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Lessons from the Delhi Gang Rape Mahi Pal Singh

The gang rape of a young girl of 23 years in a moving bus in New Delhi, her subsequent death and the massive and spontaneous protests in Delhi and all over the country which followed the incident expressing the anger and the outrage among the people, particularly among the youth of the country, once again exposed the ability of the police to ensure safety of women, the patriarchal mindset of the society in general and the hollowness and hypocrisy of the political class in ensuring a place of dignity and equality to women.

Men continue to be what they have been for centuries - dominating and patriarchal in thought and behaviour. So no surprise when Mohan Bhagwat, the RSS chief, said that rapes do not take place in rural but urban India and further, "A husband and wife are involved in a contract under which the husband has said that you should take care of my house and I will take care of all your needs. I will keep you safe," following it up with, "So, the husband follows the contract terms. Till the time, the wife follows the contract, the husband stays with her, if the wife violates the contract, he can disown her," or when President Pranab Mukherjee's newly elected Congress MP son, Abhijit Mukherjee remarked that "dented and painted" women were protesting against the gang rape in Delhi, or when a CPI (M) leader in West Bengal, Anisur Rehman made a highly offensive remark against Mamata Banerjee, the woman Chief Minister of the State, hurting her dignity as a woman. When Khap Panchayats issue diktats to girls and women to wear one kind of dress and not the other or about who to marry or not marry, it is the same mindset which is reflected. They want to remain masters of their destiny and their bodies and to treat them the way they want. That is the reason why they commit murders and rapes and the most powerful amongst them get elected as legislators, the position which shields them from law. And then they become arrogant also not caring for the people who elect them. They themselves require Z-Plus security with scores of gun-toting commandos for their safety and to-hell with the safety of women, young girls and the aam-aadmi. Are the political parties not abetting crime and crime against women when they gave Lok Sabha election tickets to six persons and State election tickets to 27 such persons during the last five years who had declared that they were charged with rape, of which six MLAs actually represent people in State Assemblies today? Is it any surprise that they go scott-free after long trials in a country where conviction rate is so low that out of 1,26,753 rape trials in 2011 only 5724 accused were convicted; where the police connives with the accused and either does not register an FIR and the victims have

to threaten to immolate themselves for an FIR to be registered, as happened in a recent Punjab case, or if registered, the case is made out to be weak or the policemen themselves pressurize the victims on behalf of the accused to withdraw the charges, of course not before their palms have been sufficiently greased. And if you protest against a rape case, as happened at India Gate on 23rd December 2012, be ready to be brutally lathi-charged or face murder charges against you if a policeman dies for other reasons during your protest, and it does not matter whether you are a student or a girl or an old man or woman and have come out spontaneously on the streets to sympathize with the victim and to demand safety to women on the roads, which otherwise also is the duty of the police and the political leadership. But they have other important things to do like accusing you of creating a law and order problem and the movement being a motivated one. That is the reason why, in spite of your being near the seat of power, no political leader of the party in power or anyone from the government stepped out to meet and listen to what you and the other young boys and girls had to say, not even Rahul Gandhi, the young leader of the party who is being projected as the sole leader of the youth of the country and the Prime Ministerial candidate of the party in the 2014 parliamentary election; not even anyone else from his youth brigade. In fact, till date, not even in the speech he made on 20th January 2013 at the Jaipur conference of the Congress party named 'Chintan Baithak' after being elected as its Vice-President, has he uttered a single word condemning the incident or of sympathy for the young victim or about ensuring the safety of women. No surprise then that the Women's Reservation Bill for granting 33% reservation to women in Parliament, hangs in uncertainty even after being passed by the Rajya

Sabha after long years and the ruling party does not show any urgency for it though it easily manages to get the FDI in Retail Bill passed by both the Houses of Parliament in spite of huge opposition from most of the political parties and the public alike. The leaders of some other political parties, like the Samajwadi Party and the Rashtriya Janata Dal, will continue to block the passage of the bill in the name of providing reservation within reservation to minorities or OBCs. Of course, the ladies of their own families enjoy the benefit of top priority in nomination for elections and get elected. So long as they can do this, how does it matter for them whether other women reach our legislatures or not? Socialism for them ends there and this is how they pay their tributes to the socialists of yesteryears like Dr. Ram Manohar Lohia, Jayaprakash Narayan and Madhu Dandavate. Is it not surprising that in a democratic country where the President was a woman till recently, the chairperson of the UPA, the ruling formation at the center, is a woman, the leader of the opposition in the Lok Sabha is a woman, the Speaker of the House is a woman and three Chief Ministers of the big and numerically important States, namely, Tamil Nadu, West Bengal and U.P. have been women, of which two are still ruling, and every political party declaring again and again that they want to pass the women's reservation bill, but still the bill remains un-passed in Parliament?

But what pains any rational human being more is that even women Members of Parliament, who are supposed to lead the movement to ensure equality and safety to all women, show insensitivity towards their plight and concerns. When Sushma Swaraj, the leader of the opposition in the Lok Sabha showed her anguish at the incident of rape in the capital, her heart went out in sympathy for the victim and she demanded death penalty for the

perpetrators of the crime like many of her counterparts in the ruling Congress. Let us forget for some time the rapes and murders that took place in Mumbai during the 1992-93 communal riots or what happened to girls and women in 2002 in Gujarat because reference to those communal incidents will be uncomfortable to her. However, even her slightest attention did not turn to Soni Sori, a tribal girl, who was stripped naked in a police station in Chhattisgarh, a State ruled by her own party, and stones were thrust into her private parts in a gruesome manner, not by some lawless citizens but by policemen, supposed to be the protectors of law and the life and dignity of the people, and when the Superintendent of Police under whose jurisdiction it all happened was honoured with a 'gallantry award' by the State. Nor was she reminded of the gang rape and gruesome murder of Thangjam Manorama, a Manipuri girl, by the personnel of the security forces in 2004 facilitated by the immunity provided to the security forces under the Armed Forces Special Powers Act, which she and her party have been vociferously supporting, and which is in force in Manipur and the Kashmir valley, where also hundreds of rapes and killings at the hands of the rogue elements in the security forces have taken place. The question is: Why did she not demand the same punishment for those policemen and the Superintendent of Police concerned, or to the personnel of the security forces who committed rape and murder of Thangjam Manorama? Her head also did not hang in shame when many women of Manipur stripped themselves stark naked and demonstrated in front of the Assam Rifles headquarters in Manipur, whose personnel were involved in the gang rape and murder of Manorama, with banners 'Come and rapes us too!' in protest against the non-action against the perpetrators of the crime.

Perhaps because the girls of Manipur and the Kashmir valley are not her and her party's constituency.

Another female MP from the Samajwadi Party wept out her outrage in the Rajya Sabha and outside in front of the media cameras but even she did not show the courage to ask her party leader to expel her party MLAs in UP who face similar charges against them and even now they and their close relatives continue to perpetrate such atrocities on women in UP, the State ruled by her own Party, even after the Delhi rape case. Dr Kakoli Ghosh Dastidar, a senior leader of the Trinamool Congress party and a Member of Parliament, herself a woman, said that the Park Street gang rape case of a young girl in West Bengal, which is ruled by a woman Chief Minister, Mamata Banerjee, of her own party - in which the woman was raped by five men after she came out of a nightclub - was not a case of sexual assault but a misunderstanding during a deal between a woman and her "client". She was merely toeing the line of her leader who was accused of shedding crocodile tears while offering support for making strong laws in the wake of the Delhi gang rape while, as many people felt, her own government was trying to cover up the Park Street gang rape case in her own State because perhaps the perpetrators were her party sympathizers. After the remark by Kakoli Ghosh, the rape victim in that case told the NDTV, "I cannot imagine how a woman can say something like that about another woman, about me. Here I am waiting for justice and she has gone ahead and said something so insulting."

These are women MPs, who, at least, are supposed to be sensitive and vocal, rising above party politics, on inhuman crimes against women. Is it not surprising, too, that none of them have ever thought of demanding 50% reservation for women in

legislatures, as has been provided in Panchayats in many states, or in their party posts, even though they form almost 50% of the population of the country? If that happens, women by themselves will be able to decide what police, judicial or administrative reforms or laws are necessary for them to live as equal citizens of the country and they will be able to take decisive action in all matters pertaining not only to their safety but also to their education, employment, healthcare and social security in all other matters. But what they indulge in, like their male counterparts in the party, is mere politics and sheer hypocrisy! Perhaps they know better than us that their male counterparts in their own political parties will not let them do so, or maybe, they tacitly support them by bowing before their male hegemony, or probably they dare not do so for fear of losing their own personal position in the party for the sake of lifting the status of all women in the country, and to continue to use it as a slogan to promote their own politics. Hypocrisy thy name is Politics!

Nothing seems to have changed in the last one month after the Delhi gang rape and the following protests. Rapes continue to take place, the attitude of the police and the politicians remains the same, the perpetrators of the crime in the Soni Sori, Manorama and thousands of other cases like theirs in Chhattisgarh, Jharkhand, Kashmir, Manipur, Haryana, U.P. and elsewhere, including Delhi, the rape capital of the country, continue to roam free. The AFSPA remains in place providing immunity to the personnel of armed forces and Iron Sharmila continues to be on fast even after 11 years demanding repeal of the draconian law, politicians continue to enjoy the powers they have sitting on the heavenly citadels of power and the security of commandos (for them the God is in the heaven and all is

well), and holding conferences planning strategies to remain in or come to power in the 2014 Lok Sabha election, and to pay lip service to the victims while defending their party colleagues by repeating their oft quoted remark that they are 'innocent till proved guilty' and 'the law will take its own course if and when they are proved guilty', instead of expelling them from their parties or denying them party tickets for elections. However, the angry protests by young girls and boys in New Delhi and other cities of the country, as happened earlier in the movement against corruption led by Anna Hazare and his team, which too was sought to be demonized by the ruling dispensation because that too targeted their vested interests, show that the youth of the country has decided to change things and will no longer tolerate the callous attitude of the law enforcing agencies and the political class as a whole towards protecting women and their honour and giving them their rightful place as equal individuals in society, is a beginning in the right direction and it cannot but have its effect sooner or later, the sooner the better. The determination of the youth as reflected through these protests shows that they want change in attitudes and the society, and that is a positive sign, which cannot be, and should not be, brushed aside. It is the women themselves who have to understand that by virtue of being born as human beings, they too are born with the same human rights as men and they are fully entitled to choosing what they wear and who to choose as their life and/or sex partner and to lead a respectful life with dignity and safety in accordance with their own free will as any other individual. Nobody else will change things for them. They themselves will have to rise to the occasion and lead the nation towards the change they visualize. The march towards that end has only begun..... □

Break Down of Social Contract - Rousseau

Rajindar Sachar

It appears to me that in India we are rushing on that route envisaged by Rousseau. This foreboding I am getting because of the latest situation in Delhi where well intentioned non political young generation (who still retain faith and idealism) were brutally dealt with by police when protesting against the manner in which horrible inhuman gang rape of a young woman has been casually dealt with by Delhi and Central governments.

