

**Inside :**

**34th JP Memorial Lecture:**  
**Democracy's Challenge to Us -**  
 Sudhir Chandra (1)

**34th JP Memorial Lecture:** 23rd March 2014 held at Ahmedabad

## Democracy's Challenge to Us

**Sudhir Chandra\***

**ARTICLES, REPORTS, AND DOCUMENTS:**  
 Political Over Reach by Election Commission/Reserve Bank Governor - Rajindar Sachar (7); Gujarat PUCCL: Note on Gujarat - Gautam Thaker (9); Bihar PUCCL: Report on the Dharna (11); Adivasis Rights: Non-issues in the Lok Sabha? - Pradip Prabhu (12); A Report on the 5th National Convention on Right to Food Campaign: Right to Food, Democracy and Social Justice - Kavita Srivastava (15); PUCCL Chhattisgarh: Grave Human Rights Issues of Chhattisgarh that NEVER Became Election Issues (15); Supreme Court's order exposes illegality of Biometric Aadhaar, NPR and PII (18).

It is embarrassing for me to be standing before you to deliver this year's *JP Memorial Lecture*. I could have avoided the embarrassment by confessing my unworthiness for the task. But that would have required a self-effacement of which I am incapable. So here I am.

Talking about 'Democracy's Challenge to Us' on a day that marks the 37<sup>th</sup> anniversary of the end of the Emergency, it is but apt that I should begin by recalling my first, and only real, meeting with the great man in whose memory this lecture is purposely organized on this date. This was exactly fifty-one years ago. I had written a fairly critical review of Sampurnananda's *Memories and Reflections* for *Quest*. One day I received a letter from Laeeq Futehally, the Reviews Editor of *Quest*, saying that she had been obliged to drop my review at the proof stage. Sampurnanada was a member of the Executive Council of the Indian Committee for Cultural Freedom of which *Quest* was an organ. She was told to avert the awkwardness that might result if *Quest* carried an adverse review of Sampurnananda's book.

**PRESS STATEMENTS, LETTERS AND NEWS :** Press statement: Lok Sabha Elections, 2014: Fascism, Democracy's Challenges and Role of Citizen (8); Statement: In Solidarity with Teesta Setalvad and her comrades (10); PUCCL statement: Lok Sabha Elections, 2014: A Clarification (14).

For the young idealist that I then was, this was shocking. I promptly sent off a letter of protest to *Quest*. I was then teaching at the Agra College, and it so transpired that JP came to the College for a lecture. Since he, too, was associated with the Indian Committee for Cultural Freedom, I wrote him an impassioned letter about the matter. After his lecture was over, JP enquired about and sent for me. Saying that he was not expecting me to be so young, he asked if I could accompany him to his next assignment so that we could talk on the way. He said that he agreed with what I had said in my letter; which for me was no small matter. He allowed me to be with him that entire evening. Learning that my temporary teaching stint at the Agra College was to end within a few months, he promised to try and arrange something for me. He was as good as his word. Also, he did not mind the fact that I preferred to take up a research scholarship instead of the research assistantship that he had arranged for me.

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The withdrawal of an unknown young scholar's book review could easily have been an affair too inconsequential for an important personage like JP. But his commitment to the idea of freedom would not let him treat it as negotiable.

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I am grateful to the *People's Union for Civil Liberties* for affording me a chance to recall, and put on record, this small but significant incident about JP. There is another reason for me to feel grateful to the PUCCL. In asking me to deliver this lecture, they have recognized the contribution of those thousands of anonymous women and men who enthusiastically welcomed the founding of the Union as a possible safeguard against the kind of forces that had led to the nightmare of the Emergency.

## I

We have, each one of us, our own ways of seeing the reality that, for weal or woe, we inhabit. It helps one, to the extent such self-awareness is possible, to be alert to one's distinct ways of seeing. It also helps the others to have a sense of where the one they are listening to is coming from. To the extent I can step aside and examine my own dominant mode of seeing, it is marked by a particular understanding of history. Let me briefly elucidate.

We tend to think in terms of certain primary binary oppositions, such as universal and particular, synchrony and diachrony, persistence and change. History, it is usually assumed, deals with the particular, the diachronic and with change. Over the years, and very slowly, I have moved towards an understanding of history – of human affairs – in which persistence and change are inseparably fused. Earlier my thinking was anchored in the profound formulation of Heraclitus that you cannot enter the same river twice. The truth of this mantra made itself available to me in two installments. Thanks to its flowing water, I immediately grasped the ever-changing character of the river. But it took me a while to realize that, apart from the river, even the person entering it a second time is not the same person who had entered it the first time.

Then, in the course of studying the kind of social consciousness that emerged in colonial India and now characterizes us, the discovery of persistence in the midst of ostensibly epochal change started leading me towards a very different truth. This truth had been with me all along, but I did not for long have the predisposition to recognize it. This truth is enshrined in the second chapter of the *Gita* where Krishna tells Arjun: 'It is not that I was not present at any time, you were not, or these kings were not; and nor is it that we shall not be in the future.' The *Bible* states the same truth thus: 'The thing that hath been, it is *that* which shall be; and that which is done *is* that which shall be done; and

there is no new thing under the sun.' Nearer our own day, William Blake is led to say: 'I see the Past, Present and Future existing all at once.' And still nearer, though adding a note of uncertainty, T.S. Eliot says:

Time present and time past  
Are both perhaps present in  
time future,  
And time future contained in  
time past.

My idea here is not to convince anyone. However, as a possible pointer to those who may suspect the idea of eternal persistence to be a piece of obscurantism, I may refer to the secular cognitive revolution that the 20<sup>th</sup> century French historian, Fernand Braudel, has brought about by demonstrating the indivisibility of time. Proposing three levels of movement of time – long duree, conjuncture and evenement (event) – and showing their inseparability, Braudel has argued that every historical moment encapsulates different times.

One more preliminary disclosure. Social science scholarship tends to be deeply suspicious of the vitiating influence of the knowing self on the act of knowing. Dismissive of what is contemptuously described as the anecdotal, it builds an elaborate and refined case against what is described as solipsism. Having initially shared the suspicion of the self, I have gradually learnt to accept, indeed celebrate, the unceasing mutuality of the personal and the academic, of autobiography and history. More so when people's subjectivity – individual and collective – is at the centre of what is to be understood. When we are the subject of examination – like in this discussion of how we respond to the challenge of democracy – we need to valorize our experience.

## II

How do I, given this way of seeing, see the question of democracy in India? I should like to begin from a moment until when change was a palpable reality, and did not carry intimations of inevitable resemblance between the new and the old. That moment was the termination of the

Emergency thirty-seven years ago, the moment that the JP Memorial Lecture is meant to recall, celebrate and reflect upon year after year. That was a moment of liberation. The entire country was seized with euphoria. Democracy denied and regained had driven home the value of freedom. Idealism, in that euphoric moment, had returned to our public life.

It was shockingly brief. Hard reality was soon back in place, reviving the disenchantment with the political class. Certainly for me. My capacity for trust and hope, in public life, was irretrievably damaged. But it was more an affective, existential experience.

The change acquired a different dimension, a serious intellectual dimension, following the sudden outbreak of anti-Sikh violence in the immediate aftermath of Indira Gandhi's assassination. On the second or third day of the violence, the following slogan made a sudden appearance on the walls of Delhi:

*Hindu-Muslim bhai-bhai*  
*Sikhon ki ab karo safai.*

I cannot produce in English translation the scary lilt of the Hindi original. But even a prosaic translation will suggest the slogan's sinister character. Here it is:

Hindus and Muslims are  
brothers,

Liquidate the Sikhs now.

Even in the midst of that violence, the starkness of the public call to exterminate the Sikhs stood out. And the effect was aggravated by the call's unexpected coupling with the otherwise stale 'Hindu-Muslim bhai-bhai'. Could such a slogan have been conceivable prior to the outbreak of anti-Sikh violence? Assuming the unlikely, even if it had been conceived, the slogan would not have been publicized. And even if some crazed mind had issued it, it would have been dismissed as wild and absurd; which it was not when it actually appeared.

What, then, was there in the actual outbreak of violence that made the slogan possible and plausible? In fact, that violence itself could not

have been conceivable until it actually materialized. For, whatever might have happened during the years of separatist violence in the Punjab, relations between the Hindus and the Sikhs had remained unaffected and the two communities had not drifted apart. Yet, unimagined violence had suddenly been unleashed against the Sikhs. Could such relentless violence have been produced solely by a single act of assassination? Could it have been sustained in the absence of a matching, even if latent, communal awareness? If not, what deep unsuspected divide had lain concealed between the two communities? Only the eruption of violence was sudden. Its continuation was on account, and a manifestation, of a latent communal divide. That manifestation is what made the slogan possible and plausible.

Things may be what they appear to be. But, completely invisibly, they can also be the very opposite. This is the intellectual lesson the existential experience of 1984 taught me. The lesson raises unsettling questions, one of which is: If things carry within them the possibility of suddenly being radically different, how reliable can be a description that is uninformed by those other possibilities?

But why am I talking in terms of neutral things? That only serves to sanitize the formulation. The matter involves real people – us – and attached to it is a certain enormity which should be squarely faced. So let me rephrase the formulation within the context of our present discussion. People – not excluding us – may be what they appear to be. But they can also be the very opposite, without betraying any sign of being that. In concrete terms, the 1984 violence and the mentality which surfaced with the open call for the extermination of the Sikhs constituted a phenomenon that was not confined to just a lunatic fringe. It also involved, in varying degree, normal human beings like us.

Our recall of 1984 today usually remains confined to the politicians

who are believed to have engineered the anti-Sikh violence and to the anti-social elements who perpetrated the actual violence. In a similar situation almost seventy years ago, when Calcutta was gripped by anti-Muslim violence and he felt obliged to stake his life, Gandhi had lashed out at the hypocrisy of blaming anti-social elements for communal violence. For, even if the actual deed was something from which the supposedly respectable middle classes had stayed scrupulously away, communal violence would never be possible without their tacit approval and countenance. It is important, therefore, to inscribe in the conveniently partial recall of 1984 that other aspect also which implicates those as well whose hands were unsoiled.

Those who have cared to remember will vouch that the stock response of many educated Hindu women and men to the anti-Sikh violence was: 'What is happening is bad. But it is necessary.' At the same time, unmindful of what that violence could be doing to alienate the Sikhs, these Hindus also maintained that the Sikhs were not different from the Hindus. The inseparability of Hindus and Sikhs was an article of faith with them, and they would – those Hindus – happily cite the Indian Constitution, and point to the then familiar phenomenon of Hindu-Sikh marriages and the practice of one son in many Hindu families being a Sikh.

