

Inside :

EDITORIAL : Stand Up to Protect Free Speech and Free Media in India! (1)

ARTICLES, REPORTS, AND DOCUMENTS:

Attacks on Journalists Part of a Larger Assault on Dissent - N. Jayaram (3); Journalism and Free Speech Law: Ambiguity has its uses - Sukumar Muralidharan (4); Attack on the Media - Geeta Seshu (7); PUCL Chhattisgarh: Reporting In a Conflict Area - An Act of Courage (8); Judgment of Chhattisgarh High Court in case of Murder of a Journalist (9); Submission by Shri Rajindar Sachar & Shri Sanjay Parikh, on behalf of PUCL during the SC hearing on NJAC case (11); Note on the New York based Human Rights Watch report on Pakistan - R M Pal (14); CHRI Report: Award of Death Sentences and Commutations to Life Imprisonment (16).

PRESS STATEMENTS, LETTERS AND NEWS :

Announcement of the Next National Council Meeting in Allahabad on 19-20 September 2015 (1); Narinder Singh Sitta is No More (2); David D'Souza Passed Away (2); PUCL Punjab: Resolution passed on the sad demise of NS Sitta (2); Rajasthan PUCL: Jaipur groups Condemn and Protest the Raid by CBI of Teesta Setalvad's office and house (10); Gujarat PUCL: Press Release on concerned citizens and activists stand by Teesta Setalvad, Javed Anand (11); U.P. PUCL: Memorandum Submitted to the Governor (13).

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Stand Up to Protect Free Speech and Free Media in India!

"Whenever a pen is stained with blood of its writer, who happened to be a journalist"

The entire human rights community has been shocked in recent weeks by a string of brutal attacks and murders of journalists occurring across India, whose only fault was that they were fearlessly exposing corruption and scams of those in power. Journalists have been subjected to multiple forms of violence - from the softer forms of verbal threats and intimidation to curtailment of liberties by way of false arrests and prosecution (including under the dreaded UAPA, sedition laws and other draconian laws) to physical attacks, including through brutal murders. The threat faced by journalists and media persons is not just danger to their life and personal safety, but constitutes a threat to freedom of speech and expression, and the freedom of the media to report fearlessly, impartially and independently, all of which eventually weakens democracy.

The State (government) is entrusted under the Indian Constitution to be enforcers of the 'rule of law'. They have the responsibility of safeguarding the life and liberty of citizens from anyone indulging in violence against the media, including from unruly and 'rogue' elements in the government machinery itself. This was poignantly pointed out by the Chhattisgarh High Court recently (for details see inside) in the case of a brutal murder of Umesh Rajput, a journalist who courageously exposed criminal negligence on the part of doctors leading to deaths of tribal women, "the state machinery, in a constitutional democracy, owes a duty to bring to book, those offenders who are threat to impartial and fearless journalism

Contd. on page no. 2

Announcement of the Next National Council Meeting in Allahabad

The next National Council meeting of PUCL will take place in Allahabad, UP on **19th and 20th September, 2015** (Saturday-Sunday). We request **all National Council Members** and **National Executive Members** to attend the meeting. The venue details will be informed later on.

For further details please contact Shri. **Ravi Kiran Jain**, National Vice-President at **09335108309** or **09837755556**.

We request all State General Secretaries to intimate by **15th August, 2015** how many NC members from each state will be attending the National Council Meeting.

Dr. V. Suresh, National General Secretary, PUCL □

Contd. from page no. 1

and pose challenge to the very existence of the fourth pillar of democracy, the press and the media. The solemn duty to be performed by the police machinery, in such kind of cases, is not only to carry out fair, independent, effective and prompt investigation completely opaque to any unwarranted outside influence and attempt to truncate and frustrate course of law but also in a fair and independent manner which instils confidence among people that such gruesome attempts will neither be tolerated nor spared".

Sadly, the experience from across the country does not infuse much confidence that the state authorities, especially the police, are concerned in ensuring that the rule of law is enforced in a fair, independent and impartial manner, particularly when the aggressor belongs to political or

bureaucratic elite, the merchant and business people. As the court points out, "If a journalist who is involved in fair journalism carries an impression that the state agency will not be able to protect his life and limb for impartial, fair reporting, he may not be able to place, through its reports, the truth".

This issue of the Bulletin is dedicated to the brave journalists who have valiantly risked their lives so that they could boldly and independently inform the people of the country about the deeds and misdeeds of those in power.

In this context, we would also to salute visionary journalists like Praful Bidwai, who have contributed enormously to strengthening democracy by boldly and courageously commenting, critiquing and criticising public policy in India. For over 30 years Praful Bidwai's columns informed and

educated people, ordinary citizens and activists alike, about a whole range of social, political, economic, energy related and geo- strategic issues from a national as also international perspective. His sudden death last month has been a loss to the rights movement in India and the world.

Over the next few issues we plan to carry articles on the state of threat to media professionals in different states of India, including in conflict states like the Central Indian states, North East and Jammu and Kashmir. We begin the first of the series with articles by Sukumar Muralidharan, N. Jayaram and Geeta Seshu, all experienced journalists reflecting on different facets of the threats experienced by media professionals.

We invite readers to send in their comments to the articles.

Editorial Team □

Narinder Singh Sitta is No More

With a very heavy heart it's informed to all about the Sad Demise of our Vice President, Narinder Singh Sitta on June 30, 2015. PUCL (Chandigarh Punjab Haryana Chapter) has suffered an irreparable loss.

Rajender Mohan Kashyap, PUCL Punjab and Haryana State units. □

Remembering David D'Souza

PUCL condoles the untimely passing away of Mr. David D'Souza, President of PUCL Mangalore unit. Mr. D'Souza, an indomitable human rights fighter who always espoused the cause of the marginalised, vulnerable and weaker sections, died when he was in Kankanady Rural Police Station in Mangalore district on 2nd July 2015. PUCL Karnataka state unit has launched a campaign demanding an inquiry into the custodial death of Mr. D'Souza. We convey our condolences to his family members and wish them the strength to cope with the sudden demise of Mr. D'Souza.

V. Suresh, National General Secretary, on behalf of the PUCL fraternity. □

PUCL Punjab: 3.7.2015

Resolution passed by PUCL, Punjab, Haryana and Chandigarh Chapter on the sad demise of our Vice-President Comrade Narinder Singh Sitta

People's Union for Civil Liberties (PUCL) Punjab, Haryana & Chandigarh has suffered an irreparable loss in the sudden demise of our respected Comrade Narinder Singh Sitta, Vice President. Comrade N.S. Sitta was an excellent human and most dedicated Pleader of People's issues. He was an eminent Advocate, a reputed Writer and a

Committed Social Activist.

In this hour of grief, the PUCL National Leadership and State units from all over India have sent condolence messages to share their utmost grief with the entire bereaved family, especially his wife, Mrs. Sitta, son and daughter.

Punjab, Haryana and Chandigarh Chapter of PUCL will always remember our dear Comrade N. S.

Sitta. His dedicated soul shall always remain with us to show the path of Human Freedom, Peace and Dignity. On behalf of all, and our own self, we pray to the Almighty to give peace to the departed soul and strength to the bereaved family and friends to bear this terrible loss.

Roshan Lal Batta, President, Rajender Mohan Kashyap, General Secretary, PUCL Punjab □

Attacks on Journalists Part of a Larger Assault on Dissent

N. Jayaram, Senior Journalist and Vice-President, PUCL Bangalore

While there have been several instances of actual attacks on journalists in India, the death of Akshay Singh of the Hindi TV channel, AajTak, in early July in Madhya Pradesh was terrifying on several counts. He was found to have suffered a heart attack shortly after consuming a cup of tea, coughing and frothing at the mouth. He had been investigating the death of a woman in connection with what has come to be known as the "Vyapam scandal" - a billion-dollar bribery affair surrounding the Vyavasayik Pariksha Mandal (VyaPAM) or Madhya Pradesh Professional Examination Board. Anywhere between 45 and more than 150 people linked to the case have died in the state in accidents or have succumbed to illnesses or died in other mysterious circumstances over the past few years. A number of whistle-blowers are said to fear for their lives. Amidst a huge cover-up operation, Chief Minister Shivraj Singh Chauhan is not only standing firm but has received support from the leadership of the Bharatiya Janata Party. And Union Law Minister D.V. Sadananda Gowda has gone so far as to say that Prime Minister Modi need not comment on "silly issues" such as the Vyapam affair.

In early June, freelance journalist Jagendra Singh succumbed to severe burns after he was attacked for alleging that Uttar Pradesh Dairy Development Minister Ram Murti Verma was engaged in illegal mining, corrupt practices and other illegalities. A week later in the same state, journalist Haider Khan was lured to the scene of a crime in Pilibhit, beaten up, tied to a motorcycle and dragged for about 100 metres.

Reporters without Borders have ranked India at 141 in its World Press Freedom Index among 180 countries. The index mentions India as one of the countries where

freedom of information is sacrificed at the altar of national security and surveillance and talks about Kashmir as a place where "the work of journalists is handicapped by draconian news control policies". (Of course, this extends to the pre-Modi era but the current dispensation in Kashmir - a government headed by Mufti Mohammad Sayeed of the People's Democratic Front, backed by the BJP - has failed to demand that the Armed Forces Special Powers Act, which is nothing but impunity to rape and kill people and destroy property at will, be scrapped.)

"Criminal organisations, security forces, demonstrators and armed groups all pose a threat to India's journalists. The violence and the resulting self-censorship is encouraged by the lack of effective investigations by local authorities, who are often quick to abandon them, and inaction on the part of the federal authorities," the Reporters Without Borders statement said. "In Kashmir, the authorities impose curfews and often block the internet and mobile phone networks."

Attacks on journalists are part of a wider crackdown on dissent in India, especially since the Modi-led government took office in mid-last year, although the previous government of Prime Minister Man Mohan Singh was far from being an upholder of media freedoms and transparency.