One sees the horrible and chilling scenes of the police water cannoning, brutal lathi-charge on young boys and girls, even ignoring that these incidents are being televised live and millions of people all over are seeing this savage brutalization of the state, I had thought that after the first day of televising of these events, the police will be cashiered and Central Ministers and leaders, both of Central government and state government will take proper steps to defuse the situation - I was rudely mistaken. What is most disturbing is the response of the Delhi and Central Government. Here were mass of young boys and girls, students massed together spontaneously to show their anger at what has happened and demanding action. In a democratic country one would expect the Chief Minister of Delhi and the Central Home Minister or Congress party leaders Sonia and Rahul to go to the spot and interact with them. Nothing of the sort has happened. Disappointment to the youth was natural.

Though the mass gathering was peaceful, they were met with brutal beating by police as if we were back in the imperialist British régime blowing out freedom fighters' heads. This insensitivity was further intensified by the closing down of 9 Metro Stations - as if a civil war had broken out.

The death of a constable on duty is extremely tragic. All sympathies to

his family, the government's announcement providing jobs to his family and compensation to his family are unexceptional. But is the government not acting in an extraneous manner by spreading the canard that he died at the hand of protestors. This story has turned out to be concocted. Hospital authorities denied that the constable had any external injury - rather their prima facie conclusion is that he had a heart failure and though he was put on heart machine immediately, he could not survive.

And yet the whole administration was persuaded to attend the funeral ceremony to project the constable as a victim of protestors. Of course all respect to the dead and provisioning for his family are acceptable and correct. Only one would like to know whether any other constable had received such respect as the presence of Central Minister of Home, Chief Minister of Delhi, and the emotion carrying of hearse of the constable by the Commissioner of Police. There are any number of constables who have died in their duty to arrest dacoits, terrorists, but without being honoured in such a manner. Does the administration think that the public is so infantile that they will not see through this game, which has the sole motive to malign the protesting youth?

The Home Minister in a very unseemly manner says that he is willing to meet any deputation who wants to see him. But he forgets that in a democracy, in such a situation, Ministers who are in fact the servants of the people must go to their masters and explain their conduct. Had any of the leaders of the government or the party gone to meet the crowd, the matter could have been eased and the unfortunate death of the constable would perhaps not have happened.

The functioning of the State has broken down when we find the Police Commissioner of Delhi complaining to the Home Minister Shinde about

"Interference" by the Chief Minister of Delhi in the recording of the statement by the sub-divisional magistrate.

The cause of death need not await the result of the trial or the Justice Verma Commission report. The Doctors' version and the inquest report should be immediately made public because already even the President, while saying that the "anger of the youth was justified", but added that violence was not the answer. Now if Doctors' version is correct, have not the Home Minister, and the police misled the President and embarrassed him in public.

Political parties wisely kept away from the protest meet so as not to permit the government to politicize the movement.

The police have become so emboldened because of the silence of the authorities that the complaint of the teenage girl protestors, that they were detained in the Parliament Street police station and beaten because they wanted to march peacefully from Jantar Manter to Parliament Street, is proudly confirmed by admitting that they were allowed to go after their details were noted down under the Police Act and they had given an undertaking. Are we in a police state or a democracy?

The press reports say that the Prime Minister and Sonia Gandhi "have advised the security forces to exercise restraint. How I wish this advice had been given the very first day of the protest.

The youths need to be congratulated rather than demeaned (as is the effort of the Central and the Delhi govt.) in bringing out this vital human right issue of rape victims to the fore.

I must point out the breach of certain well-established conventions. It appears that the date of the trial was announced by the Home Minister after a personal meeting with the Chief Justice of the Delhi High Court. This was a judicial matter - a proper

application by a government lawyer before the Chief Justice and heard in chamber would have been the conventionally correct course.

The Central government seems comfortable with the open spat between its own Congress Chief Minister of Delhi and the Commissioner of Police under the

control of the Central government. It is as if we have reached a stage where each agency is working on its own without being under any Central control or single authority. It would appear that the pro-corporate reform oriented and foreign Direct Investment (Retail) lobby has succeeded in creating a situation

where Karl Marx would have been happy to see that at last his prophecy that one day "the State will wither away" has at least become a reality in India. No self-respecting Indian, however, can live at peace with this picture.

Dated: 26/12/2012 □

Rape and Punishment - Conservatives Exposed

Asghar Ali Engineer

The rape of Nirbhaya (as the 23 year old victim has been named by the Times of India) on 16 December night rightly raised grave concern about the safety of women in modern democratic India today. Thousands of women and men, especially women, came out on the streets of Delhi, Mumbai and several other cities to condemn the heinous crime against women and demanded change in law to make it harsher than what it is.

I fully sympathise with the concern of these women and men and agree with them that all possible steps should be taken to prevent such heinous crimes against women involving rape and murder. As it is, women are victims of lust of men and on top of it some conservative Hindus and Muslims blame them (victims) only for what has happened with them. We need to discuss this at length.

First of all I would like to emphasize that it is a multi layered phenomenon and needs multi-layered solution. May I even say it requires deconstruction and reconstruction of social values and human character as one of the important steps towards solution of the gender question. Harsher punishment, no matter how harsh, is not going to solve the problem. After the Nirbhaya case and despite such protests and hue and cry every day tens of cases of rape and brutal murder are being reported in newspapers as if, for these rapists, nothing untoward has happened at all.

Let us first see who are the rapists and who are the victims? We can divide them into three categories: 1) the rapists are rich and powerful and the victims either middle class or poor dalit or minority women; 2) the rapist is poor and the victim too is poor and both of them belong to middle class or poor class. In addition to this, close relatives including father, uncle or step-father are also among the perpetrators.

In case the rapist is powerful and the victim poor, the rapist is bound to escape. They can buy the most well known lawyers, the police and even a section of judges. Many of our politicians including MLAs and MPs have been accused of being perpetrators of this crime. Who can touch them? The poor and powerless are more likely to be punished and if death sentence is accepted as punishment, as being demanded by some, it is these poor who will go to the gallows.

Let me tell you that the death sentence is not going to solve the problem at all. The Death punishment has been there for centuries for murder and yet murders keep on increasing by the day. It will only give more power to the police to harass the poor and helpless people or make more money through bribery. And who will police the police? Hundreds of helpless women are raped in custody. Also rape by army officers in areas like Kashmir, Manipur and several other places is no less a common phenomenon. No police or army officer has ever been punished for custodial rape.

Also, dalit and tribal women have been raped in this country and are being raped everyday by upper caste landlords and yet there is no concern ever expressed, let alone huge demonstrations as in case of the Delhi rape of Nirbhaya. In the Delhi case the victim happens to be a middle class woman and the perpetrators belong to lower middle class. Just replace the perpetrators with an M.P. or MLA and imagine what would have happened. The media would have kept silent, dismissed the news in a few lines in a corner and a few women activists would have demonstrated, not numbering even a few dozen.

Also, hundreds of women, especially belonging to minorities have been raped in communal riots. In Mumbai 1992-93 riots a mother and daughter were raped together by a riotous mob near National Park, Boriveli and in January 1993; during the Surat riots a number of Muslim women together were raped on the roadside and we did not hear a whimper of protest. In Gujarat 2002 hundreds of women were raped and in cases like Kausarbi and Bilquis Bano the victims were pregnant and in the case of Kausarbi, the fetus was taken out after ripping the abdomen and thrown into fire. Except an international Women's group nobody even bothered to find out what had happened. And when a Member of Parliament tried to raise this question, of all the people Mr. Fernandes, a socialist and the Minister of Defence in the NDA government, retorted, "What is new

in this? Women have always been raped in this country."

Unless we radically deconstruct our feudal patriarchal values, we can achieve little in eradicating this crime. In patriarchal society women are mere object of lust on one hand, and a machine for begetting children and cooking for husbands. No less a person than Mr. Mohan Bhagwat, the RSS Chief calls women as mere house servants on contract and that one can break the contract at any time. Can there be more shocking attitude towards women than this? He even forgets that in the Hindu tradition marriage is solemnized by taking an oath before agni (fire, which is sacred). Thus marriage is a sacred relationship between man and woman, not of servant and master.

Another member of the BJP suggested that Ramayana prescribes the right conduct for women and that they should not cross the Lakshman Rekha. Asaram Babu said that Nirbhaya should have chanted mantra and called her rapists brothers and they would have spared her. In Ahmedabad when Bilquis Bano was about to be raped by her neighbour, whom she always called uncle, she told him 'you are my uncle'. The uncle thereupon said 'not today' and he raped her. So much for Asaram Babu's formula.

The Jamat-e-Islami has come out with the solution that women should dress decently and co-education should be stopped for eradicating rape as if rape is promoted by co-education. The Jamat has resorted to 19th century discourse when co-education was to be introduced and was being discussed. Mohan Bhagwat also said that rapes are committed only in India (meaning modern cities) and not in Bharat (i.e. villages)

Unfortunately, for Mohan Bhagwat dalit women have no dignity or rights or sense of izzat. They can be raped without impunity by upper caste as they have been raped for centuries in rural areas. And so the tribal

women. They are there only to satisfy upper caste men's lust. It is generally these women who migrate to urban areas now and are raped there too.

From the above examples it will be seen that it is the victims who are blamed by conservatives of all religions, and not men who cannot control their lust. Unfortunately not a single person from amongst the conservatives has blamed men for rape. It is women who must be controlled and, as they say, what 'helpless' men can do if women dress provocatively and invite them for rape. Until yesterday if a woman came out of her house, even in dignified (?) dress, she was provocative enough and hence she was strictly controlled. Anyway, who will decide which dress is provocative enough? For conservative Hindus a woman must draw her sari over her head (make a ghungat, a veil) and for a Muslim she must cover her face with hijab with only two eyes seen. Thus, who will decide what is provocative and what is 'dignified'.