The preceding account of 1984 indicates a very complex attitude towards both the Sikhs and the Muslims. We may be tempted to overlook that underlying complexity and, instead, see those happenings in Manichean terms. We may, consequently, see nothing but opportunism in the invocation of Hindu-Muslim fraternity, and dismiss as fake the expression of regret at the presumed necessity of violence against the Sikhs. We may even feel morally driven to be judgmental. To do that, however, will be to miss a fact which is crucial to how we respond to the challenges of democracy and citizenship. Symptomized by the preceding

description of Delhi 1984, that fact is: Hindus are simultaneously, or alternatively, inclusive and exclusive. Any time, and often without fully grasping what they are doing, they can own or disown the others, depending upon what their response to certain circumstances might be.

It is a coincidence that the year I have been asked to deliver it, the JP Memorial Lecture is being held in Gujarat. This is a convenient and melancholy coincidence. Convenient because much of what I wish to say relates to Gujarat, which was home to me and my wife from 1985 to 2002. Melancholy because, while our years in Gujarat also brought us great joy and lasting friendships and enriched us in multiple ways, what needs to be said now is anything but joyful. Coming to Gujarat still feels like coming home. Home coming about which one of the living greats of Gujarat, Gulam Muhammad Sheikh, has written so poignantly. Whatever I say I say as an insider.

Gujarat has known communal violence intermittently. The violence to which I was witness occurred in 1990, 1992 and 2002. I have written about it, in the heat of the moment, as well as looking back in a spirit of introspection. Without attempting to rehash all that, I shall focus on what serves to highlight the complexity – ambivalence is my preferred expression – of people's attitudes. You will recall that Vyara, the small town near Bardoli in South Gujarat, was for two days in the grip of the violence which broke out against the Muslims in the immediate wake of the first unsuccessful assault on the Babri Masjid in October 1990. A young colleague of mine at the Surat Centre for Social Studies, Satyakam Joshi, my novelist wife and I decided to see things for ourselves. Among the many people we met and had intimate conversations with, there was a man who earned his living by ironing clothes and also doubled as the priest of a tiny wayside temple. He narrated to us in graphic detail, and with unmistakable pain, what the town's Muslims had to suffer. Just as he was talking with us, it was time for him to perform the evening *aarati*.

The sacred ritual done, he resumed his account and told us how he was taken into custody by the police. As we expressed surprise that one with his kind of sympathies should have been arrested, he admitted that he had led one of the rampaging mobs. In 1990 we had to travel to Vyara to get a sense of what had happened. Two years later we did not have to go anywhere. Suddenly, totally unexpectedly, beginning with the night of 6-7 December, Surat was in the thick of unimagined communal violence. Let me begin with the afternoon of 6 December when, like every working day at the Surat Centre, the whole Faculty had got together for tea. It was impossible that day to have any discussion apart from speculating about whatever was going on in Ayodhya. This, naturally, led to speculation about what might happen in case, God forbid, the Kar Sevaks really succeeded in their design. Everyone was agreed that the repercussions of that would be terrifying. However, there was unanimity that, whatever might happen elsewhere in Gujarat, Surat would remain quiet. The entire history and socio-economic profile of the city was there to bolster that confidence. The confidence was belied by midnight the same day. It was back within days, the confidence. Now it was explaining why violence had broken out in the city.

I am a professional academic, and narrate this particular incident to reiterate the earlier point that even the realities we believe we perfectly understand carry unsuspected latencies.

Surat 1992 was terrifying. It was, and this could be said only in hindsight, a preparation for Gujarat 2002. You will immediately have a sense of what 'terrifying' signifies in the context of Surat 1992. But there is an aspect of it which, ordinarily, you will not even imagine. To let you have an idea of that, here are two differently terrifying experiences of those days, which together actually constitute one experience.

The first experience relates to a relief camp during the worst phase of the

violence. There was a frail little girl, barely in her teens, standing dazed beside an elderly woman. The woman was shouting away in helpless rage: '*Bhai, un haivanon ne is bachchi ke saath bura kam kiya! Is bachchi ke saath!!*' ('Brother, those devils abused this little girl! This little girl!!').

It will be easier to leave you to imagine the enormity of the experience than to try and describe it. And just then, within a day or two, occurred something utterly incredible. I was visiting a friend when a neighbor of his, a middle-aged woman, rushed in. A train, she summarily announced, had been forcibly stopped outside the Udhna railway station, and some women passengers raped. She rushed out as abruptly as she had rushed in. I heard the friend say that this must be another of those baseless rumours that were rife then, and caught myself wondering if the raped ones were *Hindu* women.

It required me a whole ten years to be able to speak of this incident. I have since written about it more than once. So far as one can look back and examine one's making, there was nothing that could have warned me of this dark presence within me. My family and friends, my surroundings, my education, every conscious influence, years of association with the Jamia Millia Islamia and the Aligarh Muslim University, being treated like a son by my Muslim Chachaji and Chachiji – Janab and Begum Mahmudul Hassan – with whom I lived for an entire year as an impressionable under-graduate student, indeed everything that had made me what I believed myself to be should have been sufficient protection against a perversity like the one that, however fleetingly, possessed me that day. Surely I was more, and also other, than what I had believed myself to be.

This was a humbling and, hopefully, cleansing experience. Yet, having once been so possessed, can there be a guarantee that the cleansing has been complete and permanent?

This is a frightening thought, the kind

of thought that our instinct for sanity tends to keep repressed. But the repressed, Freud has shown us, has a way of striking precisely when we are off guard. Also, eruptions, like the slogan on the walls of Delhi and the flash from my dark depths, may be sudden; but they are not aberrations. They are reminders that, in the unpredictable structuration of individual and collective consciousness, non-visibility does not necessarily signify non-existence. If anything, the rarer and more unexpected a surfacing, the greater the reason to worry about what it might portend.

Now on to Gujarat 2002. Not in its entirety, for that would entail going into the monstrosities that, beginning with Godhara, happened during those cruel months; but only in relation to its adverse repercussions for democracy in India. Seen that way, Gujarat 2002 is not an event that occurred over a decade ago. It is still alive and unfolding. Especially *now* on the eve of the 2014 parliamentary elections. There is much that can be said about this live event in the context of democracy, not least of which is the brazen miscarriage of justice. The notorious acquittal of the accused in the Baroda Bakery Case that obliged the Supreme Court to order the transfer of trial of certain cases away from Gujarat is only one index of that miscarriage. Welcome as the Supreme Court's effective intervention has been in a few high visibility cases, it also provides ground to worry about the many more cases not so transferred.

This is alarming. For democracy to be even minimally substantial, not just ostensibly procedural, the judiciary has to be – and should be perceived as – independent and unaffected by sectarian or other narrow considerations. A judiciary that makes a particular community feel marked and hounded inhibits the growth of a sense of common citizenship.

Important though the other aspects are, there is only one that I wish to particularly emphasize in the context of the fate of the democratic process. This relates to the as yet

uninterrupted triumphal electoral march that began in Gujarat with the violence of 2002 and paved the way for the charisma of Narendra Modi. Scheduled in the immediate aftermath of anti-Muslim violence, the 2002 Assembly elections were held amidst fears of large-scale rigging by the ruling party. Those elections, in the event, turned out to be among the fairest the country has known. The verdict in those fair elections was a massive mandate for Modi, way beyond what those relying on large-scale rigging normally plot to achieve. The electors' fidelity flinched neither in 2007 nor in 2012. That charisma is now being exported to – and apparently accepted in – the rest of the country as well. How much of that acceptance gets translated into immediate electoral gains will soon be clear. Whatever might happen in the immediate context of the 2014 elections, the export and acceptance of Moditva constitute a phenomenon of long-term national significance.

Twelve years is not a long time, and yet some critical factual details seem to have been erased in the course of the increasing acceptance of Moditva. Indeed, the quiet substitution of Moditva for Hindutva itself has facilitated the erasure. Moditva focuses on development without giving up on Hindutva. Foregrounding development, Moditva so veils Hindutva as to make it an invisible, but real, presence that can be denied or invoked as contingency demands. Neither in 2007 nor in 2012, except when dared by the Congress, did Modi swerve from the plank of development. That is how the electoral triumph of 2002 is shrouded in silence and the presumed vote to development in 2007 and 2012 highlighted.

The question I wish to raise is: What makes such a remembrance possible? Let us begin by recalling the then Prime Minister Atal Behari Vajpeyi's not so cryptic advice to Narendra Modi to follow the *raj dharma*; and also Vajpeyi's resolve at the time of the BJP's Goa conclave to get rid of Modi. Similarly, although restrained from acting by political

expediency, there were constituents of the then ruling NDA who did feel squeamish about the wrongs of 2002. It was in such an atmosphere, in the midst of acknowledged wrongs, that Modi was returned to power with more than two thirds majority.

Today what is supposed to matter is the image of Modi as Vikas Purush. So overwhelming is this image, and such its power to undo wrongs, that those who refuse to let that past be buried are accused of needlessly opening up old wounds. Without being invidious by choosing to cite only him, indeed in acknowledgment of the weight that attaches to his opinion as a liberal political philosopher, I wish to quote Lord Bhikhu Parekh. Speaking during a discussion on NDTV, he kept repeating with regard to Narendra Modi: **'But the man has moved on!'**

Having already quoted Heraclitus, I would have been surprised if the man had not moved on. But has the man really moved on in the sense so confidently suggested by Lord Parekh and believed in by thousands? Speaking in Ahmedabad, the city from where Gandhi initiated his satyagraha in India, I cannot but think of a parallel from his life. Persuaded that Delhi was not where he was needed on the eve of Independence, Gandhi left for Noakhali and was detained in Calcutta to bring the city back to sanity. He chose as his partner in this peace mission Shaheed Suhrawarthy, the very man who, as the Muslim League Prime Minister of Bengal, had been implicated in the violence occasioned by the call for Direct Action. When asked by people not to trust Suhrawarthy, Gandhi argued that God alone knew what there was within an individual's heart. One evening a rather ugly situation arose as one person from among the people gathered for Gandhi's evening prayer demanded to know of Suhrawarthy if he was not responsible for the Direct Action Day massacre in Calcutta. Suhrawarthy, the shrewd lawyer, tried all his powers of equivocation. But the man, with the entire crowd behind him, pressed for a direct answer. Finally, Suhrawarthy said: 'Yes, I was.' All

was quiet thereafter. All that while Gandhi, who stood by Suhrawarthy for his physical protection, uttered not a word to defend him against the charge.

To return to Modi, it is striking that those who believe him to have moved on and see in their belief sufficient reason to write off past wrongs and to anoint the man, are predominantly Hindus. I am not talking of professed supporters of Hindutva, for whom there was no wrong-doing, but of those who admit wrong-doing but insist that the man has moved on. This is yet another manifestation of the same attitude that explains the 1984 kind of ambivalence towards the Sikhs. The roots of this attitude lie in an instinct that started developing among the Hindus co-terminously with the rise and growth of Indian nationalism. They have since tended to assume an axiomatic identity between Hindu and Indian. So deeply has the identification got embedded in the Hindu consciousness that the Hindus cannot easily believe that they, too, can be communal. No other community can claim that privilege. Given their veiled majoritarianism – veiled even from themselves – the Hindus believe themselves, *ipso facto*, to be of the nation. The other communities must prove their nationalism, and leave it to the Hindus to decide and count them in or out.