The continuing hounding of human rights activist and journalist Teesta Setalvad shows the desperate lengths to which the Modi government will go in harassing those pursuing cases related to the Gujarat pogrom of 2002 and others. It has not shrunk from misusing government machinery in harassing Setalvad. The People's Alliance for Democracy and Secularism (PADS) has in a statement strongly condemned the raids carried out by the Central Bureau of Investigations

(CBI) on 14 July 2015 at the premises of Sabrang Communications and Publishing in Bombay that she and her husband Javed Anand run. "These raids are undertaken for purely vindictive reasons given the assurances of complete cooperation and submission of thousands of pages of documents to the CBI," PADS said. "It is by now an open secret that activists working for justice and truth with regard to the pogrom called 'Gujarat Riots' have earned the hatred and animosity of the Modi government; which does not hesitate to employ official state power to indulge in a witch-hunt."

"It may also be noted that a senior Public Prosecutor, Rohini Salian, has accused the NIA of showing a bias in favour of certain persons accused of terrorist crimes... Furthermore, a Gujarat special judge, Ms Jyotsna Yagnik, stated in May this year that she has received 22 threats since retirement, on account of her role in convicting those responsible for the Naroda Patiya massacre in 2002. Her security cover was not enhanced, but scaled down. It is also noteworthy that the final hearings in the Zakia Jafri Criminal Revision Application are due to begin on July 27. Mrs Jafri seeks to make top-level politicians, including the then Gujarat chief minister, and top-level policemen, including the present Commissioner of Police, Shivanand Jha, former joint CP, Crime Branch, A.K. Sharma (now in the CBI) answerable for criminal and administrative culpability for their role in 2002".

In January this year, the government blocked Priya Pillay of Greenpeace from leaving the country to visit Britain where she intended to brief a group of MPs regarding investments by a British firm and the impact it would have on Adivasi people in Mahan forest area in Madhya Pradesh. Her passport was stamped "OFFLOAD". The courts

rubbished the government's specious argument that her travel abroad would adversely affect national interests. Delhi High Court judge Rajiv Shakdher said: "Criticism, by an individual, may not be palatable; even so, it cannot be muzzled. Many civil right activists believe that they have the right, as citizens, to bring to the notice of the state the incongruity in the developmental policies of the state. The state may not accept the views of the civil right activists, but that by itself, cannot be a good enough reason to do away with dissent".

Justice Shakdher said, "travelling abroad and espousing views" without any criminal intent "cannot, in my opinion, put Ms Pillai in the category of an anti-national element".

"Contrarian views held by a section of people on these aspects cannot be used to describe such section or class of people as anti-national," he said. "If the view advanced on behalf of the respondents (the government) is accepted, it would result in conferring uncanalised and arbitrary power in the executive, which could, based on its subjective view, portray any activity as anti-national. Such a situation, in a truly democratic country, which is governed by rule of law, is best avoided."

The crackdown on Greenpeace, which has included barring an Australian member of the organisation from entering India in early June without any explanation for the government's action, is part of a larger crackdown on NGOs. The Modi government has been

relentlessly tightening rules in implementing the Foreign Contributions Regulations Act, which itself is a legacy of the previous Congress government (testifying to the two major parties' shared intolerance of dissent emanating from voluntary organisations and NGOs working with grassroots people including Adivasis).

As has the Congress, the BJP too has smothered dissent within the party and the government, which has been functioning in an opaque manner. Pictures widely published in the media last year showed Modi sitting on a pedestal, his ministers, including cabinet colleagues facing him ranged like children in a school. In contrast to the Congress government which at times and on certain issues tended to leak like a sieve, the current government has battened down the hatches. But in the process it has nearly choked media access to ministers and officials of ministries. If under the Congress government applications under the Right to Information Act were beginning to be rejected, during the current regime, it is becoming difficult to ferret out vital information.

In the months leading up to last year's parliamentary elections, it was becoming abundantly clear that sections of the media had been bought over by big businesses that had been pumping massive funds into BJP and to the Modi coterie in particular. Even those not owned by such businesses had begun to fall in line. Now, most newspapers and

television stations fail to go tenaciously after the massive corruption scandals that have been unearthed, often by small publications or online blogs and other websites.

All is not gloom and doom. The Delhi assembly elections earlier this year showed that even supremely affluent parties such as the BJP and the Congress can bite the dust. It is another matter that the outfit that won a stupendously overwhelming majority, the Aam Aadmi Party, quickly showed itself to be hardly any better in terms of inner-party democracy and transparency. Nevertheless, the Delhi election results and the popularity of dissenting blogs and other websites point to the need for activists and principled journalists to get their act together and mount a sustained campaign against burgeoning fascism.

The recent loss of one of the most inspiring and indefatigable activists and journalists - Praful Bidwai - is deeply felt. But in this, the second decade of the 21st century, we could draw inspiration from some illustrious anti-fascist figures from the 20th century - fictional and real - such as Bertolt Brecht's *Mother Courage*, or "*La Pasionaria*" (Dolores Ibárruri) of Spain - she of that celebrated slogan "*¡No Pasarán!*" (the fascists shall not pass) - and work towards building a polity as well as a society that Dr B.R. Ambedkar, the principal architect of the Indian constitution, envisioned. □

Journalism and Free Speech Law: Ambiguity has its uses

Sukumar Muralidharan*

A May 27 ruling by the Shillong High Court, criminalised media reporting on a militant group believed to be operating from the territory of a neighbouring state. Though its immediate reference was to just one of many banned groups in India's north-east, the judgment also included a broad prohibition on

unnamed groups, referred to under the category of "any other organisation which may have the effect of disturbing the even tempo of public life in the state of Meghalaya".

This severe judgment was the outcome of judges having taken cognisance of the disruption caused

by a forty-eight hour bandh called by a banned militant group. Using press clippings on the day's events, the bench invoked a ruling by the Kerala High Court in 1998, that an enforced general strike or bandh is on the face of it, an illegality and a violation of the fundamental rights of the common citizen.

The Kerala HC judgment was since upheld by the Supreme Court in a summary, one paragraph order, though without quite dispelling its many inherent ambiguities. Despite endorsement by the Supreme Court, there was no clarity on how a bandh - understood as a coercive imposition on society by a few actors - differed from a hartal which is a legitimate and supposedly unforced exercise of the right to free speech and expression.

India's constitution when it entered into force in 1950, incorporated language that made free speech a virtually untrammelled right. After a couple of adverse rulings by the Supreme Court which held executive actions against newspapers to be illegal, Parliament adopted the first amendment which allowed for "reasonable restrictions" on the free speech right. In 1963 in the wake of the Tamil language agitation in the south and the Punjabi suba movement in the north, the government piloted the 16th constitutional amendment through parliament, allowing restraints on free speech on grounds of threats to national unity. The Unlawful Activities (Prevention) Act (or UAPA), which operationalised these principles, was passed soon afterwards.

It remains to be asked if the broad punitive sanctions against the media decreed by the Shillong High Court, could be enforced on the basis of judicial precedent. The position on a narrow interpretation of the law would be clear. The organisation that called the bandh in Meghalaya was banned under the UAPA. By this token, it stood stripped of fundamental rights, including the right to free speech. Even without unravelling the complexities of how a bandh differs from a hartal, the action of the organisation was illegal and an infringement on the fundamental rights of Meghalaya's citizens.

A basic principle for sustenance of the rule of law is that transgressions should be clearly defined and not

leave room for any actor - whether an agency of the state or otherwise - to create an offence using over-broad judicial or legislative language. A banned organisation may have forfeited its right to free speech. Leaving aside arguments about the fairness of such a provision, there is ample scope for disputing if by virtue of a ban, all reporting about such an organisation should also be muzzled. Even if banned, these are organisations whose actions could have a bearing on public life. Reporting that enhances the capacity to arrive at informed decisions dealing with contingencies arising from the banned group's actions, would clearly be a matter of public interest. Restraining these would be a violation of personal autonomy, denying the citizen the opportunity to make an informed choice about how he or she should respond to a bandh call for instance. As a collective body, India's journalists face the most severe threats in regions of endemic conflict, such as Kashmir, the North-Eastern states, and the Maoist-insurgency areas in the forested central plains, which stretch across the states of Andhra Pradesh, Chhattisgarh, Orissa, Maharashtra and Jharkhand. These threats were manifest in the May 2011 advisory sent out to all media organisations in Manipur, warning against the publication or broadcast of material "directly or indirectly in support of the unlawful/ illegal activities of various organisations". Multiple pressures have led to several mass closures of the press in Manipur. One such closure came in January 2011, after the arrest of an editor in the state capital of Imphal in what appeared to be a police "sting" operation. Just a few months before, threats and counter-threats from rival underground factions had compelled Manipur's newspapers to shut down for three days in protest at the increasingly insecure environment for journalists. In the eastern state of Orissa,

Laxman Choudhary, a reporter for the daily Sambad, was arrested on 21 September 2009 on charges of "waging war against the state". This followed the discovery of a parcel of Maoist literature addressed to him, in the possession of a bus conductor in the hill district of Gajapati in the state. Media reports indicated that Choudhary was a popular figure in his home district and had acquired a reputation for exposing police corruption. It was not until December, after four months in prison, that Choudhary was released on bail. Charges of sedition continued to hang over him till well after, constraining his functioning as a journalist.

In the neighbouring state of Chhattisgarh, journalists are often threatened and restrained from reporting on major security operations. Under a draconian security law enacted in 2005, "unlawful activities" were defined broadly and flexibly, in a manner that suited every police constable's fantasy. Among these were "acts written, spoken or through visual representation", that interfered or had a "tendency to interfere" with, or posed an obstacle to, the maintenance of public order; which interfered or "tended" to interfere with the administration of the law or "its established institutions and personnel"; which encouraged or preached disobedience to "established law and its institutions". There was much else in the Chhattisgarh law that was nebulous - perhaps kept so with deliberate intent - to enable just about any act by the agencies of the State under the broad rubric of the fight against left-wing extremism. Around September 2009, the Union Government in partnership with police in the states most seriously affected by the Maoist insurgency began a security operation that rapidly escalated into a state of virtual lawlessness. This created a palpable sense of siege among journalists in Chhattisgarh. In October 2009, three journalists in

the state were issued notices by police ordering them to reveal the sources of news reports. A senior police officer in Chhattisgarh was also reported to have sanctioned aggressive measures, including firing at journalists who crossed into the state from neighbouring districts of Andhra Pradesh to report on operations.