In fact, as pointed out above, a number of steps need to be taken to control rape instead of blaming women and restricting their dress or movements. The root cause of the problem is sexual lust and that needs to be controlled strictly in a number of ways. We must deconstruct patriarchal value system and reconstruct universal value system, which accords dignity to both the sexes and considers woman or female gender as fully dignified individual, no less. She is not an outlet for man's lust or mere housewife and child producing machine. She must be treated with dignity and honour, performing all her human functions like any man, including her biological functions and enjoying equal status with man.

This reconstruction of value system has to start with family and the school textbook. Today both the family and the school textbooks are thoroughly patriarchal and feudal in nature. Both institutions have to be

overhauled and universal values to be infused in them. Unfortunately our education system is entirely career-oriented, rather than character-oriented. Also, our patriarchal values put boys at advantage even in the matter of career. Apart from the change in law what is needed is thorough overhaul of our textbooks in matters of gender sensitivity. We must change our textbooks to make them emphasize gender-equality. Similarly family values should also change in equal measure and respect for womanhood and woman as a source of life has to be emphasized. The husband should be projected not as an authority as the family head but as an equal partner. Similarly our police has to be made gender sensitive and the entire law enforcing agencies should be sensitised to gender equality and my experience shows that in matters of de-communalising that it does make a big difference. Also, it is high time we change our language too as it is infested with male-gender superiority. A woman should not be projected as 'fair-sex'. This creates a psychology of its own. The whole advertising industry is based on woman's sexuality. This is more urgent than restricting her dress. The whole media is silent on this as it benefits immensely from sexual exploitation of woman in advertising industry by showing women half-naked and also as object of sexual lust.

Thus making sentence harsher may or may not help (but fast-tracking rape cases will certainly help) but overhauling our value system will certainly help. Call it social or attitudinal engineering is urgently needed. Also all women, irrespective of caste and class, are worthy of respect and since we have done our own sins, they are visiting us. Let us not tolerate any rape of dalit, tribal or minority women and we can have a rape-free and a riot-free society.

(Courtesy 'Secular Perspective', January 16-31, 2013) □

With Liberty & Justice for All

John Shook*

The world urgently needs more liberty and justice, and therefore more humanism. The ethical system of humanism prioritizes these ideals at a higher level than any belief system that precedes it, since it values the life of every person in this world alone. And this worldly life is one of mutual reliance, every person depending on so many others. No one is truly human alone.

As an ethical stance, humanism focuses on the individual and at the same time concerns itself with society; both commitments must remain bonded in mutual support, otherwise humanism makes no sense. History attests to the dangers of pursuing one to the detriment of the other, producing anti-humanist results. Societies that prioritize private liberty to excess, that let individuals accumulate all the powers they can, find that vast inequalities emerge. Those inequalities congeal into hierarchical social classes and rigid castes and severely restrict freedom of opportunity for all but the privileged and wealthy. On the other hand, societies that prioritize social justice too heavily, trying to equalize everyone's wealth and status, find that vital initiative gets crushed beyond consolation. Where bureaucracy dictates investment and commerce, creativity goes unrewarded and opportunity is wasted.

Balancing liberty and justice in healthy proportions is wiser than naively supposing that both can be maximized simultaneously. Human potential is too fragile and precious to abandon it to the caprice of private liberty or to entrust it to the rules of social justice. The individual needs freedoms within a supportive society, while society needs individuals to support the whole.

Three general principles embody the mutual dependency of individuality and sociality for humanism:

1) Humanism emerges as

individuals abandon submission to religious traditions and gods that their reasoning cannot justify. Humanists have no monopoly on rationality, a common possession of all human minds.

- 2) Humanism relies on traditions of ethical wisdom that no individual could personally invent, while at the same time humanism defends the priority of the individual which no tradition could invalidate.
- 3) Humanism seeks greater freedoms and opportunities for individuals as they expand their capacities, yet humanism also fights for social justice when novel social structures disempower peoples or entire societies.

Humanism at its core, at the heart of its ethical project, is the statement of a difficult problem, and not an elitist ideology offering simple platitudes. Humanism works best as a liberating ethos within cultures as they try to balance liberty and justice. In this sense it is fundamentally about responsibility: that which each individual owes others, and also what society owes to each individual. Every society has long had to balance these personal and social obligations, and humanism is not the first to offer an ethical resolution.

For as long as humans have lived in social groups using simple moral habits to supplement warm kinship bonds, these two forms of responsibility have had our species' attention. Large social brains instilled moral habits that competed among many other habits into succeeding generations of young brains, so that a moral mentality got passed along with many other kinds of social practices. Morality was never our strongest capacity, yet by the time humans began living in sizable clusters as herding and agriculture expanded, morality was heavily burdened with maintaining social

trust and order. Morality's burden was soon assisted by cultural reinforcements in the forms of tribal loyalty and religious piety. This powerful fusion of virtue-loyalty-piety typically sufficed for social order even as tribes entered ever-shifting alliances to form kingdoms and nations, and larger empires that soon followed.

For most of this rapid trajectory, ethics has the same pattern the world over: the virtues endorsed by one's culture are validated by a cosmic order assigning everything its proper place. This pious formula leaves each society to assign specific virtues and duties in its own way. No higher ethics than cultural piety has prevailed over most of humanity. Only rarely has its dominance been challenged, but it has been challenged. Humanism arose in several civilizations, from Greece to China, over the past three thousand years—precisely when thinkers questioned personal ethics and social ethics in an effort to criticize and improve traditional cultures. Humanism generated from both optimism in intelligence and disappointment with society. It is no coincidence that bursts of humanistic thinking appeared mostly during times of extreme stress, such as social strife and empire disintegration. In the West, modern humanism arose when civil and religious wars wracked Europe, gained momentum in its opposition to feudalism and slavery, and found maturity expanding democracy and civil rights. Nothing insults and enrages the humanist spirit like the irredeemable waste of precious human life.

The essence of humanism is one thing; the method of humanism is another. When one questions an established set of ethics, seeking what is genuinely best for people and sifting out perceptive wisdom from blind conformity, there can be no formulaic method. Cultures already

supply plenty of ethical formulas, standards of justice, and ideal hopes for life's success. Yet their pious rigidity sets the stage for the problem, and not its solution. Humanism is the expression of a core ethical problem, not the statement of its complete solution, and it cannot know the "ultimate good" in advance-that's what each culture claims to know already. Humanism instead arises from the emotions of sympathy with human suffering and regret for humanity's failures. It recognizes losses before it points toward gains. It recognizes injustices before it sets a new system of justice. It sees where moral ideals let us down before it discovers worthier ideals to pursue. Humanism avoids that simple fallacy-the petulant demand for proving a perfect standard before criticizing a poor result. The human heart well knows that undeserved suffering lies before us; we need not first look up to scan the heavens overhead.

By simply outlining its self-assigned problem, today's humanism gets targeted by the older ethical wisdom traditions it criticizes. One can picture them saying, "Who is this young upstart, this bold humanism, to challenge us? We are the repository of all the answers to what it can mean to be an encultured human, and what human excellence could be. Were humanism to reach its lofty goals, it would merely stitch together a new system from borrowed ideals, and join our pantheon as yet another cultural ethics. Where do you think we came from? Our heroic statesmen, visionaries, and prophets boldly scolded and reformed us into what we are, long before humanism. And by humanism's own admission, many of us have been quite humanistic already. Nothing original could come of this brashness."

How could modern humanism reply to these fair challenges? First, humanism didn't come from nothing. The high ideals of equal dignity and worth, of fair justice for all, and enrichment of every life, were forged

in the crucibles of intense friction as earlier civilizations rose and fell. Could humanism really suppose that it could set aside all cultural and religious traditions as tribalistic and ethnic curiosities fit for social history museums? Would humanism really try to start from an anonymously skeletal human, innocently bare of cultural clothing and proudly guided by pure intellect?

The only reasonable humanism trying to gradually improve people's lives is one that starts with actual people as they really are, culture and all. Humanism opposes tribalism in any form, but it can't stand aloof from culture itself, especially because many cultures are helpful repositories of humanistic wisdom with proven practical value. Humanism can't simply start over, in the manner of Plato's plan for raising up a new society from kidnapped children, or plotting rules for inhuman simulacra engaged in strategic computer games. Many deep thinkers have tried to conceptually deduce the "true" ethics from the inspirations of ancient scriptures, the purities of logical thought, or the essences of "innate humanness," and the results mostly reconfirm prejudices and dogmas of their own eras. Thinkers on some vain quest for intuitive or authoritative certainty won't be able to see much ethical truth arise from tentative experimental reform. However, the aim of humanistic reform is not progress towards a static abstract truth, but rather the expansion of energetic vital thriving. It isn't necessary to know what is ethically perfect before you can know what is morally reprehensible.

Submission to cultural pieties or conceptual certainties only distracts attention from real human suffering, degradation, and disempowerment. Exposing those hidden chains of social conformity, those boundaries of "proper" thinking locked tight inside minds, requires that we keep watch over what is right in front of us: the people denied equal dignity, the people unable to rise to self-sufficiency, the people sinking deeper into degradation, and the people at

the mercy of a constitution and legal system blind to social justice. And then we should look more closely for cultural ideologies that try to explain away these troubles, telling you to look the other way, proclaiming that legal justice must prevail even where social justice is weak, and blaming the victim for not being good enough to deserve any better treatment. Cultures and their endless rules expertly categorize, separate, and rank the worthy apart from the unworthy, because that's their job, as they preserve a rigid social structure at all cost. Don't even think that the established system could be responsible for degraded and wasted lives! In a desperate attempt to distract attention away from the system-the hierarchy, the established order, the real social forces-those blatant ideologies try to keep the underlying social system invisibly all-powerful, so that the comfortable can stay so. The system demands cultural piety towards ideological dogmas, yet strict social conformity is always ultimately about the safe comforts of some at the expense of the rest.