This may seem an exaggerated proposition. But years of research – crystallized in *The Oppressive Present: Literature and Social Consciousness in Colonial India* (1992, 2014) – have confirmed the presence of this trait. I emphasize it here because it leads otherwise well-meaning people with an expansive liberal outlook to, unbeknown to themselves, act in ways that are inimical to the growth of a sense of Indian citizenship. It is this trait that blinds them to elementary considerations of justice and humanity, and to the deepening alienation that their blindness must necessarily produce among those who, having suffered, are asked to forget.

There are various ways in which the deepening sense of alienation gets allayed from time to time, without being substantively attended to. We have already noticed how, for example, intervention by the Supreme Court created the comforting illusion of justice being in place. A similar effect was, in varying degree, created by the defeat of NDA and the successive electoral triumphs of UPA. The ousting of NDA in 2004 was hailed as the nation's repudiation of the violence of 2002. It did not matter that some of the constituents of UPA had been partners of NDA and had remained within it during the worst of 2002.

Surely the Congress – assuming that it is different, which it is not – does not possess a magic mantra that can transform overnight the character of those that decide to be aligned with it. There is little between UPA and NDA to tell one from the other. Consequently, there is always a sense of *déjà vu*, an abiding sense of despair, that whatever change might occur, it will sooner or later change into the familiar old. The feeling has over the years been deepened by developments in the larger world and by reading. Be it, for example, the historic election of a non-white as the US President, or the stirrings in Tunisia or Libya or Egypt, there is always in me an anticipation of the ensuing lapse. This confession should serve as a warning.

Now another confession. A cheering one this time. Having thickened during the intervening thirty years and more, the disenchantment that set in with the crumbling of the Janta Government has begun to wane with the electoral victory of the Aam Adami Party in Delhi. A plausible narrative – there can be others too – of the six and a half decades of democracy in India would be one that described the relentless inferiorization of the ruled matched by corresponding brutalization of the rulers. You could exercise your franchise and elect your government, but you could only choose between Tweedledum and Tweedledee. Denting the inexorability of that dehumanizing process, the

AAP experience has shown the viability of alternative politics. No matter whether AAP fails or succeeds as a political outfit, the dent it has made is going to stay.

In concentrating on the communal question, my primary concern has been to indicate how the emergence of a shared sense of citizenship, essential for any democratic polity, has been hampered by the ease with which different communities have, consistently or intermittently, been made to feel marked and besieged. A similar narrative can be offered for other marked and marginalized groups, such as the tribals, Dalits, certain regions like the North-East, or the poor. Having chosen to speak from personal experience, I could, for example, draw upon my two and a half years in Mizoram to talk of the anguish and alienation the Mizo feel as citizens of India. A word to the wise, Gandhi would often say. Here is a telling bit which came at the end of a very friendly meeting with a distinguished Mizo writer during which he recalled for me many details of his life. These included his boyhood when, from the jungles where his family had taken refuge from the Indian army, he would every night see Aizawl burning. The writer's parting words to me were: 'I know that you know that we are very far from you. But I want to tell you that you do not know how far we are.'

A similar story from a different setting. Those were the days of the making of the Sardar Sarovar Project. The Surat Centre was monitoring the rehabilitation and resettlement of the Project affected people. Once we reported that of the two wells provided in a resettlement village, one had no water in it. The representative of the Gujarat Government denied this, and a joint inspection was agreed upon. Sure enough there was water in the well. Tanks quietly sent by the concerned officials had done the trick. Whether the story is aberrant or representative, and what its relevance is in the context of the present discussion, is for you to decide.

Sixteen days before his assassination, Gandhi had said 'There are seven lakh villages, so I

believe there should be seven lakh governments.' We could not have had a simpler and truer measure of democracy. Nor could we have strayed farther from it.

The process is hard to stall. Perhaps impossible so long as we remain sucked into the reigning world-system of production and what today is called 'growth'. The first decisive step on this path was taken, on the eve of Independence, when Gandhi's blue-print for a new India was summarily rejected. Nehru, himself the architect of mixed economy, had then made a prophetic statement which, inexplicably, has remained neglected. He said that, in the event of there being two kinds of economy in the country, there will either be conflict between them or one of them will swallow the other. Having all but swallowed its rival, the triumphant economy is now busy seeking to swallow the State.

Not just in India but the world over. Our attention at the moment is primarily directed against the nexus between the political system and what is described as crony capitalism and believed to be the real villain. An exceptional cleavage, like the one between the ruling Left Front and its rival TMC, may occasionally conspire to create a Singur, but the order of the day is free play for Big Business, no matter what the existing political arithmetic is. Even Arvind Kejariwal has been realistic enough to clarify that AAP is opposed to corruption and crony capitalism. There obtains an overwhelming consensus in favour of the existing global model of 'growth'. Besides, that alone will make us a super power, a worthy challenger to China's design of deposing the West. The problem, according to the prevailing consensus, is one of equitable distribution. Of making the same Business behave which threatens to swallow the State.

It was only the other day that thousand of ordinary US citizens came out to protest against the 1 per cent in the name of the 99 per cent. They were followed by their counterparts in Greece, Portugal,

*Contd on Page 14*

# Political Over Reach by Election Commission/ Reserve Bank Governor

## Rajindar Sachar

All parties have broadly agreed on various aspects of Model code worked out by Election Commission for a certain period before the elections - It has worked quite satisfactorily. Fortunately the Election Commission still remains in command. Recently it denied the central government to make certain changes in some economic and subsidy policies (though the later would adversely affect the poorer sections of society) its neutrality was not challenged. It has therefore come as a shock to many of us that since Bank Nationalization in 1969 though only two licenses in Private sector have been allowed, the matter has been made controversial by R.B.I. by deciding to issue two fresh licenses. More astonishing is the comment by Governor, RBI that giving bank licenses is not in any way a political process. This plea is unacceptable in political circles because it cannot be forgotten that the economic crisis in 1969 created by Private Bank fiasco was avoided in 1969 by Nationalization of Major Banks. (Of course there was political angle in Indira - Morarji Desai power struggle at that time.) Since then however Central government with even different political Parties formation has taken place. But sensing the public indignation at allowing corporate sector to set up Banks, no central government seriously even remotely broached the idea of change of policy.

It was only in 2011, that UPA Government, known to be under Big corporate sector pressure, announced, though in low key, a policy for new banks in the budget for F.Y. 2011, but did not dare seriously follow it up. Reserve Bank Governor, who evidently is a follower of Chicago school of economics of unadulterated private sector economy, was keen to go ahead with privatization, but the Ministry of Finance opposed it, even Mr. Chidambaram, no doubt also a believer in Chicago School of Economic policy (1990) opposed it,

realizing the political dynamite of privatization. But the Governor nevertheless referred this matter to the Election Commission. One would have expected a immediate curt negative from the Election Commission for the obvious reason that Banks Nationalization is one of the most explosive political decision, and which only an elected government is competent to modify. By what logic Election Commission has permitted the Reserve Bank the liberty to take decision independent of the government on such a delicate financial, economic and a political policy is beyond comprehension. Governor Reserve bank has ventured the unacceptable proposition that granting bank business is not in any way a political process. This stand is totally unacceptable both in principle and in law. R.B.I. can only move in after the central government has taken a political decision to allow private banking - and this decision, if at all can only be taken after the elections and new government has taken over. Such a change of policy requires full-fledged debate not only in legislatures but in the political circles. It cannot be done quietly at a bureaucratic level.

The unexplained hurry by Governor Reserve Bank to issue two private Licenses defies logic. It is not as if service by private Banks is helping the needy ones. Statistics show that 27 State run banks account for 75% of total deposits and 73% of total credit. If analyzed in depth the private Banks service its own private client and have no public purpose. As a matter of fact in last couple of years even in U.A.S. biggest banks like Bank of America were saved from bankruptcy by the U.S. Government lending huge amounts of money to them.

A fallacious argument in favour of privatization of banks that they are less likely to default and therefore are a less burden on the public finance has been authoritatively negated by international Monetary fund (I.M.F.) which has warned that

the world's biggest banks still get a total of about 590 Billion Dollars in subsidies from their governments. In that light this action of giving license for Private Banking by Reserve Bank Governor is mystifying. This decision has already been adversity commented by Members of Parliament and they have warned that R.B.I. should have waited, as decision had to be made by the new government after general elections and they have warned that "they would revisit the issue of new bank licenses".

Bank Nationalization is a matter of government policy - the Supreme Court in Bank Nationalization case (1970) specifically refused to consider the argument of private bankers that under the scheme of social control exercised by Reserve Bank of India, the commercial Banks had achieved impressive results comparing favorably with the performance of State Banks of India. The Supreme Court said thus;

"This Court is not the forum in which these conflicting claims may be debated. Whether there is a genuine need for banking facility in the rural sector ..... whether administration by the Government of the commercial banking sector will not prove beneficial to the community and will lead to rigidity in the administration, whether the Government administration will eschew the profit-motive, and even if it be eschewed, there will accrue substantial benefits to the public..... and whether the policy followed by the Government in office or the policy propounded by its opponents may reasonably attain the national objectives are matters which have little relevance in determining the legality of the measure. It is again not for this Court to consider the relative merits of the different political theories or economic policies .... This Court has the power to strike down a law on the ground of want of authority, but the Court will not sit in appeal over the policy of the parliament in enacting a law. The Court cannot find

fault with the Act merely on the ground that it is inadvisable to take over the undertaking of banks which, it is said by the petitioner, by thrift and efficient management had set up an impressive and efficient business organization serving large sectors of industry."

I feel strongly that Governor, R.B.I. should immediately withdraw the permission so as not to create unnecessary lack of confidence and want of rapport between R.B.I. and the new government. Already there is a bias against public sector - this is clear from the fact none of major political parties though at each

other's throat in their election offensive has even remotely praised public sector; rather all are promising to encourage private sector - ironically forgetting compulsion for socialism highlighted in the preamble to our Constitution.

Dated: 18/04/2014 □

Press statement: 23rd March 2014

## **Lok Sabha Elections, 2014: Fascism, Democracy's Challenges and Role of Citizen**

### **Vote for Principled Politics: Use NOTA effectively**

As the voting dates for the Lok Sabha election, 2014 come closer, the entire country is witnessing the naked drama of corrupt, caste-communal oriented, immoral, unprincipled alliances amongst and between political parties with the only intention of somehow coming to power. Irrespective of whether it is an alliance led by a national or regional party(ies), alliance logic is based on unprincipled, ethics-less and immoral considerations. PUCL through this statement, wishes to bring to the attention of the people of India, the serious threat to democracy itself and the human rights challenges posed by the electoral alliances and calls upon the common citizen of India to rise up and challenge all the political parties about their commitment to democracy, rule of law, equitable and sustainable development and the welfare of the common citizen.