In September 2011, a tribal youth who was actively involved in citizen journalism networks, Lingaram Kodopi, was arrested on charges of raising funds for the banned Maoist insurgents. As a journalist from an indigenous community, Kodopi was a rarity in Chhattisgarh. With his unique access to the lives of a very substantial part of the state's population, he had been seeking to bring these most often unheard voices into the public discourse. Kodopi had been active filing reports for the mobile phone and internet-based citizen journalism service CGNet Swara, which in turn had been instrumental in bringing to light serious civilian casualties inflicted by a major anti-insurgency operation in Tarmetla in a southern Chhattisgarh district in March that year. Though he had no direct role in that particular news report, Kodopi's arrest was widely seen as retribution and a signal to any others who may volunteer for citizen journalism.

In January 2011, police in Wardha district in Maharashtra arrested Sudhir Dhawale, as he was on his way back from the neighbouring district of Gondia after attending a convention on Adivasi and Dalit literature. Editor of a magazine of dissenting opinion titled Vidrohi and a freelance contributor to numerous other publications, Dhawale was booked under provisions of the law dealing with sedition and waging war against the state. Dhawale was held in custody for forty months, repeatedly denied bail, before finally being discharged on all counts in May 2014.

Several abuses occurred under the broader rubric of the "global war on terror", with its axiomatic premises

on Islamic extremism. In retaliation against critical reporting on the Indian state's declared policy of eliminating "Islamic" or jihadist terror, investigative journalist K.K. Shahina was charged with criminal conspiracy to intimidate witnesses, after her story published December 2010 in the weekly magazine Tehelka appeared to cast doubt on the prosecution on terrorism charges of a prominent Islamic cleric and political figure. Shahina's story was based on interviews with key witnesses cited in the case made by police in Karnataka state against Abdul Nasar Madhani, an Islamic cleric who heads a party active mainly in the neighbouring state of Kerala.

Sahil Maqbool, a Kashmiri journalist working in Srinagar, was arrested in September 2004, accused of spying for an enemy power and charged under clauses of law relating to "sedition" and "waging war against the State". He was released in January 2008 on bail. The evidence in the police case included a visit to Pakistan in 2001 for a story on the status of Kashmiris who had crossed over since the insurgency in the region began. Later, in 2004, he was found in possession of a letter from an uncle in Rawalpindi, inviting him for a marriage in the family. The probable reason for his arrest was believed to be certain investigative stories on corruption and official malfeasance. Maqbool's freedom, won after over three years in prison, was a negotiated freedom since the judiciary had not till then taken up his case and settled it authoritatively.

Iftikhar Gilani, a Kashmiri journalist based in Delhi, was arrested in June 2002 and held for seven months on charges of espionage and violating the Official Secrets Act. The basis of his arrest was the discovery of certain documents in his possession, relating to men and materiel of the Indian Army. This information was then in the public domain and freely available on various websites. India's Defence

Ministry initially made a submission in the trial court that the documents were indeed, classified information. It later changed this plea and stated the reverse. Gilani was discharged after seven months in detention. The probable reason for his arrest was a vendetta against a near relative, who was for long among the most prominent of the dissident political leaders in Kashmir, insistent that the issue of the state's accession to India was a far from settled matter. Gilani's was again a negotiated freedom since it required the special benediction of the Defence Ministry, which only changed a patently absurd plea under immense public pressure from journalists and their unions in Delhi.

In June 2008, police in the city of Ahmedabad in Gujarat state, brought charges of sedition and criminal conspiracy against two journalists and the local edition of India's largest English language newspaper, the Times of India (TOI). The complaint named the resident editor of TOI in Ahmedabad and a reporter, as the principal accused. This followed a series of reports between May 28 and 31, noting that the service record of the city commissioner of police, O.P. Mathur, was riddled with evidence of serious abuses of power and dangerous liaisons with the underworld.

In April 2012, the Gujarat High Court finally ruled on a bunch of applications seeking the quashing of sedition charges. In granting these applications, the Gujarat High Court quoted liberally from the Romesh Thapar and Kedar Nath Singh judgments, which had seemingly been lost in the thicket of contrary rulings that followed, on the basic issue of the right to free speech. From Romesh Thapar, the Gujarat High Court drew the lesson that "criticism of Government exciting disaffection or bad feelings towards it is not to be regarded as a justifying ground for restricting the freedom of expression and of the press unless it is such as to

undermine the security of or tend to overthrow the State". From Kedar Nath Singh, the court drew the principle that "a citizen has a right to say or write whatever he likes about the Government or its measures, by way of criticism or comment, so long as he does not incite people to violence against the Government established by law". Promoting disaffection and disloyalty is not the same thing as "commenting in strong terms upon the measures or acts of the Government, or its agencies, so as to ameliorate the condition of the people or to secure the cancellation

or alteration of those acts or measures by lawful means". TOI was able to secure a relatively quick release from its travails with sedition law. Four years to secure a full discharge on criminal charges must be considered salvation under the Indian penal system, especially when the accused have not had the misfortune of spending a day in custody. Quite conceivably, the intent of the Ahmedabad police in bringing charges of sedition against the biggest entity in the Indian media scene, was not to take the matter to prosecution - merely to silence the

newspaper long enough for an officer with obvious political patronage to serve out his tenure. Media groups endowed with financial muscle and political clout should in any case, be expected to have an easier time negotiating the vagaries of the law. That luxury is not available to most media practitioners who work outside the patronage of big business groups.

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Attack on the Media

Geeta Seshu

The attack on the media cannot just be measured by the instances of deaths of journalists, disturbing as it definitely is. The attack on the media is both from within and without.

So there is the attack on the media itself - the corporate ownership that controls and calibrates the flow of information on important issues and conflicts, the aggressive takeover of public broadcasting for government message, the undermining of and the steady weeding out of independent and dissenting voices that work within media and the contractualisation and systematic victimization that has atomized and weakened the solidarity of the journalists working in mainstream media.

And then there are the attacks on the media -the deaths of journalists who push the envelope, the brutal attacks on journalists in villages, small towns or cities that don't even get noticed unless the sheer brutality of the attack brings some public attention for a little while till the next breaking news grabs the headlines. Undoubtedly, the media coverage in the recent past was spurred by the viciousness and brutality in the recent deaths of Jagendra Singh in Shahjahanpur in Uttar Pradesh on

June 8, after he alleged that police personnel set him on fire on June 1, or Sandeep Kothari, whose burnt body was found at the border of Maharashtra and Madhya Pradesh on June 21, wherein the autopsy report alleged that he was burnt and not set on fire after being killed and the stabbing of Raghavendra Dubey, in Mira Road near Mumbai on July 17. Mystery still shrouds the death of Aajtak journalist Akshay Singh of a sudden heart attack on July 4, even as he was interviewing the family of a victim in the Vyapam scam in Madhya Pradesh.

Four deaths in the span of 35 days is a chilling record. Since 2010, the mediawatch site The Hoot began monitoring all free speech violations across the country and the Free Speech Tracker has recorded one death in 2010, three deaths in 2011, five in 2012, eight in 2013 and two in 2014.

2014: Tarun Acharya, a stringer for Kanak TV in Odisha, was killed on May 27 in Khallikote town of Ganjam district. He had done an investigative story on the alleged employment of children in a cashew processing plant owned by S Prusty. MVN Shankar, a senior correspondent with Andhra

Prabha newspaper, was killed in Chilakaluripet town of Guntur district on May 26, a few days after his newspaper published his report on the kerosene oil mafia.

2013: Nemichand Jain and Sai Reddy were killed by Maoists in Chhattisgarh (a local committee later admitted to making a mistake in killing Reddy). All the rest are from Uttar Pradesh - Rakesh Sharma, Shashank Shukla, Lekhram Bharti and Zakiullah while Rajesh Verma and Israr died during the Muzaffarnagar riots that engulfed the state in September.

2012: Chandrika Rai along with his wife and two children in Bhopal and Rajesh Mishra in Rewa, Madhya Pradesh, Chaitali Santra in Kolkata and Raihan Naiyum and Nanao Singh in Assam.

2011: Umesh Rajput, Chhura village in Chhattisgarh in January, J Dey in Mumbai in March and Ramesh Singhla in New Delhi in October

Aside from the deaths are the attacks - brutal and deadly. In July 2012, Arunachal Times editor Thongam Rina was shot at, the

bullets ripping through her spine; in April 2012, Kamal Shukla was severely beaten up in Kanker, Chhattisgarh; in March 2013, there was an acid attack on Dinesh Chaudhary and his family in Parbhani, Maharashtra and in June the same year, a mob of Trinamool Congress supporters beat up television channel reporters and tried to set a journalist on fire.

Attacks on the media were on the rise and the National Crime Records Bureau which began monitoring attacks on the media as a separate category since 2014, recorded 85 attacks in a single year, with 62 of them being in Uttar Pradesh!

The killings and the attacks are a direct fallout of the reportage of these journalists on a range of issues. Forest tree felling, illegal mining, the oil mafia and illegal trade in oils and food grains, sexual harassment and violence or the medical negligence case that led to the death of Umesh Rajput. Invariably, police try to put out the story that the journalists were killed for other reasons - either for some unspecified personal motives, robbery or because (police allege) that they were extortionists and blackmailers or for accidental or natural causes!