The humanistic sensitivity to human degradation is simultaneously hostile to strict cultural pieties, yet it honors high cultural ideals. Today's humanism didn't privately formulate its principles from a piece of blank paper, nor can it invent a brand new culture; its proper work happens only within existing cultures. Humanism's ethics of liberty and justice for all matured within certain cultures, and it invigorates more and more cultures as the centuries pass. As additional societies become more humanistic and perhaps fully humanist, this welcome convergence won't be due to any non-cultural computations or extraterrestrial influences. Only the hard work of debating values and priorities in reasonable public discussion, and organizing against oppressive powers on the ground where people live, has ever made any real difference. And to the extent that humanistic reform proves to be intelligent, there should be no surprise that common problems find

similar solutions. We don't need one world government to rule us—we need more global deliberations to guide us. There is vast potential power to humanism, yet it tells no tales about inexorable progress or manifest destiny, nor does it reach for some static, final shape. There is nothing more revolutionary than humanism: it is the mindful condition of permanent reform by nonviolent and democratic means (for it smartly keeps its means consistent with its ends). Humanism is the stance of vigilance for new forms of repression and oppression by novel social structures, whether patriarchal, religious, civil, racial, economic, legal, or political—regardless of any cultural pieties that stand stubbornly in the way. Humanism is the most radical of ethics possible; indeed, it already transcends its "human" foundations. The twenty-first century will witness the rise of an ecological humanism that expands protection to living systems beyond just the social, human systems. Only humans can practice ethics and politics, but these things can't only be about us—our mutual dependencies extend far beyond the human realm.

When humanists propose specific reforms to their local social order, they're trying to reconcile personal responsibilities to social responsibilities in a fresh way, to alleviate suffering and decay. These methods should only be experimental systemic adjustments—anyone who offers a complete utopian vision isn't a humanist. Also watch out for reformers too narrowly centered on individuals alone, or widely entranced by society as a whole. The one who cries out for

more private liberty, regardless of social equality, may really be advocating for those who already got theirs to just get more. The one who cries out for more collective justice, regardless of individual freedom, may really be advocating mindless conformity to the group. Humanism in action looks more like energetic democratic politics. Respect for individual ownership of society requires dynamic public participation, from neighborhood rehabilitations up to national elections to international humanitarian and reform movements.

Any list of principles and ideals from humanist manifestos and resolutions at most affirm priorities for constant vigilance and standards that work for humanistic cultures so far. Humanism is essentially a statement of an everlasting problem: how to maintain a just balance between the individual and society, despite the novel changes that liberty continually brings. The personal and social ethics of humanism in its details must be ever-changing, because the practical meanings to such things as "equal dignity and worth" and "social justice" gradually develop as cultures slowly transform across centuries. We wouldn't want to abide by a past society's ways of fulfilling these ideals; naturally, if things go well for humanity, people hundreds of years in the future will find fault with our ways. We may achieve better liberty and justice in our lifetimes, but cultural change runs ahead faster than ethical problem-solving. Even our moral successes today will be regarded as immoral compromises by distant generations; they'll point to our fine ideals, our imperfect reach, and our impotent blindness. The best we can do is hope that they're able

to regard us as part of the ever-growing humanist heritage.

Those three initial principles for humanism contain some key wisdom in this proud heritage. Humanism asks everyone to question old pieties using common sense and an open heart, without forgetting that these human resources are within everyone. Humanism can't respect blind cultural piety, but it does recognize that religion is hardly the only source of oppression. Escaping religion only burdens the humanist with confronting vaster forces against freedom and justice, so it would be wise to recall that sound minds and good hearts are always needed as allies. Humanism urges principles of ethical wisdom for each person, without demanding submission to some wisdom tradition. Humanism isn't just a path to inner peace or a comfortable adjustment to outer lifestyle. To prevent humanism from degenerating into a self-satisfied culture impressed by its intellectual privilege, we must forcefully sustain its radical spirit of outrage against any degradation to humanity anywhere. Finally, humanism fights for greater opportunity and empowerment of each individual, which is so necessary for any expansion of liberty, without failing to recognize how fresh powers crystallize into new forms of domination and oppression. Because humanity deserves nothing less than liberty and justice for all.

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Press Release: 12th January 2013

PUCL Statement on Latehar Incidents, Jharkhand

The PUCL condemns the recent incident of mutilation and placing of IEDs inside the bodies of CRPF personnel killed in an encounter with the Maoist forces in the forests of Latehar in Jharkhand. Placing IEDs inside the abdomen or stomach of dead men seriously endangers lives

of uninvolved others like doctors and medical personnel who perform post mortem. Such acts of desecration of dead bodies is unacceptable and inhuman, constitutes a violation of all acceptable norms of human rights and robs the dead of their dignity.

It is the PUCL's understanding that

under no circumstances can acts of brutality be justified, even if they be in response to equally heinous and brutal acts unleashed by the security forces, as we are seeing presently. We equally stress that whatever the circumstances, the security forces must act within the bounds of law.

As pointed out by the PUCL National Council resolution of August 2012, '**Operation Greenhunt**' launched by the security forces and police of the Central and State governments in nine states across central and eastern India, purportedly to counter the Maoists has, apart from claiming hundreds of lives of both the Maoists as also the police and Central Forces, killed thousands of ordinary tribals and others caught in the cross fire. Vast areas of mountainous regions in these states have become cordoned off by Central Forces and a virtual siege of terror launched by the CRPF, para military and police forces against local citizens. This has resulted in unending spirals of violence resulting in encounter deaths, disappearances, torture, killings, sexual assaults, mass burning and destruction of villages; many other acts of untold miseries have made life for adivasis in these areas one of a 'living hell'.

In this scenario, the PUCL would like to reiterate its resolution of the Ranchi National Convention held on 31st Oct and 1st November 2009 and calls upon the Government and the Maoists to cease all hostilities and engage in a dialogue. We also believe that open and free access to the public, civil society and the media should be permitted in these areas so that all information gets reported, and no restrictions should be placed

due to threats of the Government or the Maoists or other Naxalite groups. We also reiterate the urgency of equitable development in the tribal areas. The PUCL also firmly believes that for every death, including death as a result of action by the security forces and the police, an FIR should be lodged followed by fair investigation and just trial.

We have had a consistent stand on the question of violence as a means of settling disputes or conflicts of whatever nature, whether socio-economic or political. This was articulated in the PUCL National Convention held on March 7 1982, at Madras (now Chennai), "The PUCL reaffirms its faith in the democratic way of life. It appeals to all to use to the utmost the agencies and methods available in an open society. Apart from other factors, violence, even for laudable objectives, will legitimise counter-violence by the State and other groups". We reaffirm that even those who have taken to violence are entitled to due process of law. We believe that this commitment is the very faith of an open society and also that adhering to this commitment is an effective way of converting all to the democratic and peaceful path.

We would like to point out that when Indian citizens are abducted or killed as 'informers' or public servants are killed, it is the responsibility of the

State to bring the guilty to book. The State must assert its authority, but strictly within the bounds of the law. We hold that a Maoist is an Indian citizen, who might have violated the law of the land and is entitled to be tried by a court of law like any other citizen who might have violated some law. A Maoist, no matter how serious the allegation against him, is entitled to be tried like Nathuram Godse and Ajmal Kasab. Godse had killed Gandhiji and Kasab was not even an Indian citizen. No matter how serious the situation, the State must act within the bounds of the law. Equally, when the personnel of the agencies of the State violate the law and commit brutalities and human rights violations, it is important that they be prosecuted and not granted impunity and protection.

The spirals of violence and counter-violence in the troubled areas of Jharkhand, Chhattisgarh, Odisha and other states is grim and life threatening. The PUCL, through this appeal, is therefore giving a national call for a '**HUMANITARIAN RESPITE**' and appeals to the Central and State Governments, the security forces and also to the Maoists, to agree to an immediate ceasefire, stopping of armed engagements and engage in talks.

Prof. Prabhakar Sinha, National President, PUCL; **Dr. V. Suresh**, National General Secretary, PUCL □

Press Statement by PUDR: 30th December 2012

Defend Women's Right to Equality! Fight against Rape & Sexual Violence!

PUDR (People's Union for Democratic Rights) mourns the death of the 23-year-old victim of an intensely violent attack and gang rape. However, rather than giving in to anger caused by this distress, we believe that this is a time to reflect on the constitutive contexts that produce an event and figure out how it might never be repeated.

PUDR holds the Indian state primarily responsible for the sorry state of gender rights in this country. Contrary to viewing the 'problem' of male dominance as vested in 'society', which the state through its laws and regulations enforces and sustains, we see the state as the

body that accentuates the inequality of women and sexual minorities in families, communities and in society. The Indian state is constitutionally mandated to treat all the citizens of the country as equal, and to actively foster equality. In reality, the state upholds and manifests dominant patriarchal culture and practices.

It is common knowledge that the odds are stacked against victims of sexual crimes. The home and the public space are unsafe. The reporting of such crimes is difficult, and when reported, women face long, arduous trials, the prospect of meeting their rapists repeatedly, threats, social humiliation, and finally,

the possibility of a judgement that lets off the accused on the requirement that he marry his victim. Rape continues to be defined in narrow terms and excludes insertion of objects other than the penis into a woman's vagina. Medical tests for rape continue to rely on judgements of the 'character' of women by deciding whether a woman is inured to sexual intercourse using the infamous 'two-finger rule'. And the state continues to divest itself of any responsibility towards survivors of rape. Leave alone a crime of power like rape, quaintly-named crimes against women such as 'eve teasing' and 'outraging modesty' are barely reported, investigated and

prosecuted. Sexual violence against women, in word and deed, simply isn't important enough for law enforcement agencies.

But it is not just such acts of omission that the state is guilty of. The government and its functionaries have routinely practised rape. Conflict zones as well as the neighbourhood police thana have been locations of gang and custodial rape. In October 2011, Soni Sori in Chhattisgarh required hospitalization after undergoing severe custodial torture, including sexual violence. In May 2009, in Shopian in Kashmir, two women were gang raped by army personnel and killed. In 2004, in Manipur, Manorama was raped and killed by the Indian Army. None of these cases led to public trials of the perpetrators; in fact, the SP involved in the case of Soni Sori was given a gallantry award! Of course, enough has been said already of the presence of large numbers of convicted and alleged rapists in the Parliament and various legislative assemblies, though enough cannot be said about the attitude of the Hindu right wing towards women when they can term a survivor of a brutal attack and rape 'zinda laash'.