### **1. Challenge to democracy: Threat of Fascism and consolidation of a police state**

PUCL is extremely worried that the type of electoral alliances and the total lack of choice to the people of India. The human rights record of none of the major alliances inspires confidence that if they come to power they will respect the rule of law, the Indian Constitution and human rights. In the last 6 months itself, across India, we have witnessed ugly face of violent, communal intolerance, whether it is in the demand to ban history books (as for example Wendy Donniger's books on Hinduism) or the opposition to films or dramas on communal

considerations or the murderous rise of Khap Panchayats with all the major political parties remaining collusively silent or the killing of RTI activists and social workers and others.

The rise of political intolerance is not just a threat to fundamental freedom of right and expression but undermines the very basis of democratic politics - which is the RIGHT TO DISSENT. This is particularly crucial when increasingly corporate interest are controlling policy making and development policies are turning anti-people.

PUCL would like to bring to the attention of citizens of India, that across the country, all governments are using the police as weapons and abusing the law as a means to break down people's struggles by violently suppressing them, arresting them under draconian laws like anti-sedition laws, UAPA and other anti-people laws.

### **2. Destructive Development and the murder of Directive Principles of State Policy!**

Irrespective of whether it is BJP or Congress or regional parties like the SP, BSP, AIADMK or TMC one common factor in all their state policies. It is the open support to a development policy which supports big industrial and mining projects which throws out farmers, tribals and rural and urban poor, enables total capture of all common resources like land, water, minerals and other resources by corrupt and venal industrial interests and criminalises local people who fight against these unjust, unfair laws and policies.

Agitation against Mithi Virdi nuclear plant or the extreme ground water

pollution in Baroda, Vapi or Bharuch industrial zones in Gujarat or the POSCO struggle in Odisha or Koodankulam anti-nuclear plant struggle in Tamil Nadu or anti-Polavaram struggle in AP - the list is endless.

Increasingly it is becoming clear that big corporate lobbies are financing political parties. Many sections of the media are also controlled by corporate interests. All this seriously threatens democracy and democratic way of life.

Development has become destructive, for most ordinary Indians. None of the political parties are worried about or talk about devastation of ground water tables, chemical and air pollution, contamination of water bodies, destruction of eco-systems including fisheries systems and a malnutrition time bomb which is making India a nation of stunted people.

PUCL would like to stress that a close scrutiny of the 'Gujarat development' model or the UPA's growth story both disclose the story of crony capitalism, destructive development and open and collusive looting and plundering of natural resources of the people of India. That both the political formations are no different is revealed by the silence of both the principal national parties - BJP and Congress - and their allies to making public the Justice MB Shah Commission report on coal mining in all the states of India.

### **3. Development with dignity and democracy: The Promise of the Indian Constitution**

PUCL would like to stress to the citizens of India, that the Directive Principles of State Policy demand

that state policies do not increase divide between rich and poor and do not increase the concentration of wealth in the hands of a few. The Indian Constitution repeatedly highlights that the right to life, to live with dignity, right to health, environment and water and other basic rights are fundamental rights not to be mortgaged or sold away by governments to corporate interests.

PUCL calls upon the citizens to be vigilant and to vigorously question all political parties on their support to pro-people, sustainable, equitable development policies. What is at stake is the future of India.

Gujarat PUCL: 04.04.2014

## **Civil Society of Gujarat should seriously think about Protection and Promotion of their Rights and Liberties**

**Gautam Thaker**

Although a period of 12 years has passed since the occurrence of sad incidents of 2012 and for those who had to suffer in it, all desire that violence affected victims shall get just and comprehensive rehabilitation. There has been increase from time to time in the tenor of the Nanavati Commission which was constituted to inquire into the incidents of violence at Godhra and at other places. Nobody knows when its final report will be out.

Maintenance of law and order and security of the citizens is the primary duty of any Government. The incidents of loot and robbery in small and big towns of Gujarat have become a matter of daily routine. Fatal assaults are made in the crowded areas with the weapons which are of prohibited nature. Not a single day passes about running away after snatching of gold chains from the necks of the women. Even ATM machines installed in the compound of the banks in Gujarat are not safe and incidents of looting of cash money after breaking open ATMs are on increase.

On the other hand, a number of cases of small boys and girls being kidnapped are reported on the records of the police. For months and even years, Police is not able to

### **4. NOTA: First step to Recall of Representatives - Call to the citizen to use widely**

PUCL calls upon all citizens to come out and cast their vote and that they are not entirely powerless to counter corrupt political parties who view elections as a once in 5 years gamble. Today the citizen has the right to make known their opposition to unprincipled politics by using NOTA (None of the Above) button in the voting machine.

We would like to point out that wherever citizens do not find candidates who respect human rights and the Indian constitution or supports a pro-people, pro-

environment sustainable development policy, they can express their displeasure through using NOTA.

PUCL was also responsible for the introduction of NOTA. We feel that NOTA is an important right available to the voter from this election. This will eventually lead to the next step of electoral reform - recalling of elected representatives, if they do not live up to their promises, by the voters in their constituencies.

Sd./-

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

find out whereabouts of these tender aged children and tears from their parents are not drying. There is increase in the incidents of molestation and rape of the women of which many cases are not reported in the police record. On the other hand snooping is resorted to on the movement of the women. No special or exclusive Commission for protection and preservation of rights of children and women has been set up in Gujarat.

There is lawlessness and anarchy in the education front in Gujarat, right from pre-primary to college or University level. Constitutional right has been conferred for free and compulsory education to all the children between the age of 6 to 14 under the Right to Education Act. Now the 8th standard has been included as a part of the primary education in which lacs of students get the admission but there are not enough No. of class rooms or teachers nor any physical facilities. Large number of posts of teachers and professors are vacant for many years. No recruitment has been made for this. On the other hand, they are appointed on a temporary basis of 11 months as an ad hoc, daily wagger labourers and Gujarat ranks at No. 15 in the country. 14

states including the so-called sick states like Bihar, U.P., Rajasthan and Jharkhand are ahead of Gujarat.

For want of rural employment and development opportunities in the rural areas, lacs of people from rural areas and especially from the adivasi areas are migrating to small and big towns in search of livelihood and they are compelled to take shelter in the slums or on the footpaths and lead the life as animals. About 40 to 45 % people living in large cities of Gujarat have to lead their life in an inhuman condition. It is obvious in the areas where they are compelled to live that there is complete lack of basic necessities like drinking water, drainage / sewerage, electricity.

There is much increase in the ill-treatment towards Dalits. Due to socio-economic boycott, they are compelled to migrate with all their family members. Even today in some villages of Gujarat, inhuman practice of carrying human excreta on their heads is continuing.

Most of the claims of development in Gujarat are hollow. Till now, considering at an interval of one or two years, a total of 5 Nos. of Vibrant Summits have been organized in which 17,606 MOUs (Memorandum Of Understanding expressing

interest for investment were made, out of which hardly 1907 projects could be implemented involving capital investment of Rs. 3.17 lac crores as against the tall claims of investment potential of Rs. 40 lac crores. The boastful claims of eradicating poverty and unemployment have proved to be hollow. One evidence of this is that Gujarat ranks at No. 13 in the Indian State Hunger Index. Here too, so

called backwards States of Uttar Pradesh, Andhra Pradesh, Rajasthan and Orissa are ahead of Gujarat. Look at these statistics which bespeak of how much unemployment has been reduced with the aforesaid capital investment. Recently, for recruitment of about 1500 posts of Talati, about 8 lac candidates have applied, out of which large number of them were possessing degrees of double

graduation and master's.

Justice, security, law and order, housing affordable to all and protection and providing social relief especially to the weak, deprived, reserved classes and masses are the responsibility of the State towards all these citizens. Its fulfillment is the good governance.

Civil Society of Gujarat should make serious deliberation on these subjects. □

**Statement: In Solidarity with Teesta Setalvad and her comrades: 28 March 2014**

## **Condemn the Vengeful Actions of the Gujarat Government**

We, the undersigned express our deep shock at the rejection of the anticipatory bail application of Teesta Setalvad and four others in what is being called the Gulberg Embezzlement Case, by the City sessions court of Ahmedabad. From its beginning, the so-called embezzlement has been the concoction of elements instigated by the state government of Gujarat, including the Gujarat Crime Branch. In January 2014, an FIR was registered against the five accused for defrauding the members of the Gulberg Society of funds meant for the building of the Gulberg Memorial commemorating the state sponsored carnage.

It may be in order to recall the facts of the case, especially, since a section of the media is spreading canards that the funds thus raised were used for buying jewellery, wine and such like, and gloating over the possibility of the arrest of Teesta Setalvad and others.

First, the complainant in the case, Feroze Khan, had forged the letterhead of the Gulberg Society to file the complaint. A written complaint to this effect was sent to the Crime Branch, Ahmedabad Police by the office bearers of the Gulberg Society.

Second, as early as in March 2013, when the allegations first surfaced, the Centre for Justice and Peace and Sabrang Trust, had provided satisfactory explanation to the Crime Branch and investigation had

been dropped. CJP had clarified that at no point had it collected any amount or money or land from any person residing at or claiming to be part of Gulberg society. CJP and Sabrang issued a public affidavit which showed that only Rs 4.5 lakhs had been collected for the proposed museum, of which Rs 50,000 was from foreign sources – but as the land prices spiraled, the dream for a memorial was abandoned. Its audited accounts and resolutions passed in the society proved as much.

Third, months after the investigation had been closed, the complaint was revived and the FIR registered in January 2014, as CJP was preparing for the filing of Smt. Zakia Jafri's protest petition. It was a blatant move to jeopardize and demoralize the petitioners by the Gujarat government.

Fourth, two of the co-accused in the case are survivors of the terrible massacre in Gulberg Society in February 2002: Salimhai Sandhi who lost five family members including his son Mohammed; and Firoz Gulzar Pathan who also lost five from his family. The third co-accused is Tanvir Jafri, son of the former MP, Ehsan Jafri, who was also hacked and burnt to death in the massacre.

There can be little doubt that this FIR is part of a long series of vindictive actions undertaken by the vengeful Gujarat government – fraudulent cases have been filed

earlier too – to teach Teesta Setalvad and CJP a 'lesson' for continuing the struggle for justice. We are disappointed that the sessions court has chosen to reject the anticipatory bail applications, thus making their arrests imminent. In extending our heartfelt solidarity with Teesta Setalvad and other friends today, we reiterate our commitment to sharpen the struggle to preserve the values of democracy, secularism and justice.