Apart from the killings and deaths, it is important to remember that these are just the physical attacks. There are other attacks too - mostly

legal cases of defamation or contempt, notices of legislative privileges and the more serious cases under the draconian UAPA or Public Security Act or even sedition (cases in point - Shahina Nafeesa for her story on the police investigation into the case against Abdul Madhani, PSA cases against journalists in Kashmir or the sedition case against Dastak editor Seema Azad).

The impunity that rules most of the cases of the physical attacks on the media is only matched by the slow and grinding pace of the cases against these journalists, effectively embroiling them into the long and painfully lonely litigation battles. The media houses that some of these journalists write for or work with may or may not support them for the long road, making them more vulnerable. Today, journalists - stringers and those employed in or on contract to mainstream media - are aggressively using all media platforms, from small and big print publications, broadcast channels and, as Jagendra Singh's death showed us, even social media platforms to push the envelope and try to uncover some corruption, illegal activities by local mafia and business, usually as police and district administration either turn a blind eye or are complicit in the scam. Of course, some journalists are not independent and become

aligned to political parties or work closely with some business-houses or mafias. With meagre incomes, most of them do other businesses or hold other jobs as well and the weakened structures of mainstream media continue to affect the way journalists do their work.

So where do we go from here? Can journalists unite and raise a strong enough voice to combat these attacks? Today, the impunity that rules makes it so much more easier to beat up or kill a journalist and journalists need to doggedly pursue cases of attacks to secure justice in each and every instance.

In this context, it would be useful to debate more thoroughly the demand of some journalists groups for a special protection law, especially as it goes against the constitution guarantee that freedom of expression is for all citizens. Globally, citizens are using all manner of media to tell their stories and all of them need to be protected. Only then will their stories be told without fear.

Mumbai-based Geeta was once principal correspondent of 'The Indian Express'. Today, she lectures on the media at several universities, including Bombay University, SNDT University, Marathwada University and Symbiosis. She was formerly editor of, 'Humanscape' and has written for Woman's Feature Services. Geeta is associated with the media watchdog website, 'The Hoot', (www.thehoot.org). □

PUCL Chhattisgarh:

Reporting In a Conflict Area - An Act of Courage: Chhattisgarh PUCL

Local journalists in the Bastar region are highly vulnerable. They don't get the immunity, protection or working conditions that journalists in the national media get (even though no outside journalist can really report in these areas without a local journalist's assistance for travel and interpretation of the local adivasi language). They are not in a position to protect their sources and may even be served notices under the

CrPC if they publish a press release issued by the Naxalites. Under pressure from threats and arbitrary police action, most journalists have given way to simply publishing police hand-outs without any independent verification. Of course, there are notable exceptions - it was brave media reports which brought the Sarkeguda fake encounter to light. But those journalists who attempt to speak out and report on issues in a

manner that does not align with the police or state version of events, face constant harassment. Journalists are routinely picked up by the police and even beaten. Amongst the most vulnerable are the independent local stringers who live in the areas on which they report and are not permanent employees of one or the other regional or national newspapers.

Santosh Kumar Yadav is an

independent journalist who has been writing for a number of papers including Navbharat, Chhattisgarh, Highway Channel and Police Today. He lives in Darbha with his wife and two young children. He currently writes for the Navbharat daily. On 24th June 2015 he was called in to the local police station where he was told that a warrant for his arrest had been issued. The police took him to the lockup, stripped him naked and, in, what is common police procedure in the area, prepared to beat him. They only stopped because Santosh told them he was a journalist and said that if they touched him he would write and tell everyone what they had done. This was not the first incident of police harassment that Santosh had faced. The harassment began in earnest after Santosh reported on an incident of naxal violence, the Jheeram Ghati incident in which a

number of Congress leaders including Mahendra Karma had been killed. Santosh was one of the first reporters to reach the site of the incident and because of his early arrival at the site, the police has presumed that he collaborates with the Naxals.

In mid-2014 the police had already begun threatening him. They arrived at his house at midnight one night, picked him up and took him to a rest house where they threatened and interrogated him. The police ordered Santosh to take five lakh rupees to catch Naxals and bring them back to the police since he was in touch with the Naxals. Santosh denied and refused to do this, and they finally let him go. On 27th August 2014 the police filed and manufactured a false case against him in which he was accused of harassing a woman. Santosh has been reporting on

incidents that are important to the village and the community and is well liked by people in the area. The police claim that he supports the people of the village because he supports Naxalites! For the last year Santosh has lived in a climate of fear with the shadow of constant rumors that the police is after him and is trying to get him. Today he lives in fear of false cases, arrest, torture and fears for his life.

A free press is a crucial element of a democracy and this is even more so in conflict areas where the administration functions in a security-centric fashion and the ordinary people are highly vulnerable. We demand the protection of the rights of journalists, particularly in conflict areas, both as professionals carrying out a crucial social responsibility and also as human rights defenders. □

Judgment of Chhattisgarh High Court in case of Murder of a Journalist

Summary of judgment dated 17.12.2014 of Chhattisgarh High Court in Writ Petition (Cr) No. 6459/2011, delivered by Justice Manindra Mohan Shrivastava.

A recent judgment from the Chhattisgarh High Court has kindled hope that the justice has not completely died. This judgment, given in the case of 'Parmeshwar Kumar Rajput v State of Chhattisgarh', is regarding the investigations into the murder of Umesh Rajput, a journalist who had worked in the newspaper 'Nai Duniya' and a Member of the Chhattisgarh Working Journalist Union. He had reported on alleged negligence and ill-treatment of tribal patients in Community Health Centre, Chhura District -Gariyaband leading to the death of a tribal woman Runjibai Gond who had come to the hospital for an eye treatment. The detailed reports written by him was widely read and in turn led many more reports on the same issue. Umesh Rajput was threatened with 'dire consequences'

if he continued to write on this issue, the details of which were recorded in the police complaint he had filed against the concerned authorities. Nine days after filing this complaint, he was shot at in broad daylight in front of his house and died. The gruesome nature of this killing was discussed in the State Legislative Assembly and a special team of police officers was formed to investigate the matter. The police team obtained orders from the Judicial Magistrate, Gariyaband in May, 2011 for brain mapping and narco analysis of some of the arrested accused; but the police did not give effect to the order or conduct any other sort of investigation into the matter. Aggrieved by the lack of investigation, Parmeshwar Kumar Rajput, the brother of Umesh Rajput filed a writ petition seeking transfer

of investigation from state police to CBI.

The High Court began to monitor the investigations from the year 2011 onwards. Once the monitoring began, repeated orders were issued by the Court to the investigating authorities to carry out brain mapping tests as originally ordered by the Judicial Magistrate in May, 2011. The authorities finally conducted the brain mapping tests on 01.01.2012 and 16.09.2013 but failed to act on the conclusions of the reports which stated that the suspects were all aware of the conspiracy to murder Umesh Rajput and that a 'supari' had been ordered to kill him by professional killers. The police did not follow up on the investigations on the results of this brain mapping test or attempt to find out the contents of the letter found near the dead body of Umesh Rajput

or conduct a handwriting test on the same. The police also failed to obtain telephone records of his mobile phone until 2014 after orders were given for the same by the High Court. The court pointed out:

"Overall picture which emerges from the facts and circumstances of the case leads to an inference that the investigating agency, right from the beginning, has not taken prompt and effective steps to solve the mystery of the murder of Late Umesh Rajput and many important steps towards investigations were taken up quite belatedly only at the cost of filing this petition and monitoring of this case by this Court, repeated enquiries made

time and time again as to why investigation is not being held in a proper direction, why mobile call details were not collected and why search was not carried out in the premises of the suspects immediately after brain mapping test reports were received."

The comments of the High Court poignantly pointed out, "... murder of a journalist, particularly in the backdrop of a peculiar circumstance of the present case cannot be treated as an ordinary case of murder". Based on the facts placed before the High Court, the judgment pointed out, "Prima facie, petitioner's allegation that the deceased had to lay his life for fearless journalism cannot be brushed aside as figment

of imagination to falsely implicate someone. The background in which the journalist was murdered required the investigating agency to hold a prompt, effective and at the same time, a fair and independent investigation to find out the truth".

In light of poor and unsatisfactory investigation that was undertaken by the police, the Court decided to transfer the investigation from the local police to the CBI and directed the Superintendent of Police and local police to assist the CBI. The court also directed the CBI to intimate the court about the conclusion of investigation.

Note: The case was argued before the High Court by Sudha Bharadwaj, General Secretary, PUCL Chhattisgarh. □

Rajasthan PUCL:

Jaipur Groups Condemn and Protest the Raid by CBI of Teesta Setalvad's Office and House

An urgent meeting was organised in Jaipur on 14.07.2015, condemning the raid of the house and office of the renowned Human Rights activist and journalist, Teesta Setalvad. This meeting was attended by several PUCL members, women's groups representatives, NFIW and AITUC representatives, RTI Activists from the MKSS, several students, professionals and journalists.

It was stated that this act of the CBI, the agency which came under the PM Narendra Modi, showed that it was compromised as an investigation agency, as there was no need to raid their premises. Narendra Modi was settling scores by misusing the CBI. Teesta Setalvad and Javed Anand had been fully cooperating and had handed over more than 25,000 pages of documents to the various investigating agencies including the MHA and had clearly written to the CBI too that they were available for any probe. Then why was this step

taken by the CBI. The statement went on to state that "It is our belief that this act was only to humiliate them and send a message to all that if anybody speaks against this Government will have the same fate. Teesta is a target of political vendetta as she courageously along with others has fought the legal battle of justice for the Gujarat victims of genocide for more than a decade and a quarter. She along with Zakia Jaffri (the widow of Ahsan Jaffri) have taken on Modi directly and have named him as one of the accused in the larger conspiracy which killed Ahsan Jaffri and over 55 others in just the Gulbarga Society massacre of the 2002 genocide of Muslims in Gujarat".