A democratic state should make it difficult for those in power to practice inequality. Not only has the Indian state's record in countering inequality been abysmal, but also its complicity in furthering it, which is why working class and 'lower' caste women, women of minority religious and other groups and sexual minorities suffer multiple oppressions of class, caste and gender.

By supporting the oppression of

more than half of its population within their families and in their communities, by pretending that marital rape does not exist, by not accounting for violence on sexual minorities, by turning a blind eye to the use of rape and women's brutalization to enforce upper caste and Hindu majoritarian power and by condoning the practice of a vengeful masculinity by those on its payroll, the Indian state is patriarchal in the extreme.

It is the state's patriarchal beliefs that allowed it to rain lathis, water cannons and tear gas on peaceful protestors. Like the protestors, PUDR believes that the state and its agencies have over several decades sustained and legitimized violence against women. Whatever the problems with the articulation of demands by the protests over the last few weeks, the government's response only shows the undemocratic and patriarchal nature of the Indian state. For any significant changes to occur in social attitudes towards women, a democratic state owes it to the populace who elected them to ensure their rights. Much of what the state needs to do is already known: speedy trials, the compulsory registration of rape cases and action against police who make such reporting difficult, the protection of the victim from threats, the complete abandonment of judgements that suggest that rapists can marry their victims, more attention paid to all manner of gendered crimes, the education of state employees in the equality of men and women, and the absolute need for safe public transport.

PUDR expresses solidarity with the protests and the public's anger.

However, we urge protestors to reconsider some of their demands. The emotive demand for death penalty has been rightly criticized by women's groups already. First of all, death penalty and castration leave too much power in the hands of the state to unleash on those it wishes to silence. Second, death penalties in rape and murder cases have already occurred and have not led to any fall in their occurrence. Rather, lower class men like Billa, Ranga and Dhananjay faced the gallows, while Priyadarshini Mattoo's rapist and murderer continues to be endlessly tried in courts that hesitate to award him a death penalty. Finally, it is well-known that the greater the punishment, the lower the rate of conviction. Only the certainty of conviction can lead to true deterrence of any crime. Can the momentum gained in the series of protests across the capital today demand that conviction rate increases to, at least 60%, by the end of next year? Can we see women caught in years of litigation benefit from the agitation today?

However, PUDR also views rape as an assertion of patriarchal power that works at many levels besides the state. Interpersonal relations, the family and community all produce women and sexual minorities in similar ways. The home is no 'safer' than the outside for many people. We need to see the connections between these levels and fight for a change that while it recognizes the centrality of the state, also sees our own complicity in the production of unequal gendered and sexualized subjects.

Ashish Gupta and D. Manjit
(Secretaries, PUDR) □

Statement by Women's and Progressive Groups and Individuals: December 23, 2012

Condemning Sexual Violence and Opposing Death Penalty

On 16 December 2012, a 23-year old woman and her friend hailed a bus at a crossing in South Delhi. In the bus, they were both brutally attacked by a group of men who claimed to be out on a 'joy-ride'. The woman was gang raped and the man beaten up; after several hours, they were both stripped and dumped on the road.

While the young woman is still in hospital (*Who, unfortunately, succumbed to her grievous injuries in a Singapore hospital later and is no more.* - Ed.), bravely battling for her life, her friend has been discharged and is helping identify the men responsible for the heinous crime.

We, the undersigned, women's, students' and progressive groups and concerned citizens from around the country, are outraged at this incident and, in very strong terms, condemn her gang rape and the physical and sexual assault.

As our protests spill over to the streets all across the country, our

demands for justice are strengthened by knowing that there are countless others who share this anger. We assert that rape and other forms of sexual violence are not just a women's issue, but a political one that should concern every citizen. We strongly demand that justice is done in this and all other cases and the perpetrators are punished.

This incident is not an isolated one; sexual assault occurs with frightening regularity in this country. Adivasi and dalit women and those working in the unorganised sector, women with disabilities, hijras, kothis, trans people and sex workers are especially targeted with impunity - it is well known that the complaints of sexual assault they file are simply disregarded. We urge that the wheels of justice turn not only to incidents such as the Delhi bus case, but to the epidemic of sexual violence that threatens all of us. We need to evolve punishments that act as true deterrents to the very large number of men who commit these crimes. Our stance is not anti-punishment but against the State executing the death penalty. The fact that cases of rape have a conviction rate of as low as 26% shows that perpetrators of sexual violence enjoy a high degree of impunity, including being freed of charges.

Silent witnesses to everyday forms of sexual assault such as leering, groping, passing comments, stalking and whistling are equally responsible for rape being embedded in our culture and hence being so prevalent today. We, therefore, also condemn the culture of silence and tolerance for sexual assault and the culture of valorising this kind of violence.

We also reject voices that are ready to imprison and control women and girls under the garb of 'safety', instead of ensuring their freedom as equal participants in society and their right to a life free of perpetual threats of sexual assault, both inside and outside their homes.

In cases (like this) which have led to a huge public outcry all across

the country, and where the perpetrators have been caught, we hope that justice will be speedily served and they will be convicted for the ghastly acts that they have committed. However, our vision of justice does not include death penalty, which is neither a deterrent nor an effective or ethical response to these acts of sexual violence. We are opposed to it for the following reasons:

We recognise that every human being has a right to life. Our rage cannot give way to what are, in no uncertain terms, new cycles of violence. We refuse to deem 'legitimate' any act of violence that would give the State the right to take life in our names. Justice meted by the State cannot bypass complex socio-political questions of violence against women by punishing rapists by death. Death penalty is often used to distract attention away from the real issue - it changes nothing but becomes a tool in the hands of the State to further exert its power over its citizens. A huge set of changes is required in the system to end the widespread and daily culture of rape.

There is no evidence to suggest that the death penalty acts as a deterrent to rape. Available data shows that there is a low rate of conviction in rape cases and a strong possibility that the death penalty would lower this conviction rate even further as it is awarded only under the 'rarest of rare' circumstances. The most important factor that can act as a deterrent is the certainty of punishment, rather than the severity of its form.

As seen in countries like the US, men from minority communities make up a disproportionate number of death row inmates. In the context of India, a review of crimes that warrant capital punishment reveals the discriminatory way in which such laws are selectively and arbitrarily applied to disadvantaged communities, religious and ethnic minorities. This is a real and major concern, as the possibility of

differential consequences for the same crime is injustice in itself.

The logic of awarding death penalty to rapists is based on the belief that rape is a fate worse than death. Patriarchal notions of 'honour' lead us to believe that rape is the worst thing that can happen to a woman. There is a need to strongly challenge this stereotype of the 'destroyed' woman who loses her honour and who has no place in society after she's been sexually assaulted. We believe that rape is tool of patriarchy, an act of violence, and has nothing to do with morality, character or behaviour.

An overwhelming number of women are sexually assaulted by people known to them, and often include near or distant family, friends and partners. Who will be able to face the psychological and social trauma of having reported against their own relatives? Would marital rape (currently not recognised by law), even conceptually, ever be looked at through the same retributive prism?

The State often reserves for itself the 'right to kill' -- through the armed forces, the paramilitary and the police. We cannot forget the torture, rape and murder of Thangjam Manorama by the Assam Rifles in Manipur in 2004 or the abduction, gang rape and murder of Neelofar and Aasiya of Shopian (Kashmir) in 2009. Giving more powers to the State, whether arming the police and giving them the right to shoot at sight or awarding capital punishment, is not a viable solution to lessen the incidence of crime.

Furthermore, with death penalty at stake, the 'guardians of the law' will make sure that no complaints against them get registered and they will go to any length to make sure that justice does not see the light of day. The ordeal of Soni Sori, who had been tortured in police custody last year, still continues her fight from inside a prison in Chattisgarh, in spite of widespread publicity around her torture.

As we know, in cases of sexual

assault where the perpetrator is in a position of power (such as in cases of custodial rape or caste and religion violence), conviction is notoriously difficult. The death penalty, for reasons that have already been mentioned, would make conviction next to impossible.

We, the undersigned, demand the following:

1. Greater dignity, equality, autonomy and rights for women and girls from a society that should stop questioning and policing their actions at every step.

2. Immediate relief in terms of legal, medical, financial and psychological assistance and long-term rehabilitation measures be provided to survivors of sexual assault.

3. Provision of improved infrastructure to make cities safer for women, including well-lit pavements and bus stops, helplines and emergency services.

4. Effective registration, monitoring and regulation of transport services (whether public, private or contractual) to make them safe, accessible and available to all.

5. Compulsory courses within the training curriculum on gender sensitisation for all personnel employed and engaged by the State in its various institutions, including the police.

6. That the police do its duty to ensure that public spaces are free from harassment, molestation and assault. This means that they themselves have to stop sexually assaulting women who come to make complaints. They have to register all FIRs and attend to complaints. CCTV cameras should be set up in all police stations and swift action must be taken against errant police personnel.

7. Immediate setting up of fast track courts for rape and other forms of sexual violence all across the country. State governments should operationalise their creation on a priority basis. 8. Sentencing should be done within a period of six months.

The National Commission for Women has time and again proved itself to be an institution that works against the interests of women. NCW's inability to fulfil its mandate of addressing issues of violence against women, the problematic nature of the statements made by the Chairperson and its sheer inertia in many serious situations warrants that the NCW role be reviewed and audited as soon as possible.

The State acknowledges the reality of custodial violence against women in many parts of the country, especially in Kashmir, North-East and Chhattisgarh. There are several pending cases and immediate action should be taken by the government to punish the guilty and to ensure that these incidents of violence are not allowed to be repeated.

Regarding the Criminal Law (Amendment) Bill 2012, women's groups have already submitted detailed recommendations to the Home Ministry. We strongly underline that the Bill must not be passed in its current form because of its many serious loopholes and lacuna. Some points:

1. There has been no amendment to the flawed definition of consent under Sec 375IPC and this has worked against the interest of justice for women.

2. The formulation of the crime of sexual assault as gender neutral makes the identity of the perpetrator/accused also gender neutral. We demand that the definition of perpetrator be gender-specific and limited to men. Sexual violence also targets transgender people and legal reform must address this.

3. In its current form, the Bill does not recognise the structural and graded nature of sexual assault, based on concepts of hurt, harm, injury, humiliation and degradation. The Bill also does not use well-established categories of sexual assault, aggravated sexual assault and sexual offences.