Sd/—

**Anuradha Chenoy**, Academic, JNU; **Adeel Mehdi**, Academic, Delhi; **Anil Thayarath Varghese**, Delhi Solidarity Group; **Ahmed Sohaib**, Academic, Delhi; **Ania Loomba**, Academic, USA; **A Faizur Rehman**, the Moderates forum; **Amit Sengupta**, Senior Journalist, Delhi; **Anuradha Banerji**; **Anusha Rizvi**, Filmmaker, Delhi; **Apoorvanand**, Professor, University of Delhi.; **Arshad Ajmal**, Activist, Patna; **Asad Ashraf**, Jamia Students Solidarity Forum, Delhi; **D. Gabriele**, Pennurimai Iyakkam; **Deepti**, Saheli Women's Resource Centre, Delhi; **Farhathullah Khan**, Chennai; **Gautam Bhan**, writer and activist, Delhi; **Ghazi Shahnawaz**, Academic, Delhi; **Ghulam Mohiyuddin**; **Harsh Kapoor**, Activist, Delhi; **Harsh Mander**, Activist & Writer, Delhi; **Iliana Sen**, Academic, Mumbai; **J.S. Bandukwala**, Academic, Gujarat; **Janaki Srinivasan**, Panjab University, Chandigarh; **Javed Naqvi**, Senior Journalist, Delhi; **Jaya Sharma**, Independent trainer, researcher and activist, Delhi; **John Dayal**, Member, National Integration Council, Delhi; **Juhi Jain**, Feminist activist and writer, Delhi; **Kamal Mitra Chenoy**, Academic, JNU, Delhi; **K.M. Sreemali**, Historian, Delhi; **Kamayani Mahabal**, Activist and Lawyer, Mumbai; **Kavita Srivastava**, National Secretary, PUCL; **Kiran Bhatta**, Academic, Delhi; **Kiran Shaheen**, Writer and Activist, Delhi; **Kriti**, Activist, Delhi; **Kumar**

**Sundaram, Anti Nuke** Activist, Delhi; **Lesley A Esteves**, Queer Rights Activist, Delhi; **Mahtab Alam**, Activist, Delhi/Bangalore; **Manisha Sethi**, Academic, Delhi; **Mansi Sharma**, Activist, Delhi; **Mayur Suresh**, Advocate and legal researcher, Delhi/London; **Mario da Penha**, Historian, Mumbai; **Mohammad Imran**; **Mona Das**, Academic, University of Delhi; **M. Reyaz**, Journalist, Delhi; **Mubasshir Mushtaq**, freelance journalist, Malegaon; **Nabanipa Bhattacharjee**, Academic, Delhi; **Nandini Rao**, Activist, New Delhi; **Noor Enayat**, Brand Consultant, Delhi; **Ovais Sultan Khan**, Activist, Delhi; **Pramada Menon**, Delhi; **Ponni Arasu**, Chennai; **Praveen Kumar**, Satyawati College, University of Delhi; **Pervez Bari**, Journalist, Bhopal;

**Pushpa**, WSS-Karnataka; **Purwa Bharadwaj**, Delhi; **Rahul Govind**, Academic, University of Delhi; **Ram Puniyani**, writer and activist, Mumbai; **Rama Srinivasan**, Research Scholar, Providence; **Rohini Hensman**, writer and activist, Mumbai; **Rituparna Borah**, Queer Feminist Activist, New Delhi; **Rohit Prajapati**, Activist, Gujarat; **Sadhna Arya**, University of Delhi; **Sanghamitra Misra**, Academic, University of Delhi; **Satnam**, Saheli Women's Resource Centre; **Shabnam Hashmi**, ANHAD, Delhi; **S.Q. Maqsood**, Activist, Hyderabad; **Sumathi Sudhakar**, Writer, Chennai; **Shipra Nigam**, Consultant Economist, Delhi; **Shohini Ghosh**, Academic and Filmmaker, Delhi; **Subhash Ghatade**,

Writer and Activist, Delhi; **Sukla Sen**, EKTA, (Committee for Communal Amity), Mumbai; **Sunalini Kumar**, Academic, Delhi; **Ram Tanweer Fazal**, Academic, JNU; **Trideep Pais**, Advocate, Delhi; **Trupti Shah**, Activist, Gujarat; **Uma V. Chandru**, Member, WSS National Campaign; **Uma Chakravarti**, Historian and activist, Delhi; **Vani Subrahmaniam**, Saheli Women's Resource Centre; **Varsha Mehta**, Consultant, Forestry and Livelihoods, Delhi/Ahmedabad; **Vineet Tiwari**, Sandarbhb, Indore; **Wilfred D Costa**, INSAF, Delhi; **Zafarullah Khan**, Advocate, Chennai; **Zaheer Ahmed Sayeed**, Neurologist, Chennai; **Zuleikha Jabeen**, Activist, Delhi □

**Bihar PUCL: Report on the Dharna**

## **Organized by Bihar PUCL on 10.03.2014 on the subject of Growing Attack on Human Rights of the common man and the challenges before us**

PUCL Bihar organized a daylong dharna on 10.03.2014 at Bhagat Singh Chowk, Gandhi Maidan, Patna on the subject 'Growing Attack on Human Rights of the Common Man and the challenges before us.' It was the outcome of serious deliberation in the weekly and executive meetings of PUCL, wherein it was unanimously agreed upon that PUCL needs to bring the common man / woman and the violation of his/her rights on the centre stage, with an emphasis that every individual has the right to live with dignity.

Earlier seminars had been organized on the violation of the rights of the common people and on the Right to justice for the poor. But this time PUCL, Bihar moved out of the confines of seminar hall, to a day long dharna on the street to establish a direct interface with people.

The base paper scripted for this occasion, brought into sharp focus the socio-economic disparities between a small section of people and the vast majority, who are being deprived of basic amenities and forced to live a life of deprivation and poverty that robs them of their basic dignity.

There was effective participation of members of political parties,

women's groups, the urban poor, RTI activists, professors, student's representatives, concerned citizenry, media and the passer by, street vendors and many others. The discussion was enriching thought provoking, participative, probing into the blatant violation of the rights guaranteed in the UDHR and other instruments as well as the ideals of the Constitution enshrined in its preamble.

Father Philip Manthara, President Bihar PUCL presided over the session and in his opening address welcomed all the participants to the dharna in which he hoped that the plight of the aam admi would be well focussed upon. Despite the constitutional provisions, the very existence of the common people is threatened and often by those who are meant for their protection. People living in the slums, the urban poor the dalit and women are everyday forced to suffer indignities and the redress mechanisms are either weak or biased.

Prabhakar Sinha, National President, PUCL, spoke about the right to equality, so clearly spelt out in our Constitution. While the Constitution gives the people the right to select the government of the day, the biggest contradiction lies in the fact,

that the people who are the masters have been relegated to the position of servants and those who were meant to serve, have become the masters. The system today is in their control and we the common people are made to feel low and deprived. The constitution guarantees the fundamental rights of people and has directed the state to use its machinery for bringing happiness and prosperity to people. The Constitution has given us the right to life, yet police atrocities are on the rise, killing the unarmed and the defenceless in false encounters. Not to speak of the draconian black laws, even the ordinary laws have been used against those who are innocent in violation of the constitutional provision of individual liberty. People are humiliated in government offices and thanas and instance of lathi charge by the police on those who take out processions or organise public meetings are on the increase. Towards the end of his paper, he highlights some of the basic rights of the common man, even raising the question of 'development' and puts forth same demands to ensure the dignity of the common individual.

Prof. Vinay K. Kantha, former President, Bihar PUCL referred to the right to development, discussed in

the 1993 Vienna Conference, stating that health and education are the two important components of the right to development, along with minimum wages. Speaking on the Right to Education of 2009, he raised this pertinent question that there may have been some improvement, but little teaching in really being done in schools and the even more important question is, whose children are going to these schools. His circulated note had several demands for the improvement of both school education and higher education.

On the question of child rights and education and for the enforcement of UNCRC several points were raised by Dr. Daisy Narain, Prof. Manju Sharma, Sushil Kumar of AIFS, and Swarnlata Maurya of AIDS0, among others.

Serious concern was raised on the nature and functioning of Indian democracy. Prof. Nawal K. Choudhary spoke about the curtailment of the right of the people to assemble, discuss and protest. On the question of the functioning of democratic state incisive comments were made by Prof. M.M. Karna, Subirmal Das, Arjun Prasad Singh of PDFI, Ram Das Prasad of Janwadi Forward Block.

Representatives of Women's groups laid emphasis on women's rights should be treated as human rights

and Sadhana of AIDS0 referred to the growing incidence of violence against women and condemned the brutal display of force by the police against women sitting on dharnas. Shweta took up the issue of gender inequality despite the constitutional provisions. Education of the girl child, health services for women, environmental degradation and with it, threat to livelihood of women were discussed.

Long time activist Karuji recorded his disillusionment by stating that this is not the society for which the freedom fighters fought. If they fought against oppression by foreign rulers even after independence oppressors continue to oppress the common people. We fought for the people's right to land we were sent to jail. The Kosi flood victims are still to receive the promised rehabilitation package and when they protested they were sent to jail. Akshay Kumar social activist drew attention to the growing communal divide in the society. The threat of globalisation, the entry of the multinationals, investment of foreign capital leading to further impoverishment of the people were the focal point of discussion raised by Nageshwar Prasad, etc. Ashis Ranjan from NAPM referred to the hierarchical divide still so strongly prevalent in the society and therefore words like equality and equity lose their meaning. Rajaram Singh, CPI

MI Liberation, Balgovind Singh of Forward Block Krantkari and some other left leaders drew attention to the plight of the peasantry and suppression of their struggles. Arvind Sinha, CPI ML, drew attention to growing police atrocities on peaceful demonstrations for their legitimate rights and the arrest of the innocent dubbing them as extremists

General Secretary of Bihar PUCL, Ramashray Prasad Singh, Vice President Father Jose, Shahid Kamal from Muzaffarpur unit, Anand Kishor from Sitamarhi, Gaya also spoke on this occasion. Sri R.C. L Das former president PUCL spoke about the strength of PUCL and proposed the vote of thanks. Three pamphlets were distributed and a large number of placards were on display relating to issues concerning human rights. The entire preparation was made by Nadkishore Singh, Rajkumar and Pravin Kumar.

Special thanks to Mr. Tanvir Akhtar and friends of IPTA for presenting well selected and meaningful songs and to Tanvir Akhtar for reciting the famous lines of Faiz with which I conclude this report:

*Bol ki lab azad hain tere*

*Bol Zaban ab tak teri hai*

*Tera sutwan jism hai tera*

*Bol, ki jan ab tak teri hai*

Prepared by **Prof Daisy Narain**, Vice President, Bihar PUCL □

## Adivasis Rights: Non-issues in the Lok Sabha Elections?

**Pradip Prabhu\***

The ongoing Lok Sabha Elections, like new-year parties, are full of promises and assurances, most of which are laid to rest soon after the event. Election promises create opportunities for the recognition of rights and entitlements, but even these are rarely acted upon. The undisputed fact is that sponsored in-migration has reduced the adivasi people to a minority in almost all the constituencies, barring those in the North East. Hence though the constituency is reserved for an adivasi (ST) candidate, the actual choice is not determined by the

adivasi people but by the outsiders who now live in the constituency, generally outnumbering the adivasis. Often all the adivasi votes in the constituency are offset by the population in a large town, thereby negating the right to choose and making ST reservation a mere tokenism.

Given the realities of elections in the adivasi constituencies, the issue at hand is not whether the parties in the 2014 election fray have promised any rights and entitlements, but whether it is realistically possible for the parties to make any promises related to their rights which could

negatively impact the interests of the non adivasi majority. Hence, the answer is no rights are promised; the opposite is the case that even when promises are made, they are observed only in their breach. The reasons lie submerged partly in colonial capture of the resource rich areas and in the political process of nation building post-independence and its far reaching impact on the adivasi homelands and its people.

