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Presidential Speech delivered by Prof. Prabhakar Sinha in the opening session of the 12th PUCL National Convention held in Patna on 6th December, 2014:

Take Human Rights to the Masses

Prabhakar Sinha

The PUCL is in the thirty-fifth year of its fruitful existence. We have been continuously working since its inception. It appears to me that the time has come when we should take stock the fruits of our labour. Have we made a significant difference to the human rights scenario in the country, enlarged the base of its support and made human rights part of the consciousness of society? Have we been employing the most effective strategy to achieve the goals enumerated in the constitution of the PUCL? If there was some inadequacy, how should did we remove it? These are the questions we should ask ourselves to decide our future course of action.

The human rights situation has been getting from bad to worse. There are incidents of killing in fake encounters in police custody, in the police firings on unarmed demonstrations and cases of disappearances (abduction and killing by the police or security forces) with impunity. From time to time, mass graves are found in which the victims of abductions have been buried. There is a plethora of draconian laws under which any innocent person may be sent behind the bars for years with very little possibility of being found innocent. Then, there are preventive detention laws under which any innocent person may be detained for a long time without being compensated for even if his detention is found to be unjustified and quashed by a court. Women can be raped and even killed by the members of security forces with impunity because the law protects them. The departmental enquiries are a charade to protect the guilty thus adding insult to injury. To top it all, the rulers have no sense of shame in committing these violation on their own people.

The plight of the common man under the ordinary laws of the land is no less pathetic. The fear of the police remains undiminished .They strike as much terror in their hearts as they did before independence. They can implicate people in false cases, arrest them at will, can weaken the cases involving most heinous crimes under influence or for money to secure the acquittal of the accused .They even refuse to record an F.I.R. as if it is their discretion.

Killing with impunity under special laws (like the Armed Forces Special Powers Act (AFSPA)) or under sec. 132 of the Cr.P.C. for dispersing an assembly of unarmed persons have become the norm. The police fire and kill unarmed persons in a demonstration and get away with it by invoking the right to self defence. Their word is accepted as the gospel truth, and they do not have to prove it like us before a court. Thus, in

effect, they have a license to kill with impunity.

Compared with the days under the British government, the post independence Government of India appears more repressive, ruthless and blood-thirsty One did not hear of killing in fake encounters of the revolutionaries as one regularly hears (and knows) now, of the killing of persons suspected of taking to arms against the government or criminals. Killing in fake encounters and covering it up is an invention of democratic India. There were incidents of firing and killing by the police on demonstrations even under the British rule, but they were not so common and not done on the drop of a hat as happens now. The number of the killed in the police firings on demonstration between 1900 and 1947is bound to be several times less than the number since 1947.

There were fewer repressive laws in pre –independent India than in independent India. The repressive laws in independent India are harsher and with no room for the innocent to prove his innocence, than were the laws enacted by the British. Most of the existing black laws make the Rowlatt Act, which was enacted to curb the revolutionary movement in India, a piece of very liberal legislation by comparison! There was hope that the political parties and the individuals who had the bitter experience of the suffering caused by an authoritarian rule and repressive laws would rise as champions of democratic rights and staunch opponents of the draconian laws. The hope has proved totally misplaced and has been completely belied.

With the hostile mainstream political parties, the hostile rich, the unsupportive middle class, a bonded media and the indifferent masses, human rights have the appearance of an 'orphan'. The political parties, which fought Indira Gandhi's authoritarian rule turned out to be her clone when they themselves came to power in the states or the centre. They all serve the same master, the rich, and need the same arsenal to suppress the protesting poor. The media, which have become a business free from any obligation to serve social or national interest, are unabashedly pursuing the business interest of their owners, which is often in conflict with human rights. With the editors and other journalists relegated to the status of servants without any security of service, they are robbed of their professional freedom and made to rid themselves of their professional conscience. The urban middle class owes the comfort of its life to globalization, liberalization and the market, and is naturally not inclined to hurt the goose which lays the golden eggs.