It was also stated that all the progressive people of Rajasthan stand in complete solidarity with Teesta Setalvad, Javed Anand other members of Sabrang Communications and would oppose any effort of the Government of Gujarat and the Government of India

to intimidate, terrorise and harass Teesta and others.

It was decided that a public protest would be organised in Jaipur too regarding this vindictive and planned attack on Teesta Setalvad, Javed Anand and others.

We are: Renuka Pamecha, Prem Krishan Sharma, Mamta Jaitly, Kavita Srivastava, Nisha Sidhu, Radha Kant Saxena, Meeta Singh, Vijaya Laskhimi Joshi, PC Gandhi, Akshay Mathur, Anil, Asha Kalra, Rashid Hussein, Mukesh Goswami, Kamal Tak, Rajendra Kumbaj, Sawai Singh, PN Mandola, Kapil Sankhla, Premji, Naarayan Bareth, Raj Kumari Dogra, Aditi Bhati, Pushpendra Singh Tomar, Arpit Jain, Karan Audchiya, Anuprva Jain, Karan Singh, Ashwani Kumar Pandey, Aman Dandotiya, Aditya Kaushik, Mukesh Bharadwaj, Hari Ram Tanwar, Dr. RK Kholia, Chandra Shekhar Dubey, Nishat Hussein, Jahan Ara, Avinash Kumar, Shikha Bhoria □

We, the concerned citizens and activists stand by Teesta Setalvad, Javed Anand & Their Organisations

We accept the challenge to counter war against Justice and Democracy unleashed by the Modi Government and the Indian state. - Rohit Prajapati and Trupti Shah, Activists

The Narendra Modi led Union Government and the Indian State has declared war against Teesta Setalvad, Javed Anand and their organisations as they are fight to seek justice for the victims of Gujarat Carnage 2002. In spite of all the means adopted by the Modi Government to sabotage the process of Justice, Mr. Narendra Modi even as Gujarat Chief Minister with a pliable bureaucracy at his disposal was unable to defend themselves legally and morally. In his new avatar now as the Prime Minister, the Modi Government and Indian state has declared their war

against Justice. We, the concerned citizens and activists accept the challenge.

This Modi Government's continuous harassment of Teesta Setalvad, Javed Anand and their organisations is de-facto war against Justice and also against all such organisations and activists who have taken up the struggle to defend the cause of Justice, Human Rights on various people's issues.

We, the concerned citizens and activists stand by Teesta Setalvad, Javed Anand & their organisations and accept the challenges of Modi Government and Indian State and

are determined to continue our protest in peaceful and democratic manner.

It is time for all movements, organisations and activists to give a united fight to this Modi Government and Indian State's war against Justice. It is time to show our united strength against the fascist forces. We, the concerned citizens and activists resolve to continue our fight for Justice and Truth, to uphold the values of Human Rights, to stand up and speak-out for the oppressed against injustice of all kinds, unafraid of all consequences. □

Submission by Shri Rajindar Sachar, Senior Advocate and Shri Sanjay Parikh, Advocate on behalf of PUCL during the SC hearing on NJAC case

In the wise words of Alexander Hamilton, one of the framers of the American Constitution, "the courts were designed to be an intermediate body between the people and the Legislature in order, among other things, to keep the latter within the limits assigned to their authority. Judges, though they may not be omniscient or for that matter philosopher-kings, are better equipped for the task so long as they are aware of their limitations".

This Hon'ble Court in Supreme Court Advocates-on-Record Association v. Union of India, (1993) 4 SCC 441 followed by Special Reference No.1 of 1998, (1998) 7 SCC 739 evolved the collegium system for making appointments of High Court judges as well as Supreme Court judges. Serious criticism has been made regarding functioning of the collegium system. By Constitution (Ninety-ninth Amendment) Act, 2014, Articles

124A, 124B and 124C have been inserted defining National Judicial Appointments Commission, functions of the Commission and power of Parliament to make law, respectively. The Parliament has enacted the National Judicial Appointments Act, 2014. The Constitutional Amendments read with provisions of the Act, have given the task of appointment of Supreme Court and High Court judges to the National Judicial Appointments Commission. The arguments have been advanced against the National Judicial Appointments Commission and in favour of the collegium system and vice versa.

PUCL has been advocating transparency for strengthening democracy and accountability in all functions of the government. In PUCL v. Union of India & Anr., (2002) 5 SCC 294, the question with regard to antecedents of candidates fighting election for the post for MPs

and MLAs was raised. It was pleaded that voters have a right to know the relevant particulars of the candidates. This Hon'ble Court observed that a citizen's right to know is derived from the concept of freedom and expression under Art.19(1)(a) and that people of the country have a right to know every public act or everything done in public way by public functionaries. It was pointed out that in a democratic form of government, it is the Member of Parliament or a MLA of State Legislature who represents the people of his constituency in the highest law making bodies at the Centre and the State respectively. In order to ensure the purity of elections and transparency to the process of election, this Hon'ble Court directed that people have a right to know about the background of the candidate, his assets, educational qualification, etc.

It will be interesting to note that the Parliament, with all the political parties unanimously agreeing to nullify the said judgment, passed amendment to the Representation of Peoples Act, 1951. The said Amendment was challenged again by PUCL before this Hon'ble Court, which is reported in PUCL v. UOI (2003) 4 SCC 399. The Amendment which sought to nullify the judgment of this Hon'ble Court was declared unconstitutional. It was reasserted that the people of this country have a right to know under Article 19(1)(a) of the Constitution about the antecedents of the candidates contesting the elections. It was stated that a well-informed voter is the foundation of democratic structure. In a democratic republic, it is the will of the people that is paramount and becomes the basis of the authority of the government. The parameters of Article 19(1)(a) of the Constitution were evolved by this Hon'ble Court to ensure that the representatives of the people are chosen by the people after knowing their antecedents because only the right kind of people should be able to participate in the law making process in the legislature.

The same principle applies to the judiciary which is another pillar of democracy. The administration of justice is essential for reposing confidence of the people in the judiciary and in democratic values. The persons who are going to administer justice are, therefore, required to be chosen in a transparent manner. People have a right to know about the antecedents of a candidate who is going to administer justice. Antecedents could involve his background, his assets, qualification and the achievements, which he has made in legal profession and in other walks of life. This will enable people to inform the selection committee about such candidates, his merits or demerits. The performance of an

advocate is an act in the public domain. In fact, whatever he/she does as an advocate (or as a judge), is seen by the other members of the bar. It is further submitted that information about the antecedents of the candidate will enable the Appropriate Forum to appoint judges, only after considering various factors on merit, including his honesty and integrity besides the knowledge of law.

It is evident that for such sensitive posts, a broader element of selection mechanism is necessary. To say that to involve persons other than judges in selecting judges will bring in extraneous pressure is too simplistic. This argument proceeds on the assumption that the judges are immune to human frailties while making non-judicial decisions (such as appointments and transfers). This self-glorification is not accepted even by members of the Judiciary. The former Chief Justice, A.S Anand, reminded the judges that though "our function is divine, the problem begins when we start thinking that we have become divine". To similar effect is that expostulation of Justice Frankfurter of the U.S Supreme Court that "all power is of an encroaching nature. Judicial power is not immune to this human weakness. It must also be on guard against encroaching beyond its proper bounds and not the less so since the only restraint upon it is self-restraint".

The fear that presence of a lay person will interfere with the independence of the judiciary is misplaced as Judicial Commission of New South Wales (Ireland) Annual Report said: "In conferring a complaints function upon the Commission the Parliament struck a balance between independence and accountability. Judicial independence is not some kind of industrial benefit generously extended to judges and magistrates; it is fundamental principle of our

society's constitutional arrangements".

It will be wrong to infer that independence of judges requires that persons other than judges should have nothing to do with appointments, removal and other matters. But this is to misunderstand the role of judges in a republican Constitution such as ours. It should be emphasized that issues which judges now have to decide are not the kind of those which arose in the 19th Century. This is because the power of the Judiciary under the Constitution is different in terms of quality and extent than it was under the pre-Constitution period. Judges are no longer expected to be merely experts in the technicalities of procedure or evidence. Their role in society has undergone a sea change. Most of the cases raise questions of public law and the Constitution, in which the philosophy and broad socially-oriented objective thinking of a judge would play a crucial role in interpreting law. The constitution of any national judicial appointment commission varies internationally. It may be 5 (as in the United Kingdom Supreme Court) to 27 (in Italy's Consiglio superior della magistratura). In the United Kingdom, appointments to the Supreme Court are covered under ambit of the Constitutional Reform Act 2005. They are made by a body composed of the President and Deputy President of the Supreme Court, a member of the Judicial Appointments Commission of England and Wales, the Judicial Appointments Board for Scotland and the Northern Ireland Judicial Appointments Commission. The French body for judicial appointments, Conseil Supérieur de la Magistrature, consists of 12 members. Apart from the President and the Minister of Justice being ex officio members, the permanent body is composed of 5 elected judges, 1 public prosecutor, 1

counsellor of State and 3 jurists. In Malaysia, the appointment of the superior court judges is by the King, acting on the advice of the Prime Minister and the Conference of Rulers. It must be noted that the Prime Minister has to consult the Chief Justice before tendering his recommendation.

The body discharging these functions in Spain is Consejo General del Poder Judicial. It consists of 21 members, 12 judges and 8 highly experienced lawyers. As for Portugal, the body is the Conselho Superior da Magistratura (CSM), which is composed of 17 members. They include 7 judges, 7 non-judges whose names are recommended by the Parliament, 1 judge and 1 non-judge nominated by the President with the President of the Supreme Court as the ex-officio member.

In Israel, all judges are appointed by the President, upon the nomination by the 'Judges' Nomination Committee'. This body is composed of 9 members, including two judges of the Supreme Court, the President of the Supreme Court, two ministers of the Government one of whom is the

Minister of Justice who chairs the committee, two members of the Knesset and two lawyers from the Israeli Bar Association.

However, there has to be an effort on the part of every country's political establishment to find its own "golden Aristotelian mean".