The colonial period was regularly punctuated with adivasi revolts, starting with the Mal Paharia resistance in 1769 to the Warli

uprising in 1945. Nearly all the revolts were triggered by the colonial incursion and appropriation of resources, to the adivasi homelands which are considered by the adivasi people as their 'desh' or nation. An honest inference, that post-colonial India rendered the homelands of the adivasi people into internal colonies from which the natural and mineral resources continued to be extracted for the progress of the rest of India, would not be off the mark as 66 years of history unfold. The unrest over the unbridled loot of resources in the adivasi homelands is only history repeating itself. A rights agenda can only emerge when the 'character' of adivasi homelands and the adivasis that live therein is altered drastically. Until then we can only expect that under the veneer of adivasi rights, the erosion of adivasi rights is actually taking place.

During the colonial period, even while the revolts were brutally suppressed, the colonial administration sought to address the revolts through the legal dispensation of the 'excluded' and 'partially excluded' areas, where the adivasi people were left alone to govern themselves according to their traditions. In the Constitution of the Indian Nation, the adivasi homelands on peninsular India, corresponding to the partially excluded areas, were provided safeguards under the Fifth Schedule to the Constitution which placed the responsibility for good governance on the Governor, while in the north-eastern tracts, the Autonomous District Councils shouldered the responsibility. We have no evidence whatsoever of the Governors acting independently to protect or promote adivasi interests. Ironically, in all the areas where tribal rebellions still prevail, police and army officers are appointed as governors; the inference being surveillance and securing law and order have remained more important tasks than preserving the 'desh' of the tribals and protecting their rights in rem.

The history of post-colonial India has been an unbroken history of broken promises as Dr. Bhram Dev Sharma succinctly depicts in his book of the same name, "An Unbroken History of Broken Promises". Starting with

the Panchsheel Policy of Jawaharlal Nehru in 1950 right to the Panchayats (Extension to the Scheduled Areas) Act (PESA) 1996, not a single right of the adivasi people has been positively affirmed by the Indian state, but observed only in breach, resulting in continuous rebellions of the adivasi people in post-colonial India. In the absence of an authentic 'right to self-governance' provided for in PESA, securing the real socio-political, cultural, developmental and economic rights of the adivasi people will remain in the realm of the impossible.

The denial of socio-cultural rights begins with the refusal to recognize 'difference', that the adivasi people coming from a radically different culture and traditions, which have evolved in their intense nature-human-spirit interface is different from other religious traditions and systems. This apart, the modern concept of rights is individual, exclusive and adversarial; in contrast, the adivasi concept of rights is inclusive, communitarian, harmony seeking and non-adversarial acceptance; it's as though the two approaches can never meet. Notwithstanding Nehru's promise to respect the unique culture and identity of tribal people, counter currents referred to the nation as the melting pot of cultures, adivasi cultures being no exception. Often referred to as backward Hindus, the agenda of development is meant to mainstream them into the 'Indian' often papering over their radical difference in religious traditions. Though India was a signatory to the United Nations Declaration on the Rights of the Indigenous Peoples, which confers a wide range of socio-economic-political and development rights, the government refuses to recognize the adivasis as indigenous, thereby negating the whole realm of rights that have been recognized by the United Nations.

What remains is the shell of rights with no substance. The Forest Rights Act was meant to address a historical injustice resulting from the failure of the process of forest formation to recognize the pre-existing rights of the adivasi people.

While the law does subscribe to the narrative of rights, the implementation of the law by the forest and revenue administration pay little regard to the objective of the law and have so perverted the process so as to make it a land distribution program of a benevolent administration. The same can be seen in the implementation of the Tenancy Act recognising the 'rights of the tiller'. It would not be an exaggeration to observe that with a few exceptions, every land reform legislation or policy has actually resulted in more adivasis losing land than gaining the scarce resource. In states like Gujarat, weak revenue administrations in the adivasi areas have resulted in widespread alienation of tribal land. When it comes to restoration of alienated tribal land, Chhattisgarh, a state with a relative large tribal population, enjoys the unenviable position of one of the most weak willed implementation among all the other states.

This brings us to the end of an examination of a not so glorious history of positive discrimination with regard to the 'weaker sections' of society. 'Welfarist' rights regimes of the central and state governments are generally touted to establish the bonafides of an incumbent administration. But these rights regimes continue to be imprisoned by the construct of the rights regime which is individual, adversarial and defined by the attitude of the administration and even the political elite, that the adivasi people are the beneficiaries nor right holders and they are duty bearers. Most of the welfarist regimes reduce the proud independent adivasi who refused to beg, to a pliant dependent individual; a sorry state of affairs to say the least.

19.4.2014

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\*Pradip Prabhu is a tribal rights advocate and activist of the Kashtakari Sanghatna working in Thane district. He is also the National Convener of the Front for Tribal Self Rule which brought PESA on the law books and the Campaign for Survival and Dignity which led the struggle for the Forest Rights Act. □

Contd from Page 6

Spain and Italy who protested against the severe austerity measures that were imposed upon them. The protesters' dream in the US was for the 99 per cent to live like the 1 per cent. Likewise the protestors occupying the streets of Greece, Portugal, Spain and Italy were dreaming of living like their better-off German and French fellow-citizens of the European Union. Protesting against the monstrous inequality of wealth within their respective societies, they were not concerned about how far the prevailing global system can be sustained. About how much more of the internal and international violence that system increasingly engenders can humanity withstand.

The problem, we are yet to see, is not simply crony capitalism or distribution. The problem is the limitless and uncontrollable rapacity of the Frankenstein's monster called the Market, and the way it has worked itself into people's thoughts, desires and dreams the world over.

As one whose vocation rests on uninhibited thought, and as one who has seen greater civility in our midst,

there is an aspect that I should have liked to more than touch upon: the progressive erosion of tolerance and liberty within our society. There was a time when only militant ideologies or movements tried coercion or violence to suppress expressions they considered inconvenient. Usually their attempts were confined to controlling expressions within their respective communities. Thus, for example, a Tamil scholar could in Tamil Nadu feel constrained in expressing his/her views, but be forthright after crossing the Vindhyas; or a scholarly work published by the Guru Nanak Dev University on the making of *Guru Grath Sahib* could invite the ire of the Khalistanis. But now intolerance runs across the board and knows no limits. What is further alarming, and illustrated in the readiness of Penguin and Aleph Book Company to jettison Wendy Doniger's books on Hinduism, is that a mere threat can now ensure compliance to whosoever decides to take offence.

Before concluding, and by way of hinting at what is immediately and realistically possible, I should like to mention a telling detail relating to

Anna Hazare's anti-corruption agitation. There was a sudden spurt in the demand for national flags as people thronged to the Ramlila Maidan in support of Anna who had undertaken an indefinite fast. This meant a windfall for traders in Delhi's Sadar Bazar. They started charging one hundred and fifty rupees for a flag priced fifty, and gleefully reported that people happily paid the enhanced price. The traders, it may be noted, were supporting Anna's anti-corruption campaign.

A people, the once popular cliché goes, get the government they deserve. Democracy is faced with many challenges in our country. There can be many ways of dealing with those challenges, and we can keep debating about them. One effective way is to make ourselves, individually, equal to meeting democracy's challenge to us. Knowing that this is an infinite work, an always unfinished project.

**\*Associate Fellow, Institute of Advanced Studies, Nantes (France) and Former Senior Fellow, Centre for Social Studies, Surat □**

Press Statement: 3rd April 2014

## **Lok Sabha Elections, 2014: A Clarification**

### **PUCL does not support, endorse or oppose any political party or candidate during elections**

It is reported in a few newspaper reports from Ahmedabad and Vadodara that PUCL is part of a newly formed 'People's Forum for Madhusudan Mistry' meant to support the Congress candidate in Vadodara constituency in the ensuing Lok Sabha elections.

We would like to clarify that it is the stated policy of PUCL, (both national and state units), not to align itself or support in any manner whatsoever any political party. The organisation shall not and does not endorse, support or oppose any candidate, in any elections - whether it is parliamentary, State or local body elections.

Such being our policy, we would like to place on record that PUCL does not support and is not supporting any specific candidate in Vadodara constituency as has been reported. Office bearers of the PUCL, both National and State units, cannot and are not authorised to announce, commit or pledge PUCL to be part of any formation such as the forum launched in support of Madhusudan Mistry, referred to earlier.

Even if any individual member has indeed participated in the formation of such a forum in their personal capacity, we would like to make it explicitly clear that this does not have the approval or support of the

PUCL.

We would also like to place on record that all office bearers of our units have been asked not to participate in any forum to support/oppose specific candidates even in their personal capacities.

We therefore once again reiterate that PUCL is not part of the 'People's Forum for Madhusudan Mistry' and request the media to prominently publish this clarification in order to inform the general public.

Sd./-

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

# A report on the 5th National Convention of the Right to Food Campaign

## National Food Security Act (NFSA) and Beyond: Right to Food, Democracy and Social Justice

*Preface:* The origin of the National Food Security Act, 2013 can be traced to the PIL field by PUCL in the Supreme Court in 2001 on starvation deaths in Rajasthan which raised the issue of food security and the responsibility of the government. Over the last 13 years, numerous issues related to food and nutrition security, livelihood security and related issues were brought to the attention of the SC in the PUCL PIL. The SC innovated a system for overseeing the food security cases by appointing National Commissioners who in turn are assisted by State Food Advisers. The period saw the emergence of a strong 'Right to Food Campaign' working across India. The food security related jurisprudence which arose in the course of the 'PUCL vs Union of India' PIL is unparalleled globally and a major progress in food security jurisprudence worldwide which established that right to food security is also human rights.

More than two thousand people from 15 States gathered for the 5th national convention of the Right to Food Campaign<sup>1</sup> at Sanand in Ahmedabad district from the 1st to the 3rd of March, 2014. Through discussions in seven plenaries, 34 workshops and a public meeting in Ahmedabad the convention consolidated the gains of diverse people's campaigns on issues of survival and the Right to Adequate Food and Nutrition. There was an effort to strengthen and broaden the alliances between networks and different struggles in order to ensure the centrality of minimising inequalities, eliminating hunger, the right to food and livelihoods, and social protection as a political priority for the 2014 general elections and beyond.

This Convention came on the heels of the passage of the National Food Security Act (NFSA) 2013 by the Indian Parliament in September 2013. The NFSA as we are all aware has fallen short of the framework and provisions proposed by the Campaign for a food law. The

convention reviewed the implementation of the present law and also strategised as to how to continue its work towards bringing in a comprehensive food security law in the near future.

The convention debated the dominant market-led development model in the country, which showed growing socio-economic disparities and their impact on hunger and the increasing food inflation. The myth about the great and successful Gujarat Model of Development was questioned by economists and activists as it showed widespread malnutrition and hunger. A survey done by the Anna Adhikar Abhiyan, Gujarat showed that the condition of children's malnutrition and women's maternal health in Gujarat was just about the same as the rest of India although in some districts it was worse, exposing the hollowness of its policies which had addressed corporate interest and not the wellbeing of poor women and children in the State.