It does not mention sexual assault by security forces as a specific

category of aggravated sexual assault. We strongly recommend the inclusion of perpetration of sexual assault by security forces under Sec 376(2).

Endorsed by:

Aisha K. Gill, Reader, University of Roehampton, London; Amrita Nandy; Ammu Abraham, Mumbai ; Anand Pawar; Asha Ramesh, activist/researcher/consultant; AZAD and Sakha Team; Bondita; Chayanika Shah, Bombay; Deepti; Dunu Roy; Gabriele Dietrich, Pennurimaillyakkam; Gayatri Buragohain - Feminist Approach to Technology (FAT); Geeta Ramaseshan, Advocate, Chennai; GRAMEENA MAHILA Okkutta, Karnataka; Farah Naqvi, Writer & Activist, Delhi; Harsh Mander; Jagori; Jayasree. A.K. ; Jayasree Subramanian, TISS, Hyderabad; Jhuma Sen, Advocate, Supreme Court; Kalpana Mehta; Kalpana Viswanath; Kalyani Menon-Sen; Kamayani Bali Mahabal; Kannamma Raman; LABIA, a queer feminist LBT collective, Mumbai; Lalita Ramdas, Secunderabad; Laxmi Murthy, Journalist, Bangalore; Lokesh; Madhumita Dutta, Chennai, Tamil Nadu; Majlis Law, Legal Services for Women; Mallika, Mati, Uttarakhand; Nandini Rao; NAWO-AP, Arunachal Pradesh Women's Welfare Society (APWWS) and Indigenous Women's Resource Centre (IWRC); Pamela Philipose; Purnima Gupta; Pushpa Achanta (WSS, Karnataka); Ranjana Padhi; Rebecca John; RenuKhanna, SAHAJ; Richa Dubey; Rohini Hensman (Writer and Activist, Bombay); Sadhna Arya; Sahiayar (Stree Sangathan), Vadodara, Gujarat; SAMYAK, Pune; Sandhya Gokhale; Satish K. Singh, CHSJ; Shipra Nigam, Consultant Economist, Research and Information Systems, New Delhi; Sophia Khan, Gujarat; SujataGothoskar; Suneeta Dhar; SWATI team, Ahmedabad; Trupti Shah, Vadodara, Gujarat; University of Mumbai; Urvashi Butalia; Vasanth Kannabiran; Vineeta Bal; Vrinda Grover; WinG Assam. □

Letter on Rapes by Salwa Judum, SPOs and Security Force Personnel in Chhattisgarh

Dear friends

The salwa judum, SPOs and security forces committed many rapes in Chhattisgarh. But the BJP govt in the state and the congress ruled centre have been busy defending the SPOs. In one case, where a girl summoned up the courage to report it to the trial court, the SP Dantewara said he has asked the accused, they had denied it, and therefore the matter was closed. This must be the most pro-rapist police administration in the country, where they kindly ask the accused if they have committed a rape.

The Samsetti rapes (see Hindu front page, 29.12.12) and the fact that the Chhattisgarh Government is defending the SPOs involved have also been repeatedly brought up in

the Supreme Court. On 25 April 2011 in front of the bench, Mr. Harish Salve, appearing for Chhattisgarh, asked for a list of the SPOs who had been charged by the trial court in the rape case. No action has been taken, and they have been promoted to constables, and given better guns and more money. They are going around terrorising the girls.

We have been repeatedly asking for a monitoring committee to ensure that at least FIRs on rapes and murders are filed, but this was repeatedly stalled by the Congress ruled Centre and the BJP ruled State. In March 2011, the security forces and SPOs raped women in Tadmetla and Morpalli. IN July 2011, the Supreme Court ordered the CBI to investigate the case and report within

six weeks. The CBI went only six months later in Jan 2012, but in February 2012 they were attacked by SPOs and have not returned since. Almost two years have passed since the rapes, murder and arson took place. The rape victims have got no justice, even though they bravely gave their testimonies to the CBI despite the presence of a large number of CRPF men, and some of the accused SPOs/district forces. Many other testimonies of rape were sent by the NCPDR and women's fact-finding teams to the NHRC, and also submitted to NCW. Predictably, the NCW which is now demanding castration of rapists, did nothing on these petitions.

Who will raise the demand for justice to all these women?

Nandini Sundar □

PUCL Kerala:

Letter to Home Minister on December 30, 2012

My Dear Home Minister,

Sub: Request to order an enquiry into the illegal arrest of seven individuals by the Mavelikkara police: regarding

An element of compulsion and dire necessity directs me to write to you the following:

We are very much disturbed and perturbed to hear the news that seven individuals including two minor girls were illegally taken into custody by the Mavelikkara police on 29-12-2012 from Cherumadom Lodge where they had assembled to discuss some political issues. They include Mr Gopal, a Scientist from Tamilnadu.

Immediately, on receipt of the information that these seven individuals were detained at the police station, as a human right activist, I had made three frantic calls to Ph no 0479-2344342 (Mavelikkara police station). Curiously, on all the three occasions, the personnel at the other end attended the phone but deliberately refused to supply any information in a matter in which the human rights of seven individuals were involved. The unwarranted act on the part of the Mavelikkara police

is not at all conducive to a democratic system in a democratic country like ours. I was constrained to take up the matter with the police head quarters and also with Sri V.S. Achuthanandan, the opposition leader.

Now, it is reliably learnt that the five individuals are in judicial custody while the two minor girls are confined at the nearby Balabhavan. They have been booked under different sections of UAPA and section 120-A of IPC, which is very easy for the police to clamp on them. It is reported in today's Hindu: ' Apart from seizing six mobile phones and a laptop from the detained persons, the police could not come across any documents or other incriminating evidence that could establish any Maoist connection'.

It is quite evident that the Kerala police want to create a bogey that some extremist groups are operating here and under its shade, the police can wield more powers, put down all the democratic forms of protest against the anti people policies of both the central government and that of the state government. I am reminded of the statement made by

former Central Home Secretary Sri Padmanabhaya, that the police force in India which is not professionally equipped is demanding more and more powers under the garb of maintaining law and order.

If individuals who assemble to discuss political issues affecting them and their dear country in a democratic way are taken into custody and harassed. The political leaders who are also the powerful executives of the state discuss and decide to sell out the country to the American Imperialism and the corporate bodies, are also to be booked under the UAPA and section 120-A of IPC.

It is requested that you personally look into the matter, direct a police officer of proven character and integrity to inquire into all that was transacted at the Mavelikkara police station on 29-12-2012, restore democratic way of administration in the state, release all the seven individuals forthwith, book the police officials for their high handedness, and show them their ways.

With regards and thanking you,
Sincerely yours,

P.A. Pouran, PUCL Kerala □

Letter on attacks on Dalit households in Dharmapuri: 12.12.2012 Kancheepuram

Dear friends

Most of you must have heard of the attacks on Dalit households in Dharmapuri in early November this year. Vanniyar Sangam and Pattali Makkal Katchi (PMK), an electoral party in Tamil Nadu which has its vote-base among the Vanniyar community (which is classified under MBC) was responsible for the arson in which over 500 dalit houses were destroyed. Kaduvetti Guru, MLA from PMK had been making hate speeches against dalit youths in meetings held at Mamallapuram (in Kancheepuram District) and Dharmapuri before this attack. He made virulent speeches against love marriages, especially those in which Vanniyar girls married Dalit youths and exhorted Vanniyar youths to teach these dalit boys a lesson. The Dharmapuri arson is reminiscent of the Gujarat Pogrom in terms of the mobs involved (crowds of more than 1000 persons attacked Dalit villages with just 50 to 100 households).

Many parties and organizations across Tamil Nadu condemned the PMK for these violent actions. Makkal Mandram also condemned PMK for unleashing caste atrocities on the Dalits by putting up posters in Kancheepuram and participating in a protest meeting organized by Viduthalai Siruthaigal Katchi (VCK) in Mamallapuram. Makkal Mandram demanded that the persons responsible for these attacks should be arrested immediately.

On Sunday evening viz., 09.12.2012, Ambedkar Valavan, Joint District Secretary of VCK in Kancheepuram was hacked to death by a gang of five persons at Rattei Mandapam, a busy square in town at 8.00 pm in full public view. His funeral was held yesterday in Kancheepuram. Thousands of

people gathered for the funeral procession. The complaint lodged by VCK has named Sridhar's gang as being responsible for this killing. Sridhar is the uncrowned liquor king of Kancheepuram. Sridhar is a Vanniyar who was earlier in PMK. After an encounter threat by the previous regime, he joined the DMK. He is presently in jail facing some other charges. It is said that each time this man goes to jail a few heads would roll in Kancheepuram. In the funeral procession, slogans were raised demanding the arrest of persons responsible for the murder. Thol. Thirumavalavan, VCK leader addressed the crowd and reiterated the demands. Makkal Mandram also participated in the funeral.

We came to know that yesterday morning viz., 11.12.2012, at about 11.00 am, a group of more than 500 PMK members and mercenaries gathered at the Kancheepuram Collectorate office to give a memo to the District Collector. First they assembled outside the Collector office and had a meeting even after permission was denied. They used a horn mike to make derogatory and vulgar threats against Makkal Mandram. Several of the speakers made several violent threats, including that of rape, against the women activists of Makkal Mandram and instigated the mob to assault our activists. A few policemen who were present were content to watch without interrupting the proceedings. They made all kinds of wild accusations (which are presumably included in the memo too) that Makkal Mandram indulges in Katta Panchayats (traditionally a local coercive arbitration forum in Tamil Nadu, where both parties to the dispute pay the arbitrator to resolve the dispute), that the

Commune is built on poromboke (govt. vacant) land and hence should be razed etc. They demanded that the Collector should ban Makkal Mandram or else they will take action against us. Some speakers exhorted a mob to go and attack the Makkal Mandram commune.

We are not worried about the accusations. A simple verification would reveal these to be completely untrue. But we are worried about the threats made. Later yesterday evening, around 6.30 pm several shirtless youths were seen roaming on motor bikes close to our commune. Many strangers have been making their way to our village today. They glare at our people or make threatening gestures. We have young children in our commune. They are affected by these intimidations. We would like to inform our friends, comrades, fellow travelers and well-wishers that PMK, Vanniyar Sangam and Sridhar gang should be held solely responsible in case anything happens to Makkal Mandram activists.