The Law Commission, in its 121st Report, had suggested that the present closed system of appointing judges can be replaced with a National Judicial Commission (NJC). Certainly the public at large has a legitimate stake in the judiciary and has a strong justification to insist that such an important function concerning the whole society cannot be the preserve of the small freemasonry of the judiciary.

The public can participate in this process only if the candidate's antecedents are put in the public domain. It would be desirable that the names, qualifications and other details be put to on the web. The Commission should strive to make all decisions on the basis of mutual consensus. However, decisions may be taken on a majority voting basis when a unanimous decision is not deemed to be possible. It must be noted that all communication

shall be recorded. However, all members who support or oppose a motion should give in writing adequate reasons for their decision, which would be available to the general public.

Fears have been expressed that accusations of misconduct- before they have been established as credible- would affect the independence of the judiciary. In this connection, the views of the President of the Australian Commission, in his foreword to the Judicial Commission's 1997 Annual Report are worth repeating: "Since the final object of the system, as illustrated by the ultimate sanction, is to procure the departure of persons unfit for judicial office, in such a case the scheme of the Act, has not been frustrated; it has been fulfilled".

Harsh though it may sound, but one must remind what Justice Holmes said: "I trust that no one will understand me to be speaking with disrespect of the law because I criticise it so freely. But one may criticise even what one reveres. And I should show less than devotion, if I did not do what in me lies to improve it." □

Uttar Pradesh PUCL: Memorandum on July 10, 2015

Memorandum Submitted to the Governor

To
Honourable Rajyapal,
Uttar Pradesh, Rajbhavan,
Lucknow

Honourable Rajyapal Mahoday,
As you are already aware , the incidents of atrocities against journalists are on increase in the state . A journalist was tied to a motorbike and was dragged on road and a journalist was shot at. The most heinous incident took place in shahjehanpur where a journalist Jagendra Singh was burnt alive by police because he had been writing against UP minister of state Rammurti Verma.

Sir, freedom of expression is the most fundamental tenet of our

democracy and is our fundamental constitutional right as well. Any attempt to suppress the freedom of expression deserves strong condemnation.

Sir, in this context, we demand that
1.the minister of state Rammurti Verma who is responsible for barbaric murder of journalist Jagendra Singh should immediately be sacked

2.The entire matter should be investigated by C.B.I.

3. The family of Jagendra Singh should immediately be provided economic relief of Rs.50Lakh and at least one member of his family should be provided government job

4. The UP Government must take

strong steps to ensure that in future no atrocities are committed against journalists

5. Proper protection be provided to the journalists so that they .may freely and impartially perform their professional duties.

We hope you will kindly instruct the State Government to take proper action.

Thanks

With regards,

Vandana Misra, Chitranjan Singh, Ramkishore, Ramkumar, Bhagwanswarup Katiyar, Kalpana pande, K.K.Shukla, Ashish Awasthi, Athar Hussien, V.Singh. □

Note on the New York based Human Rights Watch report on Pakistan

Dr. R M Pal

This is a note on the New York based Human Rights Watch report on Pakistan. This is not the first time I am writing a note on the human rights investigative report. Earlier I had written a long note on an investigative report, investigations done by Smita Narula who investigated very scientifically on atrocities committed on dalits and shudras by the upper caste Hindus. Our report was published by the Human Rights Watch under the title 'The Broken People'. Let me start this report on Pakistan by giving a summary (given by the HRW. "They asked who the Sunnis were, asking for names. Then they told the Sunnis to run. We jumped and ran for our lives. They allowed everybody who was not a Shia to get away. Then they made the Shias get out and opened fire," Haji Khushal Khan, bus driver, Baluchistan, December 2011, Quetta)

On September 20th 2011 near the town of Mastan in Pakistan's Baluchistan's province, some gunmen stopped a bus carrying about 40 Shia Muslims, a Hazara ethnicity travelling to Iran to visit Shia holy sites. After letting Sunnis on the bus go, the gunmen ordered the Hazara passengers to get down and proceeded to shoot them, killing 26 and wounding six. Later that day, the gunmen killed three of the Hazara survivors as they tried to bring attack victims to a hospital in Quetta. The laskhar-e-jhangvi (LeJ), a Sunni militant group claimed responsibility for the attack. The Mustan shooting marked the first time -but not the last -that the LeJ perverted a mass killing of Hazara people after first separating those forms Sunnis.

Asked how they intended to stem the tears of the Hazara community, Baluchistan's then chief minister, Aslam Raisani, told the media, "Of the millions who live in Baluchistan, 40 dead in Mastan is not a big deal. I will send truck load of tissue papers

to the bereaved families. I'd send tobacco if I weren't a politician."

In recent years, Pakistan's Shia community, which constitutes some 20% of the overwhelming Muslim population, has been the target of an alarming and unprinted escalation in sectarian violence. Armed Sunni militants have conducted numerous shooting and bombings across Pakistan killing thousands of Shia citizens; militants targeted Shia police officers, bureaucrats and a judge Zulfiqar Naqvi who was killed by motorcycle riding assassins in Quetta on August 20th 2012. HRW recorded at least 450 killings of Shias in 2012, the communities' bloodiest year. At least another 400 Shias were killed in 2013. While sporadic sectarian violence between Sunni and Shia militant groups has long persisted in Pakistan, attacks in recent years have been overwhelmingly one sided and primarily targeted ordinary Shias doing their daily life.

This report documents Sunni militants' attacks on the mostly Shia Hazara community in Pakistan's south western province of Baluchistan from 2010 until 2014. The Hazara in Baluchistan, numbering about half a million people, find themselves particularly vulnerable to attack because of their distinctive facial features and Shia religious affiliation. More than five hundreds Hazaras have been killed in attacks since 2008, but their precarious position is reflected in the increasing percentage of Hazara and all Shia victims in sectarian attacks. Approximately one quarter of the Shias killed in sectarian violence across Pakistan in 2012 belonged to the Hazara community in Baluchistan in 2013; nearly half of Shias killed in Pakistan were Hazaras. While there is no evidence indicating official or systematic state patronize of the LeJ, the country's law enforcement agencies, military

and Para military forces have done little to investigate them or take steps to prevent the next attack. While the LeJ attacks are abuses by private actors, International human rights law places an obligation on governments to adequately investigate and punish persistent serious offences -or be implicated in violations of human rights.

The bloodiest attacks, resulting in the highest death tolls recorded in sectarian violence in Pakistan since independence in 1947 occurred in January and February 2013, when bomb attacks in Quetta killed at least 180 Hazaras. The LeJ claimed responsibility for both attacks. On January 10, 2013 the suicide bombing of a snooker club frequented by Hazaras killed 96 and injured at least 150. Many of those killed and injured were the victims of a car bomb near the club that exploded ten minutes after the first, striking those who had gone to help the wounded. Initially the Hazaras met the government's indifference and apathy in the matter.

The Community's refusal to bury its dead ones in protest sparked countrywide demonstrations in solidarity with the Hazaras. Three days after the attack Pakistan's government suspended the provincial government and imposed federal rule in response to demands of the Hazara community.

The Hazaras have been targeted to be killed, sometimes blown up by bombs, participation in religious processions, praying in must, going to work or going just going above daily life .how did to ghettoization in the Hazara neighborhood then they have suffered the same fate in ghettos or who an going to and returning from pilgrimages to Iran and staying in hotels along the way. There is no travel route, no shopping trip, no school run, and no work commutes that are safe.

Meanwhile Pakistani authorities have responded, at best by suggesting that the Hazaras accept open ended ghettoization, ever increasing curbs on movement and religious observance, and ongoing economic, cultural and social discrimination. Let the LeJ still find a way to attack a kill.

The fact that repeated attacks on Hazaras go on investigated and unpunished at that elements within the security services and elected officials alike display discriminatory attitudes and hostility toward them generates a belief among many Hazaras we interviewed that the military frontier corps and the other state authorities in Baluchistan are at best in different and at worst complicit in attacks. These views gain traction from the fact that attacks at impunity continue despite the presence of significant military, para-military and civilian security forces and intelligences in Baluchistan.

The egregious abuse can only end when the LeJ is dismantled and its leadership and militant cadres held accountable.

Pakistan's international partners should stress the Pakistani government to adhere to its international human rights obligations and promote good governance by investigating sectarian killing in Baluchistan and prosecuting all those responsible. Pakistan's political leaders, law enforcement agencies, administrative authorities, judicial authorities and military need to take immediate measures to prevent the attacks and end the LeJ's capacity to kill with impunity. If the Pakistani state continues to play the role of unconcerned or ineffectual bystanders, it will effectively be declaring itself complicit in the ghettoization and slaughter of the Hazaras and wider Shia community.

Key recommendations:

The Pakistan government should take immediate measures to investigate and prosecute sectarian killing in Baluchistan and conduct

broader investigation into sectarian killing in Pakistan.

Specifically Human Rights Watch recommended, to the government of Pakistan:

Prime Minister Nawaz Sharif should follow upon its public denunciations on sectarian killing by ordering the immediate arrest and prosecution of the leadership of LeJ, its members, and officials responsible for planning, ordering, perpetrating, inciting or enabling sectarian violence.

Disband, disarm and hold accountable the militant groups implicated in serious human rights violation, particularly the LeJ.

Establish an independent federal commission to investigate, recommend criminal prosecution and publicly report on sectarian killing in Baluchistan. The commission should investigate the failure of successive Pakistani governments at the federal, provincial and local levels to successfully investigate and prosecute such sectarian killing in Baluchistan. The commission should be given unfettered access to relevant government records on sectarian killing as well as authority to approach individuals, including survivors of sectarian attacks, relatives of victims, government official and security force personnel to testify.

Immediately remove from service any administrative or security personnel implicated in sectarian attacks or who failed to investigate or arrest alleged perpetrators of such attacks.