The convention also analysed the international trade treaties, the recently concluded WTO Ministerial meet at Bali where India compromised with the interests of its farmers and the poor. The farmers / farming/ livelihood perspective got highlighted very strongly. The discussions on food sovereignty showed some differences, however there was unanimity that the onslaught on agriculture through policy and changing land use has to be resisted collectively. There was a clear cut decision to challenge real estate / industrial / tourism and urbanisation projects of the various State and Central Governments including the Industrial Corridors which were coming up at the cost of farming and farmers leaving both further impoverished. Resolutions regarding income guarantees to farmers were also agreed upon. It also discussed efforts towards strengthening the implementation of the National Rural Employment Guarantee Act 2005, the Forests Rights Act, and challenging state

policy of coercive change in land use and the introduction of GM foods. .

The two day convention saw strong inputs from the point of view of exclusion, it added to the campaign's understanding on questions of injustice in access and governance due to caste. The perspective of violence against women, gender and the Right to Food along with affirming the questions raised by women farmers, emerged very strongly. Discussions regarding strengthening institutional structures, decentralised governance regarding Children's Right to Food and combating commercialisation in children's meals central. Similarly, for the first time the connections between perspectives of combating the Politics of Hate and the Right to Food emerged and the new dimension of integrating compassion into our work culture was brought out very strongly. The community of disabled people who participated showed us that the campaign has still not integrated their perceptions and point of views into our larger understanding. Several workshops focussing on work and wages, looking at migrant, construction and domestic workers strengthened the labour dimension within the Right to Food. Similarly the discussions on issues of social security including a dignified monthly pension for the old, single and the disabled along with other social security benefits concluded with the decision that the struggles for the marginalised had to be made stronger. The participation of the South Asians was a highpoint of the whole exercise, coming closer to our objective of building a South Asian Solidarity Initiative for the Right to Food and strengthening people to people contact in this region.

The Inclusion of radio, mobile and web net communications as a strategy to share information and ensure implementation and bringing in accountability was new for this convention. Similarly, the campaign's new website, the e-pustakalaya was launched in the convention. The campaign also saw

the release of new primers on the National Food Security Law, the International Trade agreements and their impact on Indian Agriculture. The convention saw amazing

creativity around music, dance, theatre and exhibitions. The discussions, in workshops, on stage and around chai, made the

convention lively and spirited and all left feeling highly energised. The convention concluded with the release of the Ahmedabad Declaration which is as follows.

## Ahmedabad Declaration

### 5th National Convention on Right to Food and Work

1st to 3rd March, 2014 Sanand & Ahmedabad (Gujarat)

#### NFSA and Beyond

#### Right to Food, Democracy and Social Justice

We the members of the Right to Food campaign, who are gathered here from 15 states across the country for the fifth national convention, express our solidarity with all peoples' movements and struggles for basic rights, Democracy and Social Justice. We deeply mourn the death of all our comrades who have lost their lives in the various battles for people's causes including the right to information, against land alienation and anti-poor policies of the state. We are deeply aggrieved by the needless deaths of men, women, transgender people and children because of persisting hunger, malnutrition and lack of health care, of women because of lack of maternal nutrition and care. We also express our sorrow for the death of the thousands of toiling farmers, labouring people who have committed suicide, each year losing their struggle for survival and lives lost as a result of communal and caste violence.

We condemn the fact that 67 years after Independence, a large section of our people are denied their basic rights to food, nutrition, health, education, livelihood and social security, justice and peace.

We condemn the continued discrimination against dalits, minorities, tribals, women, transgender community and disabled. We are deeply concerned with the shrinking democratic spaces for people's movements and pro-poor policy making. Even as non-violent, peaceful agitations are being crushed brutally by an increasingly repressive state, we resolve to continue our struggles for the right to food, democracy and social justice. We stand in solidarity with all movements against patriarchy and violence

against women and pro-people democratic political forces. We condemn the interference in our sovereign food systems by the WTO mechanisms, FTAs and other international trade agreements and the decision to allow field trials of GM crops in India.

The continued onslaught of neo liberal capitalism, corrupt governance, assault on democratic values, the brazen loot of natural resources and shrinking space for civil society and democratic struggles which has characterized successive governments has left the rural economy in shambles and betrayed the faith of people in Government and the political class as never before in post independent India. We condemn the alienation of peoples' livelihood resources to fuel the consumption of the rich; the alienation of public assets for private profits in the guise of public private partnerships and the transfer of the nation's wealth of natural resources to the corporate sector for a pittance.

Further, we reject the so-called new model of development that is sought to be thrust upon the people of India, in the name of 'Gujarat Model' which has further increased inequality, neglected persistent hunger and malnutrition, reduced social sector expenditure, strengthened the patriarchal forces of neo-liberal capitalism, attempted to crush all dissent by the poor and marginalized and threatened the secular and democratic fabric of society. We stand in solidarity with the continuing struggles of movements in Gujarat against these forces, along with those struggling for justice against the 2002 State Sponsored genocide of one community of people in the State.

We re-affirm our power as women farmers, producers and builders as labourers, adivasi, dalit, pastorlists, agro-pastoralists, small and marginal

farmers, fisherfolk, rural artisans etc. who anchor all production, to preserve peasant food farming systems to produce diverse and wholesome food to feed our communities, and assert that food security can only be met through food sovereignty. We resolve to struggle to protect and further, legally enforceable rights of all labouring classes relating to living wages, strict implementation of labour laws, job security, safe and non-exploitative conditions of work and social security including medical care, pensions and maternity benefits.

We re-affirm the rights of all children, adolescents, specially vulnerable people: all women, men and transgender people to adequate, diverse, good quality nutritious food. We demand that food and livelihood entitlements of persons affected by natural calamities, communal and caste violence and displacement must be ensured. We acknowledge that in several states the campaign's persistent struggles and mobilisation efforts have led to significant progress in the realization of basic entitlements such as employment guarantee, a universal PDS, school mid-day meals, universal ICDS, maternity entitlements and social security pensions.

We resolve to continue to struggle together for the right to food and related entitlements and also steer the campaign towards looking at issues of food sovereignty and protection of resources such as forests water and land, protection of farmers and agriculture, protection of marginalized.

We remember with regret the lives lost due to conflict in different parts of South Asia including Central, North-Eastern and the Kashmir valley regions in India, Northern Sri Lanka, Pakistan and Afghanistan. We acknowledge that there is deep food and nutritional insecurity in

these conflict-affected areas which needs to be recognised and addressed. We reaffirm our understanding that Peace and Justice is an essential component of return to normalcy which includes people's freedom to access adequate and nutritious food. This cannot be

achieved without the protection of civil liberties, creation of adequate spaces for democratic expression, the implementation of the rule of law and demilitarisation of these areas. We resolve to work towards a South Asian movement for the Right to Food and would like to express solidarity

with the Global Movements for the Right to Food.

**Kavita Srivastava**, National Secretary and petitioner in `PUCL vs Union of India' still pending before the SC. See <http://www.righttofoodindia.org/> for more information.

17.4.2014

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1 The Right to Food campaign is an informal network of organisations and individuals committed to the realisation of the right to food in India. It does not take institutional funding and works through small contributions of its members and well-wishers. (For more details please go to our website [www.righttofoodcampaign.in](http://www.righttofoodcampaign.in)). This Campaign was launched in 2004 June through a national convention held in Bhopal where ten national networks came together and decided to work for the realisation of the right to food in the country. The campaign was triggered off by the PUCL case (196/2001), on the Right to Food in the Supreme Court of India. It was built on the lines of a rainbow of coalition bringing together diverse networks and individuals. Presently there are 16 national network's including two invitee networks. There are also individual members of the former support group of the RTFC and 16 State Campaigns. The national networks are the following: National Federation of Indian Women (NFIW), People's Union for Civil Liberties (PUCL), National Alliance of People's Movements (NAPM), Jan Swasthya Abhiyaan (JSA), National Campaign for People's Right to Information (NCPRI), Bhartiya Gyan Vigyaan Samiti (BGVS), National Campaign Committee for Unorganised Sector Workers (NCC-USW), National Campaign for Dalit Human Rights (NCDHR), National Confederation of Dalit Organisations (NACDOR), Human Rights Law Network (HRLN), New Trade Union Initiative (NTUI), Breastfeeding Promotion Network of India (BPNI), National Alliance for Maternal Health and Human Rights, Bharatiya Muslim Mahila Andolan, Permanent Invitee National fish workers Forum and the Nomadic Tribes-De-Notified Tribes- National Alliance Group. □

PUCL Chhattisgarh:

## **Grave Human Rights Issues of Chhattisgarh That Never Became Election Issues**

### **A compilation by Chhattisgarh PUCL**

#### **1. Land and displacement issues:**

a) Large scale alienation of land of tribal people in scheduled areas in North Chhattisgarh - particularly Raigarh and Korba - usually through benami transactions, ostensibly in the name of other tribals (in order to circumvent the law) but the land actually being used by companies. Recently the Collector Raigarh had to take extraordinary action by reverting land to the original tribal land owners in a total of 261 cases. Lands were being used by Jindal Steel, Korba West Power Plant, Durga Fuels, Sarda Energy etc. In a notorious case of the Videocon company, Sandeep Kanwar - the son of the adivasi Home Minister Nankiram Kanwar - was found involved in these land transactions made in the

name of an adivasi of another district who was found working on an NREGA site.

b) Tens of thousands of hectares of communal village and forest land are being handed over for mining in the Sarguja Division without implementation of the PESA Act, i.e consultation with the Gram Sabhas. Fraud resolutions of Gram Sabha are being used in Sarguja Division for the expansion of coal mines of the SECL or the opening of new mines by the Adani Group. SECL has taken a stand in a court of law that PESA is not applicable to it which is being challenged in the High Court.

c) Only half of the several lakh applications for individual pattas under the Forest Rights Act have been properly processed and granted and rarely have Community Rights been

granted. The primitive tribal groups including the most vulnerable groups such as baigas continue to suffer malnutrition and diarrhoea deaths, harassment by the forest department and are not granted rights over the lands cultivated by them even after hundreds of crores of rupees are earmarked for them.

d) Most environmental public hearings conducted in the State for setting up mines and plants are witnessing massive protests but the same are just brushed aside and clearances are being granted mechanically. In many public hearings there is a naked display of armed force of the State and even lathi charges. For instance in public hearings for Lanco Amarkantak expansion in Korba; for mines of the DB Power and Vedanta in Dharamjaigarh; for Adani

mines in Janardanpur and Hariharpur in Sarguja Division.

- e) Misuse of urgency provisions in the Land Acquisition Act to convert the agricultural and common lands of 41 villages into a Naya Raipur Development Authority which would cater to the political, bureaucratic and corporate elite.
- f) Around 40-50 thousand adivasis of Bastar are in the situation of Internally Displaced Persons in adjoining villages of Andhra Pradesh where they are not given the status of tribal persons and are hounded as encroachers by the forest and police department.