We are not the only ones to be threatened by PMK goons. VCK activists and other media persons too have been threatened with dire consequences for speaking out against caste atrocities in Dharmapuri. We request all democratic, secular, progressive and anti-caste people to speak out against the horrendous politics of caste hatred unleashed by PMK and counter their casteist electoral strategy. We also request all sane persons to put pressure on the Tamil Nadu government to take action against persons guilty of Dharmapuri arson.

Warm regards,

Mahesh, Jessy, Geeta and others ☐

PUCL-AP: Press Release:

RTI Activist who took on Cops injected with Poison: Condition Critical

PUCL-Andhra Pradesh urged the immediate intervention of the National Human Rights Commission, Supreme Court, AP State Human Rights Commission, Prime Minister Dr. Manmohan Singh and state Chief Minister Mr N Kiran Kumar Reddy in

the incident of an RTI activist, Mr. Srinivasa Rao, who took on cops and was injected with poison and his condition is said to be critical. PUCL-AP Vice President Mr Ch. Narendra sent appeals to all of them urging

them to take necessary steps so as to locate the perpetrators and prosecute them for their actions immediately.

He also demanded necessary steps to guarantee the professional and

personal freedom of Right to Information Activist Mr. Srinivasa Rao, to provide medical assistance at the cost of the State for Mr. Rao and to ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by India.

He stressed the need to guarantee in all circumstances that all human rights defenders in India are able to carry out their legitimate human rights activities without fear of reprisals and free of all restrictions, including judicial harassment.

According to PUCI-AP, Srinivasa Rao has been invoking the provisions of the Right to Information Act against local revenue and police officials in Markapur. Mr. Rao has been at loggerheads with police since he began seeking information from police stations under the RTI

Act. He also contributes to RTI related programmes in a vernacular TV channel and was also the district convener for RTI Activists Association in the district.

On December 30, 2012, Mr. Srinivasa Rao was found lying unconscious near his office at the Court Centre in the town. It was alleged in his complaint that on that day, three men walked into his office on the pretext of discussing a case. Two of them held him back while the third injected poison in the abdomen of Rao and fled. Immediately Rao was rushed by locals to the government hospital which referred him to the district headquarters hospital in Ongole. When his condition deteriorated, Rao was shifted to Rajiv Gandhi Institute of Medical Sciences. Doctors are yet to figure out the nature of the poison.

Background Information

Rao had highlighted many

irregularities in the use of government funds and earned the wrath of local officials and contractors in the district. Last week, he had complained to the district administration about a threat to his life from a local official whose corruption he was trying to expose. He had also claimed that despite his complaint, no action was taken against the official. The incident was said to have taken place before resumption of hearing in a case in the Markapur court on Monday against him filed under the Scheduled Castes and Tribes (Prevention of Atrocities) Act.

PUCL-AP also informed about the incident to Mrs. Margaret Sekaggya, the Special Rapporteur on the situation of human rights defenders at the United Nations.

Ch. Narendra, Vice President, PUCL-AP ☐

Press Statement: People's Union for Democratic Rights: 26th December 2013

PUDR Welcomes Study on 'Alleged Perpetrators' on the Culture of Impunity in Jammu and Kashmir

People's Union for Democratic Rights (PUDR) welcomes the release of the study "Alleged Perpetrators" by the International Peoples' Tribunal on Human Rights and Justice in Indian-Administered Kashmir (IPTK) and Association of Parents of Disappeared Persons (APDP) on the culture of impunity ubiquitous in the state of Jammu and Kashmir. PUDR acknowledges that this is the first ever study in India which has broken the cover of anonymity which protects the perpetrators by raising the principle of 'individual criminal responsibility' which is well established under International Criminal Law starting with Nuremburg Trials and several UN tribunals.

Equally it raises the principle of Command Responsibility and principle of Joint Criminal Enterprise which too forms part of International

Criminal Law. The Indian State 'authorizations' to armed forces to carry out every kind of operation, often without adherence to laws and norms under draconian legislations such as AFSPA on the pretext of combating militant violence while simultaneously being in breach of bringing India's domestic laws in line with International Conventions such as against Torture, Enforced Disappearance and Genocide compounds the impunity extended to India's security forces because certain crimes are non-justiciable under Indian's domestic law.

The study exposes the state of impunity through a study of 214 cases, using information garnered from official State documents. The documents include FIRs, statements before police and /or magistrates, police final reports, High Court petitions, objections, other

documents forming a part of the court record such as compliance reports, status report, judicial enquiries, SHRC documents from complaints to objections, police submissions and final orders; the documents in custody of the State itself arraign the armed forces and the police of culpability in specific crimes. But the study also supplements these documents with testimonies of victims and other witnesses.

The study successfully refutes the claim of the Indian state that commission of crimes is an aberration than policy. It indicts the Indian State for pursuing a policy which engenders the state of impunity by listing 500 individual perpetrators, which include 235 army personnel, 123 paramilitary personnel, 111 Jammu and Kashmir Police personnel and 31 Government backed militants/associates. The list

of perpetrators includes 2 Major Generals, 3 Brigadiers, 9 Colonels, 3 Lt. Colonels, 78 Majors and 25 captains of the Indian army as well as 2 Additional Director Generals of central para-military forces, 2 DIGs and 12 commandants. It also indicts a DG of Police and a serving IG of police.

The study shows how State violence is institutionalized through a culture of institutional impunity to the state forces where the police, the judiciary and other organs of the government perpetuate the state of human rights violation. This has resulted in enforced and involuntary disappearance of an estimated 8000 persons, besides more than 70,000 deaths, and disclosures of more than 6000 unknown, unmarked and mass graves as of November 2012. There is hardly any prosecution and conviction of the perpetrators. The unwillingness of the Indian State is revealed in the mass grave issue where the Kashmir Home Department on 19 October, 2012 expressed inability to carry out DNA tests because there are no more than "15-16 recognised labs in the Government as well as Private

Sector". And then turns the entire issue into a farce when they ask that the blood relative should indicate "with fair amount of certainty the exact location of the graveyard and the grave"!

The study highlight that the state structure specifically sanctions commission of crimes through provisions such as the system of cash incentives, awards and out of turn promotions for anti-militancy operations, and prioritizing for the victims the system of monetary compensation over justice. The venerable Supreme Court has also ended up shielding criminals by upholding in the Pathribal fake encounter case denial of sanction for prosecution under AFSPA thereby raising yet another wall to protect the perpetrators.

The recent Universal Periodic Review by UN agency tasked with human rights, on India, revealed that Indian Government has rejected 67 recommendations out of 168 made by the committee which had among other things asked the Indian State to repeal AFSPA, and to ratify and bring domestic laws in accordance with International Convention Against

Torture, Enforced Disappearance and Genocide. This blatant refusal by the Indian state currently engaged in staking its claim to a permanent seat in the UN Security Council only lends credence to the study which concluded by indicting India State and establishing that victims of armed conflicts stand little chance to get justice from Indian state institutions because they are themselves implicated in the perpetuation of impunity.

PUDR in extending solidarity with IPTK/APDP demands:

- Adherence to domestic and international obligations and punishment to all perpetrators of human rights violations in Jammu and Kashmir.
- Withdrawal of security related legislations that are in contravention of international humanitarian laws and norms.
- Ratification of Convention Against Torture, Convention Against Genocide and the International Convention for the Protection of All Persons from Enforced Disappearance by the Government of India.

Asish Gupta and D. Manjit,
Secretaries □

Press Release: 30th December 2012

Celebration of Struggle Starts in Kudankulam this New Year

Thousands of people, brought together by the spirit of resistance, democracy and freedom gathered on the beaches of Southern Tamil Nadu - in the coastal villages of Tirunelveli. Idinthakarai village, which has been the nucleus of the Kudankulam anti-nuclear power plant struggle, welcomed hundreds of people who have come to celebrate New Year with the local communities spearheading the People's Movement Against Nuclear Energy (PMANE).

Groups from West Bengal, Jharkhand, Chhattisgarh, Uttar Pradesh, Uttarakhand, Delhi, Odisha, Maharashtra, Gujarat, Madhya Pradesh, Andhra Pradesh,

Karnataka, Goa, Pondicherry, Kerala and other regions of Tamil Nadu have assembled to salute the valiant struggle of the local people against the Kudankulam nuclear project. The local people represented the coastal villages of Idinthakarai, Kudankulam, Vairavikinaru, Kuthankuzhi, Koottappuli and Perumanal.

The program was inaugurated by the drummers of Janwadi Sanskrutik Andolan, Odisha which got the children and youth of the local villages along with the visiting groups tapping to their beats. Fr. F. Jayakumar, parish priest of the Idinthakarai Lourde Matha Church extended a warm welcome to the visiting people. Dr. S.P. Udayakumar, an active member of the PMANE struggle

committee thanked all the people who travelled long distances to come to Idinthakarai, to spend the New Year eve with the struggling people. "The second phase of our struggle began on the 16th of August 2011. More than 500 days since, we have sustained this struggle against the worst odds, facing extreme repression unleashed by the undemocratic and insensitive Indian state. We wish to remind Sonia Gandhi, Jayalalitha, Dr. Manmohan Singh, Karunanidhi and other such political leaders that this struggle will continue till our last breath. The last child of Kudankulam area also will resist this destruction of our land, livelihood and natural resources", said Dr. S.P. Udayakumar. The

inaugural session also witnessed release of a painting, made by Madurai based artists, depicting the mowing down of the Kudankulam plant by the struggling people led by children and women.

Testimonials by different movement groups, fighting different destructive developmental projects in different parts of the country, is planned in the next two days of the celebration gathering. Along with this, songs, dances, theatre performances, painting, sportive events, etc. have been planned to make the two day celebration of the 'New Year 2013 @ Kudankulam: Celebrating Resistance, Asserting Freedom', a memorable experience for both visiting and the local people.