To the provincial government of Baluchistan:

Disband, disarm and hold accountable all militant groups, particularly, LeJ implicated in serious human rights violations, within the framework of the country's constitution as required.

Instruct the police to fully investigate all cases of targeted killing and prosecute those implicated in such abuses, especially members of the

LeJ and affiliated militant groups. Assist federal level investigations within the ambit of law and constitution.

In consultation with Hazara and Shia communities tighten security measures and the deployment of security forces around Shia mosques and other areas where Shia communities congregate to ensure they can engage in religious, social, cultural and economic activities without threat of violence. Implement laws prohibiting hate speech that resulted in incitement or discrimination as defined in international law.

To take measures so that major donors and Pakistan's external partners including the United States, European Union, Japan, Australia, the World Bank, Asian Development Bank press the Pakistani government to adhere to its international human rights obligations and promote good governance by investigating sectarian killing in Baluchistan and prosecuting all those responsible particularly the LeJ leadership which has publically claimed responsibility for hundreds of attacks.

Press the Pakistani government to disband, disarm and hold accountable all militant groups implicated in serious human rights violations.

Use bilateral meetings including with the diplomatic, law enforcement and intelligence realms to reinforce these messages.

Communicate to Pakistani authorities that failure to take action against militant groups implicated in attacks on minorities in areas under government control can jeopardize US economic development and military assistance and cooperation. I will have to refer to an article by Mr. Kuldip Nayar, a veteran syndicated columnist catering to around eighty newspapers and journals in 14 languages in India and abroad. This article was published in the monthly Radical Humanist of March 2015. What I quote below

would indicate why I am quoting the article. It is right that in comparison with Pakistan, India is a liberal state where Indian society cannot be converted into a theocratic state. This is against the grain of these people. In comparison Pakistan is becoming more and more radicalized. No doubt the country was separated and constituted on the basis of religion but its founder M A Jinnah said soon after its creation that religion and state should not be mixed. Yet the fact is that the minorities in Pakistan (Hindus) are only around five percent. In Sindh where they (Hindus) concentrate, there are forcible conversions of women for marriage. There is hardly any temple which has not been attacked.

According to a report by New York based Human Rights Watch violent attacks on members of religious minorities rose significantly in 2014 as Prime Minister Nawaz Sharif's

government failed to ensure protection of religious freedom. (We have already given an account of attacks on the Shias in Pakistan, as given by the HRW). The HRW has termed 2014 as a tumultuous year for Pakistan in which sectarian attacks continued with impunity and military operations in North Waziristan displaced more than one million people.

Undoubtedly many mosques in India have also faced the fury of fanatics but here the media and a substantial number of liberals speaks out and take both the society and the government to task. The minority will continue to be under pressure until India and Pakistan bury the hatchet. Secular and democratic New Delhi is no less derogatory on Islamabad when tension comes to prevail. Muslims are dubbed as Pakistanis although India is ruled by a secular constitution, not by the Hindu majority. This ethos gets diluted

when Pakistani on the opposite side act in a sectarian manner.

It is a pity that there is not even an iota of realization, much less action, that ways should be found out to minimize enmity between the two countries. Pakistan has more to answer because it has detracted history to show Hindus in a bad light. Generally it is not the case in India, although our society should be vigilant because history is being sacrificed by the ruling BJP. The society is not yet contaminated because the sweeps of the Aam Aadmi party at Delhi testify the voters' abhorrence to caste and creed. The phenomenon should become an all India theme. It all depends to a great extent how India and Pakistan sort out differences, and if the action is taken at the earliest. The sooner the better it will be.

I hope it is now clear why I quote Mr. Nayar's article. □

CHRI Report:

Award of Death Sentences and Commutations to Life Imprisonment

Analysis of Statistical Trends in India Based on Prison Statistics¹

Published by the National Crime Records Bureau Ministry of Home Affairs, Government of India) for the years 1998-2013

India is in a minority group of countries on the planet that retain capital punishment on their statute books. According to a compilation attempted in 2009² the following criminal offences under various laws attract the death sentence in India:

Indian Penal Code, 1860 (IPC)

Criminal conspiracy for committing any of the following offences- **Section 120-B** Treason, for waging war against the Government of India- **Section 121** Abetment of mutiny actually committed – **Section 132**

Perjury resulting in the conviction and death of an innocent person – **Section 194**

Threatening or inducing any person to give false evidence resulting in the conviction and death of an innocent person – **Section 195A**

Murder - Section 302

Murder committed by a life convict – **Section 303³**

Abetment of a suicide by a minor, insane person or intoxicated person – **Section 305** Attempted murder by a serving life convict – **Section 307(2);**

Kidnapping for ransom- **Section 364** and Dacoity with murder – **Section 396**

Additionally, the following special laws also prescribe death penalty for various offences:

Army Act, 1950; Navy Act, 1950; Indo-Tibetan Border Police Force Act, 1992; Defence and Internal Security of India Act, 1971; Defence of India Act, 1971; Commission of Sati (Prevention) Act, 1987; Narcotic Drugs and Psychotropic Substances (Prevention) Act, 1985;

Terrorist and Disruptive Activities (Prevention) Act, 1987; Prevention of Terrorism Act, 2002; Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; Explosive Substances Act, 1908; Arms Act, 1959; Unlawful Activities Prevention Act, 1967. Several States have their own laws prescribing death penalty under special laws.

Upon conviction and award of death sentence, an individual accused of committing one or more heinous crimes can all the way go up to the Supreme Court challenging the sentence awarded. In many cases the death sentence is commuted to life imprisonment either by the Constitutional Courts or by the President or the Governor as the case may be. The instances where the President or the Governor

commutes a death sentence to a life term in prison while deciding mercy petitions is becoming rarer while Courts are commuting more death sentences into life terms in prison in the course of deciding appeals against death sentences. We will not go into the debates about the wisdom of retaining the death penalty on the statute book or the abolitionist argument as that is not the purpose of this note.

Open Datasets accessible under Gol's Open Data Portal:

The National Crime Records Bureau (NCRB) under the Union Ministry of Home Affairs is responsible for collecting crime-related statistics from the stage of filing first information reports (FIRs) to judgements of trial courts. The NCRB sources this data from the crime records bureaus in the States (SCRBs) which in turn collect data from similar agencies set up at the district level. The 14,360+ police stations across the country are the basic source of crime statistics collated across the country.

Thanks to the implementation of the National Data Sharing and Accessibility Policy (NDSAP) instituted by the Central Government in 2012, all ministries and departments are now required to publish datasets (statistical or other kinds of data) that they have in their possession which is not likely to cause harm if disclosed. More than 50 ministries have uploaded hundreds of datasets on the newly opened website: <http://data.gov.in>. This is indeed proactive disclosure of information by government departments above and beyond the requirement of Section 4(1) of the Right to Information Act, 2005.

Open Datasets about Death Sentences and Commutation Orders:

This note is based on the open datasets regarding award of death sentences by courts, the commutation of death sentences to life imprisonment and execution of prisoners sentenced to death

published by the NCRB on the Open Data Portal. Datasets for 2001-2012 and 2013 on this subject are displayed on the Open Data Portal. This note also takes into account statistics regarding award of death sentences available for the period 2000-1998 in the annual compilations of prison statistics of NCRB as disclosed on its website⁴. The main purpose of the note is to show the trends regarding award of death sentences during the 16 year period between 1998-2013.

In order to obtain similar data for 2014 and up to May 2015 when we submitted a formal request under *The Right to Information Act, 2005* (RTI Act), the NCRB informed us that the information was still being compiled and not readily available. A scanned copy of the RTI application and the response received from NCRB is at Annexure -1.

Amnesty International reported that 64+ individuals were handed the death sentence in 2014⁵. This figure seems to be based on media reports of each case where such sentences were awarded because the official figures for 2014 have not yet been made public. For the year 2013, Amnesty International reported that 72+ individuals were given capital punishment⁶. Official data released by NCRB for 2013 indicates a much higher figure of 125 individuals who received capital punishment. Our main findings regarding the trends in awarding capital punishment over the 16 year period – 1998-2013 are given below.

Main Findings (Year-wise trends):

As many as 2,052 individuals were awarded capital punishment by courts in India between 1998 – 2013. Courts awarded the death sentence to 1,677 individuals during the first 13 years of the 21st century. On an average more than 128 persons were sentenced to death per year during this period.⁷ Unfortunately, the gender break up of these figures is not available in the NCRB datasets.

- **The most number of death sentences handed down in any given year was 2007 when courts across India punished 186 individuals** in this manner. In 2000, 165 individuals received death sentences while 164 individuals received this punishment in 2005. 1999 (155 individuals) and 2003 (142 individuals) take the fourth and the fifth place on this list of years in which the most number of death sentences were awarded.
- **The least number of death sentences were awarded in 1998 (55 individuals).** 97 persons each were awarded the capital punishment during the years 2010 and 2013. 2011 (117 individuals) and 2013 (125 individuals) figure at fourth and fifth places respectively on the list of years when the least number of death sentences were handed down by courts.

State/UT-wise trends:

- An individual convicted of one or more crimes inviting a sentence of death was more likely to be so punished in the State of **Uttar Pradesh. With 506 individuals awarded the death sentences during the 16 year period, Uttar Pradesh alone accounts for almost a quarter (24.65%)** of the total figure calculated for the 16 year period. This figure could be higher because data is not available for the year 1998 in the NCRB datasets.
- **With 178 individuals so punished, Bihar stands 2nd** in the list of States/UTs where the most number of death sentences were awarded by courts during the period 1998-2013. **In Madhya Pradesh 162 individuals received the death sentence placing it 3rd** on the list of States/UTs. **In 2013, Madhya Pradesh topped** the list of States/UTs where the most number of death sentences (22) were awarded.