#### 2. Fake encounter cases

Routinely ordinary villagers are arrested and tortured in search and cordon operations in the Bastar region. In Edesmetta (2013) and Sarkeguda (2012) encounters, a large number of villagers including minors were killed. Although both the Congress and the CPI did send fact finding teams at the time, but justice to these villagers has not become an election issue.

#### 3. Sexual violence against minor tribal girls in the Ashram Schools

Shocking cases of sexual offences against minor tribal girls in Ashram Schools in Jhaliyamari (Kanker), Aamadula (Balod), Baikunthpur (Koriya) surfaced and it also became clear that these offences are widespread. Case of rape of a minor disabled dalit girl in an orphanage in Raigarh was also

investigated by the NCPCR. Trafficking of girls and women is accepted to be a serious problem of Jashpur.

#### 4. Situation of undertrials and overcrowding of jails

Dantewada has an overcrowding ratio of 409% as compared to 253% in Chhattisgarh and 112% all over India. less undertrials there get bail than acquittal; whereas in Chhattisgarh as a whole 8 times more undertrials get bail than acquittal; and in India 16 times more undertrials get bail than acquittal. 46% undertrials in Dantewada spend more than a year in jail, as compared to 29% in Chhattisgarh, and 21% in India. There were a large number of jail deaths mostly owing to very low levels of haemoglobin in Jagdalpur jail. Just before the elections, hundreds of adivasi family members of undertrials marched to Dantewada jail to demand better jail conditions, bail and speedy trial. Apart from Soni Sori who contested elections on an AAP ticket, this issue has not been raised by any other party or candidate.

#### 5. Malicious prosecution by companies and attacks on whistle blowers

False cases by companies against villagers protesting displacement, against trade unionists and workers demanding labour rights, and environmental activists are very common in Raigarh, Baloda Bazar, Korba, Raipur etc. There was a near fatal attack on environmentalist Ramesh Agrawal by a Security Officer of the Jindal group.

#### 6. Industrial accidents and sweatshop conditions of work

#### for contract labour

According to a statement made in the Legislative Assembly by the Labour Minister, 219 deaths and 349 cases of permanent disablement were recorded due to industrial accidents in the past two years in Chhattisgarh. Action on the Judicial Inquiry indicting Balco (Vedanta) in the Balco Chimney disaster, where officially 41 and unofficially more than 100 deaths took place, was stayed by the High Court in January 2013 and the Government has yet to reply in the case. All over Chhattisgarh, use of contract labour contrary in permanent and perennial work, 12 hour work day in place of 8 hours and very unsafe conditions of work are rampant. A large number of deaths are reported in road accidents in industrialised areas where heavy vehicles are plying with impunity without adequate safety measures.

- 7. Rs. 100 lakh rupees worth of procured paddy rotted for dearth of rudimentary storage facilities. This benefitted the liquor mafia and reduced supply to the public distribution system.

#### 8. Increasing attack on religious minorities

Recent detention of alleged SIMI activists and their release for lack of evidence to file a chargesheet; desecration of Christian graves and attacks on Christian prayer places; an aggressive campaign to reconvert Christian tribals to Hinduism, and use of cow slaughter provisions against dalits and Christian tribals.

**Sudha Bhardwaj**, General Secretary, PUCL Chhattisgarh □

Supreme Court's order exposes illegality of Biometric Aadhaar, NPR and PII

**Now opposition parties should promise destruction of database of biometric features created so far**

**Promoters of Biometric Aadhaar and NPR emerged as killers of privacy unlike heroes like Julian Assange, Edward Snowden and Bradley Manning**

March 24, 2014 New Delhi: Hearing the Special Leave to Appeal

(Criminal) No(s).2524/2014, which has been linked with the previous

case Writ Petition (Civil) 494 of 2012, the Supreme Court bench of Dr.

Justice B.S. Chauhan and Justice J. Chelameswar passed an order that exposes the illegality of the unscientific exercise of indiscriminate biometric data collection by Planning Commission's UIDAI, Home Ministry's Registrar General of India for Aadhaar number and National Population Register (NPR) and other government and private agencies.

Supreme Court has passed this order asking Government of India to delink all programs from biometric aadhaar. Non-Congress political parties have denounced biometric aadhaar as a case of fraud and a national betrayal. The same holds true for NPR.

Welcoming the order, Citizens Forum for Civil Liberties (CFCL) demands that the opposition parties should promise that new government after the Lok Sabha elections will destroy the illegal and illegitimate database of biometric features as has been done in UK and other countries.

Notably, even as data thieves and brokers are feeding memory of online companies, the dictum "Internet never forgets" faces challenge from legislatures in USA which are grappling with Do Not Track Me Online Act and European General Data Protection Regulation that includes right to be forgotten. The European Parliament passed the regulation on March 12, 2014. In the absence of any regulatory resistance, data mining mafia is on the prowl in India through aadhaar and NPR. The marriage of internet with biometric data consequents in the death of privacy and democratic rights.

Biometric data itself has scientifically been proven to be 'inherently fallible' especially because of constant decay of biological material in human body. Global experience demonstrates that the trust in junk science of biometrics is misplaced. The stolen biometric passport of a passenger in the missing Malaysian airliner has exposed its claims for good.

The incident of two of the 239 passengers who were on the Malaysian airliner that disappeared on March 8, 2014 between Kuala Lumpur and Beijing having used stolen European passports based on biometric data including electronically stored fingerprints and facial images merits attention. It is this very biometric technology which is the basis of biometric unique identification (UID)/aadhaar number and National Population Register (NPR).

In post-independent India, except for the Emergency period never was privacy under such unprecedented assault.

In the light of these developments there is a compelling need to explore the following questions:

1. What is the technological basis of 12 digit unique identification (UID)/ aadhaar number and NPR?
2. What is the basis of the editorial claims like "privacy issues can be take care of once supporting legislation is in place" be considered defensible. Is this what is called putting the cart before the horse?

Is there a biological material in the human body that constitutes biometric data immortal, ageless and permanent? Besides working conditions, humidity, temperature and lighting conditions also impact the quality of biological material used for generating biometric data. Both aadhaar and NPR are based on the unscientific and questionable assumption that there are parts of human body likes fingerprint, iris, voice etc" that does not age, wither and decay with the passage of time. In a RTI reply dated October 25, 2013, UIDAI shared its contract agreement with Ernst & Young states in a most startling disclosure from the contract agreement is its admission that "biometric systems are not 100 % accurate". It admits that "uniqueness of the biometrics is still a postulate." In an admission that pulverizes the very edifice on which UID/aadhaar and the NPR rests, it writes, "The loss in

information due to limitations of the capture setup or physical conditions of the body, and due (to) the feature representation, there is a non-zero probability that two finger prints or IRIS prints coming from different individuals can be called a match." This is underlined in bold letters in the contract agreement. In simple words, "non-zero probability that two finger prints or IRIS prints" turning out to be a match means that there is a probability that biometric data of two different individuals can be identical.

The contract agreement states, "the Unique ID will be a random 12-digit number with the basis for establishing uniqueness of identity being biometrics". The agreement further states, "we will provide a Unique Identity to over 113.9 crore people." This is evidently a fraudulent claim because UIDAI with which the agreement has been signed has mandate to provide Unique Identity to only 60 crore residents of India and not to 113.9 crore people.

A report "Biometrics: The Difference Engine: Dubious security" published by The Economist in its 1 October 2010 issue observed "Biometric identification can even invite violence. A motorist in Germany had a finger chopped off by thieves seeking to steal his exotic car, which used a fingerprint reader instead of a conventional door lock." This reveals the frightening ramifications of using biometrics as a basis for identification.

Another report "Biometric Recognition: Challenges and Opportunities" concluded that the current state of biometrics is 'inherently fallible'. That is one of the findings of a five-year study was jointly commissioned by the CIA, the US Department of Homeland Security and the Defence Advanced Research Projects Agency.

As to privacy, in the contract agreement between the President of India for UIDAI, as purchaser and L-1 Identity Solutions Operating Company, and Accenture Services

Pvt Ltd accessed through RTI at clause 15.1 it is stated, "By virtue of this Contract, M/s Accenture Services Pvt Ltd/Team of M/s Accenture Services Pvt Ltd may have access to personal information of the Purchaser and/or a third party or any resident of India, any other person covered within the ambit of any legislation as may be applicable." The purchaser is President of India through UIDAI. The clause 15.3 of the agreements reads, "The Data shall be retained by Accenture Services Pvt Ltd not more than a period of 7 years as per Retention Policy of Government of India or any other policy that UIDAI may adopt in future." This clearly implies that all the biometric data of Indians which has been collected so far is now available to US Government and French Government.

In "Broken Promises of Privacy: Responding to the surprising failure of Anonymisation", a 77 page long study by Paul Ohm Associate Professor at the University of Colorado Law School illustrates how central identity databases facilitate the reverse audit trail of personal information. This paper underlines that the assumption of robust anonymization of electronic identity has been blown up, "casting serious doubt on the power of anonymization, proving its theoretical limits..."

Sam Pitroda's public information infrastructure (PII) is tagging people, tagging places, tagging programmes etc to connect 2.50 lakh Panchayats all over the country. UID/aadhaar and NPR of Chandramouli are subsets of this program. Ever wondered as to why the votaries of privatization of every imaginable natural resource 'for public welfare' have become advocates of centralization of biological information of Indians 'for

public welfare.' The rationale for the stateization of personal sensitive information of Indian residents and citizens appears dubious.

Not surprisingly, Government's own Draft Discussion Paper on Privacy Bill stated, "Data privacy and the need to protect personal information is almost never a concern when data is stored in a decentralized manner" unlike UIDAI, NPR and PII.

Human body came under assault as a result of forced vasectomy of thousands of men under the notorious family planning initiative of Sanjay Gandhi. Nilekani and his ilk have acted worse than Sanjay Gandhi in putting Indians' body under the assault of biometric surveillance. Earlier it appeared strange as to how the aadhaar cases namely, Writ Petition (Civil) 494 of 2012 W.P(C) NO. 829 of 2013, W.P (C) NO. 932 of 2013, T.C.(C) NO. 152 of 2013, T.C. (C) NO. 151 of 2013, W.P (C) NO. 833 of 2013 and CONMT.PET. (C) NO.144/2014 IN W.P.(C) NO.494/2012 which were listed for hearing on 4th March, 2014 got knocked out from the priority list of hearing, after passing 14 orders and ongoing hearing in the case ahead of the Lok Sabha elections.

While whistleblowers like Julian Assange, Edward Snowden and Bradley Manning have joined the ranks of hall fame as the defenders of privacy as a basic human right, likes of Nandan Nilekani, C Chandramouli and Sam Pitroda have joined the hall of infamy with entities like National Security Agency as killers of privacy. The latter are admittedly in the business of 'cloudifying' databases that has the potential to turn governments into puppets at least as far as control over database is concerned.

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