People from various walks of life including Dr. Binayak Sen, Adv. Prashant Bhushan, Admiral (Rtd) Ramdas, Achin Vinaik, Adv. Colin Gonsalves, Praful Bidwai, Gabriela Dietrich, Ashim Roy, Lalita Ramdas, Anil Choudhary, Ajitha George, Dr. Meher Engineer, T. Peter, CR Neelakandan, Sr. Celia, Vilayodi

Venugopal, Laha Gopalan, and others are scheduled to address the national and local media from Lourde Matha Church premises at Idinthakarai at 3 pm on the 31st December 2012. They will be joined by local movement representatives including Dr. S P Udayakumar, Malar Manickam, Pushparayan and others. Today, the visiting dignitaries and groups visited the coastal villages and interacted with local villagers. Villagers cited the experiences in the struggle, from the early days in late 1980s to the latest police repression and martyrdom of local people - while in the struggle. The visiting groups were also shown the plant site and its proximity to the villages. It was clear that the plant existed in clear violation of internationally set practices of setting safe nuclear reactors, away from areas of human habitation - along with AERB norms. Background to the event: All through 2012, Kudankulam - the now famous epicentre of anti-nuclear struggle in Tamil Nadu, India - was in the news

for the local people's valiant fight against the nuclear power plant. The place became renowned for the militancy of the local fishing communities, the clashes they had with police and the kind of state repression the people had to bear, despite being a democratic and peaceful struggle. It was also in the news for the loss of ecology and livelihood that will affect the local people, if the plant was commissioned. The Indian state has rubbished their struggle and with support from the state run atomic department scientists, setting aside the concerns of the local communities as 'unscientific apprehensions' and 'baseless fears'. However, to the dismay of many, the local people in thousands, continue to believe that their ongoing struggle shall succeed and that the nuclear plant will not be commissioned in their neighbourhood, which will destroy their lives, livelihood and the marine ecology they depend upon.

Magline, Bhargavi, & Lakshmi □

Peace through Justice: a Game Changing Conjecture?

B.K. Manish

The very idea that a breakthrough is possible in the ongoing civil war in tribal pockets of south-central India through a decisive shift to tribal autonomy as proposed in approach note of national consultations of Sarv Adivasi Samaj in Raipur has startled a lot of people who had monopolized the discourse so far. The event themed 'Peace through Justice', scheduled for 16-17 Feb. is enthusing tribal activist across states but the human rights community is yet to respond positively to it. A review of the scenario may help one realize the structural contradictions of the tribal rights movement of last 30 years.

Approach to Peace through Justice

Peace as perceived by policymakers/ defense analysts/human rights

activists and the common tribals is rather different from each other. Proposed consultations are aimed at improving the appreciation for these subtle differences so that various segments of the ideological spectrum can arrive at a common plank for the sake of tribal welfare.

Plight of tribals can be gauged by the simple fact that quantum of analyses and the understanding thereon on the **Tribal Question** are even poorer than that of other disadvantaged classes like Dalits or Women. Erosion of indigenous culture and land-holding in scheduled areas are clear indicators that even the shift from colonial view on tribal's protectionist segregation to the freedom movement's line of assimilation into mainstream has failed to serve the tribal interests as

promised. Clubbing the tribals permanently with scheduled castes in our constitution has further confounded the question by reducing tribals as merely a backward community. It is in continuation of this flawed understanding that various wings of Union Government have approached the LWE scenario and have professed the 'peace through development' plank. Public posturing over security-first versus development-first wrangle has trivialized the scenario since then. Cacophony of ideologies and vested interests manage the continuity of this spectacle because no party is willing to accept tribals as the central theme and principal stakeholder.

Slow but definite emergence of late of a grand alliance of tribals in the largest Fifth Schedule state of

Chhattisgarh has provided impetus to the efforts towards breaking not just the impasse in LWE scenario but the continuous chain of injustice itself. A corollary to this development is the campaign of rationalizing the constitutional-legal provisions for tribal welfare, propelled by the radical re-reading of Fifth Schedule which in turn constitutes, along with other strands of cultural-political justice, the "Peace Through Justice" plank. Evolution of this plank was stimulated by among the handful of historical twists certain pronouncements of honourable Supreme Court like Samata Judgment and Salwa Judum Judgment; yet, essentially it is culmination of the marginalized stream of struggle for cultural rights. Proposed consultations would be a platform to debate the poser, "Peace Through Justice", and a practical opportunity for the emerging, broad-based, local, tribal intelligentsia/ leadership to grapple with intricacies of Peace Negotiations so that they can play their rightful role when the need arises later on. Southern half of the **SAS-100, a community-chosen group of tribals** with adequate-proportionate representation of gender, age, education, PTGs, industrial displacement, immediate victim of civil war and traditional community panchayats, has invited various proponents of this discourse like Gandhians, conflict resolution scholars, radical thinkers and pro-autonomy anthropiles to Raipur for own capacity building. It expresses the clear intent of the victims to coax all the primary, secondary and tertiary oppressors to come to the table for talks. More importantly the intent is not just to demand the peace talks but also to partake and navigate it.

As a pragmatic roadmap to tribal autonomy, considering its compatibility with UN-Line on indigenous people and on sustainable development, this plank

also offers New Delhi the chance to get over its strong, inherent, unitary urge and to redeem the oft-repeated pledge enshrined in Nehru's Panchsheel Policy.

What does Justice mean to tribals?

It's general consensus that tribal suffering has been inversely proportional to national growth since independence. Cultural debasement and dispossession is the constant theme of the tribal narrative in these decades. While most Prime Ministers have been passionate about tribal plight adding to the quantum of policy directives, the situation on ground continued worsening especially in south-central India. Most popular explanation to this ironical state of affairs has been the civil society' pet grouse of inadequate application of existing constitutional-legal provisions for tribal welfare. In last 15 years this explanation has become increasingly fashionable due to added dimensions of left wing extremism and concurrent endorsements by revered institutions like Lok Sabha¹, Planning Commission of India² & the Supreme Court³. This scenario then obviates a basic query as to what impediments are mighty enough to flummox the common concerns of three pillars of Indian State? The query indeed turns the abovementioned explanation on its head and endeavours to ascertain afresh the very soundness of the provisions (constitutional-legal) for tribal welfare and the policy-intent thereof.

Tribal Rights activists have for long lamented the weakening or inefficacy of FRA, PESA, various protective land laws, tribal sub-plan and the Fifth Schedule itself. Dr. B.D. Sharma even conjectured lately that The Constitution itself was a betrayal to tribal community and it in fact took away entitlements rather than providing them. But this theory remained fuzzy due to lack of

compatibility with his other notable pronouncements and more importantly the lack of precise remedial plan. Tribal autonomy was always spoken about longingly but no suggestions on a coherent policy-framework to that end were forthcoming. Precise and pushy actionable inputs were never seen coming for tribal rights unlike other movements of identity politics. Bhuria Committee report which later helped formulating PESA spoke about borrowing the "pattern" of Sixth Schedule for application in mainland scheduled areas. This confusion led to several tribal organizations demanding replacement of Fifth Schedule with the Sixth Schedule, without even realizing beforehand or stating unequivocally about primacy & importance of Fifth Schedule in success of any other provision. Neither the British rationale of segregating tribal pockets in two separate categories as scheduled areas and partially scheduled areas is paid much attention to, nor the 'bring tribals to mainstream' philosophy of New Delhi, held consistently since Congress' 1936 Ferozepur resolution, through the Constituent Assembly Debates up to now, is challenged effectively in principle.

Global impetus on sustainable living has brought about a unique breakthrough for tribal rights movement in India insofar it has liberated the movement from its dependence on extremely muddled identity politics and provided a futuristic rationale for protective mechanism. That oldest inhabitants of earth are also the only practical examples of sustainable living and therefore deserve zealous conservation might be an antithesis for national executive at the moment but the eventual reconciliation to this fact is becoming increasingly imminent. In-depth structural analysis of the constitutional-legal provisions on tribal welfare and their rationalization through swift and

appropriate legislative or executive action is in order. Tribal's joint, **indigenous vision document on livelihood, culture & education, updated National Tribal Policy, TAC Model Bylaws, prescription format for Governor's annual report & restructuring of multiple tribal development projects** are some such solutions.

Would the tribal autonomy plank command wider acceptance?

Harmonious acceptance by various stakeholders of the need to rework the abovementioned activation plan in light of emerging trends and desperation at grassroots does not seem a natural possibility. Interestingly, the greater resistance to the plank of tribal autonomy is coming not from the executive but the ultra left quarter. Notwithstanding the utterly insensitive comment of the Union Home Minister on tribals' protests during the prolonged anti-rape agitation in Delhi last December, clear statement and decisive moves by the Union Minister of Tribal Affairs, backed by historical April-2010 opinion of Attorney General GE Vahanvati, the first ever formal endorsement by New Delhi of Governor's powers being discretionary with respect to Fifth Schedule inspires hope. In fact the MoTA has taken positively to the 'basic inputs on draft National Tribal Policy-2013' which speaks of stating clearly that shift to tribal autonomy is the vision of NTP, submitted by this writer at minister's own suggestion.

In contrast, pro-ultra individuals are dismissive of the idea because they reckon this might sever the ties between tribals and the Maoists by exposing the incompatibility of respective value systems. Most left-liberals themselves have a soft corner for the ultra-left despite clear and historical differences over ideology due to misconceived notion that

strengthening LWE means a bargaining tool against the unyielding and strongly unitary Indian State. New tribal leaders were upset with such people and their rhetoric of opposing "all kinds of violence", in the face of mounting tribal casualties. When Dr. B D Sharma declared after his return visit of Abujhmad soon after securing the release of Sukma District Collector in March 2012 that even the Maoists want proper implementation of Fifth Scheduled, most local analysts took with a pinch of salt. But by the end of last year the fresh interpretation emanating from the first direct case on Fifth Schedule, challenging ongoing unconstitutional functioning of the Tribes Advisory Council in the Chhattisgarh High Court had shaken two major pillars of the dominant version given by the legendary campaigner. Large number of activists accepted the rationale that responsibility of non-implementation of Fifth Schedule lies with the Prime Minister and not the individual Governors. It also became clear that the TAC which was largely sneered at by the campaign in last 30 years indeed holds the key to effectively unlocking the Fifth Schedule.

Peace through Justice campaign is sure to experience a roller-coaster ride in the time left for next general elections but the very happening of a historical course correction readily endorsed by umbrella organizations of tribals in Chhattisgarh-Jharkhand promises some forward movement.

1. Report of special committee of Lok Sabha on Tribal Sub Plan (2001).
2. Reports of PCI-appointed committees headed by D. Bandopadhyay, B.N. Yugandhar & B. Mungekar respectively (2008).
3. Samatha Judgment 97' and SC comments in Tiger Reserve case on 3rd Oct. 2012. □

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