- **Maharashtra takes 4th place with 160 individuals** receiving capital punishment during this period. **Tamil Nadu is at the 5th place with 147 individuals** receiving capital punishment during the 16 year period.
- Three States, namely, Chhattisgarh (carved out of the erstwhile undivided Madhya Pradesh), Jharkhand (carved out of the erstwhile undivided Bihar) and Uttarakhand (carved out of the erstwhile Uttar Pradesh) came into existence towards the end of the year 2000. Amongst them, **Jharkhand takes the top position with 91 individuals being handed the death sentence during the last 13 years (2001-2013). In Chhattisgarh only 29 persons were awarded capital punishment during the same period and in Uttarakhand this figure was 18.**
- **Interestingly, in Karnataka, no death sentences were handed down between 1998-2003.** All 107 death sentences were handed down during the years 2008 (22), 2010 (19), 2005 and 2007 (14 each), 2006 (13), 2012 (8), 2004 (7) and 2009 (5). In 2013, 4 individuals received the capital punishment in Karnataka.
- **Similarly, no death sentences were awarded in Gujarat during the period 1998-2000. All 62 death sentences were awarded during the years 2004 (19), 2011 (14), 2005 and 2009 (8 each), 2003 (5) and 2001 and 2012 (3 each).** In 2013, 2 individuals received the death sentence in this State.
- A person was least likely to receive the death sentence in the States of Arunachal Pradesh, Nagaland, Mizoram, Sikkim and the UTs of Dadra and Nagar Haveli and Lakshadweep as they have not recorded any such instance during the 16 year period.

Region-wise trends:

- Not taking into account the States with the most number of death sentences awarded during the 16 year period, the region-wise breakup (north, south, east, west and north east) of the figures are as follows:
- **The Southern region** (including the states of Andhra Pradesh, Karnataka, Tamil Nadu, Kerala, and the UTs of Puducherry, Laskhadweep) accounted for **311 death sentences during the years 1998-2013 – the highest amongst all regions.**
- **Tamil Nadu tops the list with 147 death sentences followed by Karnataka with 107 and Kerala with 44. Andhra Pradesh saw the least number of death sentences awarded at 11.** While Puducherry saw 2 death sentences awarded in 2009, **no capital punishment was awarded in Lakshadweep during the entire period.**
- In the **Eastern region barring Bihar** (for obvious reasons) the States of Chhattisgarh, Jharkhand, West Bengal, Sikkim and Odisha and the UT of Andaman and Nicobar Islands accounted for **262 death sentences during the period 1998-2013. West Bengal tops the list with 106 death sentences followed by Jharkhand with 91. In Odisha only 33 individuals were sentenced to death during the period 2001-13 but none during the years 1998-2000. In Andaman and Nicobar Islands 2 individuals were sentenced to death between 1998-2000 and one person in 2013.** Sikkim is the only State where no death sentence was awarded during the 16 year period.
- Barring Uttar Pradesh (for obvious reasons), the **Northern**

region comprising of the States of Jammu and Kashmir, Punjab, Himachal Pradesh, Haryana, Uttarakhand, and the UTs of Delhi and Chandigarh) accounted for **205 death sentences during the 16 year period. Delhi accounts for almost 50% (102 cases) of this figure, most of which were handed between the years 2001-2013.** Himachal Pradesh accounts for the least number of death sentences

(3) during the same period. Chandigarh recorded 6 death sentences during the years 2001-2013. No capital punishment was awarded between 1998-2000. Barring Maharashtra (for obvious reasons) in the **Western region** the States of **Rajasthan and Gujarat** and the UTs of **Dadra and Nagar Haveli and Daman and Diu** account for **145 death sentences** during the 16 year period. **Rajasthan tops this list with 79 death sentences.** No death sentences were handed in Dadra and Nagar Haveli during this period. The **North-eastern region accounts for the least number of death sentences** (States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura) **at 42.** Assam accounted for 85% (29) of these figures (all handed between 2001-2013) followed by Meghalaya (6), Tripura (4) and Manipur (3). **No capital punishment was awarded in the States of Arunachal Pradesh, Mizoram and Nagaland.** According to NCRB reports, Arunachal Pradesh did not even have jails until 2009.

- **It is also interesting to note that the States which have a long history of conflict between government forces and militant groups, have not seen any kind of spurt in the number of death sentences being awarded.**

Jammu and Kashmir and Manipur where the Armed Forces Special Powers Acts

(AFSPA) are being enforced due to militant exigencies the number of death sentences awarded are much fewer compared to States such as Uttar Pradesh, Bihar and Madhya Pradesh. Arunachal Pradesh and Nagaland where AFSPA has been extended repeatedly, have not witnessed a single instance of death sentence being handed down to anybody. Jharkhand is the only exception where the high numbers coincide with the existence of militant activity. The situation in this State needs deeper research and investigation which is not possible using the NCRB's database.

Trends in execution:

- **Three persons were executed during this 16 year period – one each in West Bengal (2004), Delhi (2013) and Maharashtra (2012).**

Trends in commutation:

In this section, apart from reporting our findings about the trends in the commutation of death sentences to life imprisonment we have also interrogated the reliability of the

information available in the NCRB datasets.

Main Findings

- **During the years between 2001-2013, the death sentences of 4,497 persons are said to have been commuted to life imprisonment.** This category of data is not available in the NCRB's reports for the remaining 3 years included in this study.

While 2,019 individuals received such commutation in the States, 2,478 individuals are said to have received this benefit in the UTs.

This is where the dataset disclosed by NCRB becomes questionable. While 1,573 individuals were sentenced to death in the States during this period, only 104 persons were awarded capital punishments in the UTs. The total number of persons awarded the death sentence in the UTs during the previous years, namely 1998-2000 is a mere 27. The inflated figure of 2,478 is due to the NCRB's reporting of commutations in Delhi at 2,470-919 in 2005, 806 in 2006 and 726 in 2009. The total number of death sentences awarded to persons in

Delhi during the 16 year period is a mere 102. Unless it can be shown that the remaining persons were all convicted prior to 1998, the commutation figures become unreliable. Perhaps they include commutations of other kinds of lesser sentences.

Similarly, the number of commutations ordered across all States at 2,019 is far higher than the number of death sentences awarded, i.e., 1,573 between 2001-2013. During the previous three years included in this study (1998-2000), only 348 death sentences were awarded across the States. Therefore unless NCRB clarifies that the data is accurate and also publicises the data for award of death sentences from the time of independence, it would be difficult to make sense of the dataset relating to commutations. Nevertheless the starkly visible trends are presented below:

- Assuming that these data bits for the period 2001-2013 are accurate, death sentences outnumber commutation orders in the following States and UTs (Death:Commutation):

Madhya Pradesh (116:68)	Karnataka (107:24)
Tamil Nadu (99:30)	Gujarat (62:6)
Rajasthan (43:39)	Kerala (38:23)
Andhra Pradesh (10:3)	Chandigarh (6:5)
Meghalaya (6:2)	Daman & Diu (4:0)
Himachal Pradesh (3:2)	Manipur (3:1)
Puducherry (2:1)	Andaman & Nicobar Islands (1:0)

- The Commutation orders outnumbered the death sentences in the following States:

Delhi (91:2,470)	Uttar Pradesh (406:486)
Bihar (163:369)	Maharashtra (142:191)
Jharkhand (91:304)	West Bengal (84:106)
Odisha (33:70)	Chhattisgarh (29:31)
Punjab (22:36)	Tripura (4:10)
Uttarakhand (18:46)	

- Death sentences equalled the number of commutation orders in the States of Jammu and Kashmir (22:22) and Goa (1:1). The dataset does not reveal whether there is a direct correlation between the two figures or if the commutation orders relate to death sentences awarded to individuals much earlier than the period under study.
 - Although no death sentences were reported from Lakshadweep for the entire 16 year period, two commutation orders were issued- one each in 2002 and 2007.
- c) NCRB must urgently inquire into the high commutation figures reported for some States and UTs to ascertain their correctness.
- d) NCRB should also provide the date of award of the death sentence and the date of its commutation to life imprisonment to give the reader a fair idea of the time taken in each case to get the death sentence commuted. The authority which commuted the death sentence must also be mentioned in each case.

Recommendations

- a) NCRB and the Crime Records Bureaus at the district and the State level need to urgently develop templates for recording absolutely essential details about the award of death sentences and commutation of such sentences.
- b) At a minimum the datasets for both categories must include details such as gender and age profile, socio-economic, religious and educational background of the individuals
- e) NCRB must collaborate with the prison administration across the country to prepare a dataset about all the death sentences awarded and executed since the time of independence along with the demographic data as well as details of crimes committed by such individuals in the manner explained at para #(a) above.

Courtesy: Venkatesh Nayak, Commonwealth Human Rights Initiative (CHRI). □

References:

1. Prepared and disseminated by Venkatesh Nayak, Commonwealth Human Rights Initiative, for public debate on the issue of abolition/retention of death penalty in India on the even of the round table discussion being organised by the Law Commission of India to be held on 11 July, 2015. The author wishes to thank Ms. Shreya Joshi, 2nd year student of Law at Jindal Global Law School of the O. P. Jindal Global University, Sonapat Haryana, for assistance with the cross-checking of the data tables.
2. Bikram Jeet Batra, "Court' of Last Resort: A Study of Constitutional Clemency for Capital Crimes in India", CSLG Working Paper Series, CSLG/WP/09/04, Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi, 2009, p.1, f.n.4.
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4. For an earlier note on the same subject please see: *India" Death Penalty Statistics*, Asian Centre for Human Rights, New Delhi, June, 2014, accessible on their website at: <http://www.achrweb.org/reports/india/Statistics.pdf>.
5. *Death Sentences and Executions: 2014*, Amnesty International, 2015, page, 6, accessible at: http://www.amnestyusa.org/pdfs/DeathSentencesAndExecutions2014_EN.pdf
6. *Death Sentences and Executions: 2013*, Amnesty International, 2014, page 8, : <https://www.amnesty.org/en/documents/act50/001/2014/en/>
7. This is only a statistical average. The actual number of death sentences awarded in each year covered by this study is accessible in the attached MSEXcel sheet

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