shifts in the production process, through Fordism (Assembly Line production), which reached its crisis in the 1930s to the Japanese Toyotist model whereby a core of

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The XIth National Conference of the PUCL at Jaipur

Notice for All PUCL Members

The XIth National Conference of the PUCL will be organised on the 1st and 2nd of December, 2012 in Jaipur. The venue of the two day conference is **Swami Kumaranand Bhawan, Hathroi Gadh, Near Vidhayakpuri Police Station, Behind Church Road, Jaipur.**

Arrangements for stay have been made at **Shri Prem Prakash Vishram Grah, Amrapura Sthan, MIRoad, Opposite OM Towers, hardly a few hundred metres from the venue.**

Both the venue and the place of stay are within a kilometer distance from the Bus Stand and the Railway Station.

All the members are requested to bring proof of their identity as it is required for staying in the Dharamshala.

Jaipur conference contacts: Prem Krishna Sharma: 0141 2206139, 9414055811,

Kavita Srivastava: 0141-2591408, 09351562965, Pappu: 9887158183, Malvika: 7742794190.

Email Address: <pucl.rajasthan@gmail.com> and <kavisriv@gmail.com>

As planned in the National Council meeting the larger theme for the year will remain **Challenges before the Human Rights Movement and PUCL's Response (Manav Adhikar Andolan ki Chhunautiyan evam PUCL)** in which the specific theme of the Jaipur Conference will be **"People's Insecurity in the name of National Security: Citizen's Rights, Democracy and State Terrorism."**

The discussion will take place around the following three sub-themes:

1: Anti-Democratic laws and Sedition and Experiences of Combating it

2: Gujarat Genocide: Examining the ten-year struggle for Justice and Humanity in India

3: Politics of Resource Grabbing: Resistance and the response of the Indian State

Discussion on Re-imagining PUCL and addressing organisational issues within the PUCL will also take place.

Information on the final programme with sessions and speakers will be sent soon.

Kavita Srivastava, National Secretary, PUCL □

PUCL Members and Bulletin Subscribers Please Note:

Dear colleagues,

PUCL Membership record is being updated at the National office of the PUCL. It has been noted that annual members fail to renew their membership because of which their membership lapses. Members are requested to check their membership record with the State Branch (or National office in case they fail to get necessary details from their State Branch office) and renew it when it becomes due to be able to receive invitation for meetings, convention etc. Annual membership pertains to one calendar year. Likewise, PUCL Bulletin subscriptions expire because of non-renewal. As the State Branch offices may not have record of the subscribers, members are requested to make inquiries in this regard from the National office and send their subscription amount when due either through their State Branches or directly to the National office along with details of their current address (along with the old address in case of change of address).

Subscribers may also note that the Bulletin is sent regularly to them through the postal services by the National office. In case they do not receive it every month, they are requested to contact their zonal post offices and file their complaints there. Copies of the complaints may also be sent to the National office so that the matter may be taken up at the level of the Postal Headquarters located at New Delhi. The Bulletin is, however, posted at our website: www.pucl.org in the first week of every month and can be read online there.

Mahi Pal Singh, Secretary, PUCL □

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loyal workers are surrounded by layers of precarious workers. He said that the 2000-2001 strike in Maruti was in fact a crisis of the Toyotist model. In the post-Toyotist phase, he said, contracting had been

brought into the heart of the production process, with workers of various types working under the same roof, and even permanent workers finding their wages and working conditions depressed.

Though capital keeps adapting its production process, inevitably, conflict follows capital, he said, because capital is the mother of conflict. And most remarkably, workers learn from their own

experience. That is how young Maruti workers, with no experience of politics or unionisation, ran a strike for several months last year. The Maruti struggle, he said, was born out of the workers' own realization that the fate of permanent and contract workers were linked and struggle must be united. He called for a unity of struggles, based on a 'community of shared fate,' between permanent and contractual workers on the factory floor, and adivasis and workers all over the country. He felt that the Trade Union movement should not have separate unions for permanent and contract labourers, rather, it should be the norm for permanent and contract workers to be part of the same union. He recalled Rosa Luxembourg's last leaflet before her martyrdom, in which she wrote that workers' history is the history of a series of 'historical defeats' - but is from these defeats that future victory will bloom!

Atul Sood, a professor of economics from JNU, pointed out that Gujarat was a preferred destination for capital, yet strikes and lockouts in Gujarat in 2010-2011 were greater than in many other states! Clearly, capital preferred Gujarat, not due to less industrial conflict, but because the State is most authoritarian there, and backs the exploitative managements to the hilt. In Haryana too, he said, there is a move towards a private security regime to complement repressive policing - all in the service of capital.

Senior advocate N D Pancholi, President, PUCL Delhi, spoke about the tremendous suppression of workers' struggles in and around Delhi, and called for civil liberties' and democratic rights' groups to have a closer engagement with these struggles.

Ranjana Padhi, feminist activist, spoke about how the struggle of the

young Maruti workers was truly inspiring. She recalled the vibrant solidarity initiatives taken up in the days of the 2000-2001 Maruti strike, and called for working towards more such initiatives for the present struggle as well.

The Convention was also addressed by the Maruti workers' lawyer Rajendra Pathak, and Santosh Rai, President of the Delhi State unit of AICCTU.

Among those who joined the Convention in solidarity with Maruti workers were Jawed Naqvi, columnist, Arundhati Roy, writer, Sanjay Kak, filmmaker, Madhuresh (NAPM), Prof. Vijay Singh, activist Gopal Krishna, Sandeep Singh, President of AISA, Sanjay Sharma, Delhi State Secretary of CPI (ML) Liberation, Prabhat Kumar, Central Committee member of CPI (ML) Liberation, and several teachers of DU, students of Jamia Millia Islamia and other universities in Delhi.

A member of the New Delhi Bureau of the party organ of the Communist Party of Japan also interacted with the Maruti workers and covered the Convention for his paper.

The Convention adopted a series of resolutions: appealing to all democratic organisations and citizens for support for the Maruti workers' struggle; demanding immediate withdrawal of police and paramilitary from industrial areas in Gurgaon-Manesar; demanding release and reinstatement of all the workers; demanding an independent judicial enquiry into the 18th July incident; demanding that the Haryana Govt and Central Government be held responsible for upholding labour laws and industrial democracy and penalizing companies that violate these laws; ending exploitation of contract labour; and amendment of the TU Act 1926 to make registration of the majority Union mandatory.

Report by: **Kavita Krishnan** □

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