In nutshell, the human rights scenario presents a gloomy picture.

It begs the question, why it is so. So many organizations have been working hard to protect human rights for all these years, but have failed to deter the governments from bulldozing them. The answer lies in ignoring the masses and making them indifferent. The rights organizations have been selective in the causes they have chosen to champion and led to a misperception in the masses that human rights are only those which are being espoused and it does not include their concern. Some organizations, including the PUCL, have been concentrating on issues like killing in fake encounters, custodial deaths, disappearances, capital punishment black laws, prison reform etc., some on displacement, slums, environment etc. and some others on the rights of some segment of the society like the rights of women, children, the disabled, the transgender etc. The organizations are not at fault. Each of them has the right to decide its agenda and to pursue it, but it has resulted in a fragmented view of human rights, which is absolutely misconceived. The misconception has been caused by the fact that none of the causes being espoused are common to all. This has given birth to another misconception in the masses that human rights are not for them and are of no interest to them. They do not consider the victims as one of their own and do not empathise with them. They do not realise that the attack on their rights is also an attack on their own rights also. That accounts for the indifference of the masses to the violation of human rights on such a massive scale.

The human rights movement cannot play an effective role in protecting the rights without involving the masses and winning their support. It is only the fear of losing votes by alienating and antagonizing the masses, which can deter the political parties from violating human rights when they come to power.

The founders of the PUCL comprised of members of political parties, who had seen the might of public opinion in ousting Indira Gandhi from power in 1977. The other eminent persons who were founders of the organization shared this view. The aims and objects enshrined in the PUCL constitution aims at empowering the masses by creating a democratic ethos in the country and empowering them by working to ensure the rule of law and the dignity of the individual which are in every person's interest and of every person's interest. The dignity of an individual depends on his worth. A person who underestimates his own worth suffers from low self esteem and considers himself inferior to the others who are worthy in his eyes. The caste system lasted so long because the people in the caste hierarchy were made to believe that their worth depended on the caste to which they belonged. Those who were lower in the caste hierarchy and were subjected to inhuman

treatment did not perceive it as unjust and inhuman and believed it to be their destiny. Loss of dignity due to low self esteem destroys one's faculty to perceive injustice as such and makes him reconcile to it. Inequality in the inherent dignity of a person is against the very foundation of human rights and democracy.

The Indian constitution confers equality to all, but it is so only in principle. A different hierarchy based on power, wealth and education has been created in which those who do not possess them do not consider themselves equal to those who have them. The masses have been made to believe that they are supplicants and the people in the government are their benefactors. For the success of human rights movement, it is necessary to empower the masses by restoration of the dignity and equality which the constitution confers on them but of which they have been shorn by the privileged classes. But this cannot be achieved by fighting for them on their behalf. This can be achieved only by going to the masses and inspiring them to fight for their dignity. Once aroused with the consciousness of their dignity, a formidable and unstoppable force would be generated to fight for other rights.

The rule of law is another issue which is in the common interest of all. In our country, there is rule of law in form but not in substance. The constitution guarantees equality before the law. As its sequel, everybody is tried by the same court for the same offence and is liable for the same punishment; in actual practice everybody does not receive justice, in the end. Poverty causes denial of justice because wealth can manipulate or (in many cases) buy it. The common man is reconciled to this fate and has lost hope for justice. We must go to the masses to kindle in them hope for justice and reaction against injustice to inspire them to fight for the right to justice, which is everyone's right.

It is the masses who are victims of police excesses and the third degree method or suffer due to inordinate delays in courts, heavy expenses and miscarriage of justice. Every member of society, but specially the poor, is their victim. This is a cause which would touch every heart.

The mandate of our constitution is to engage both with the State and the masses. It enjoins us 'to combat social evils which encroach on civil liberties, such as untouchability, casteism and communalism which can be done only by `going to the people'. Generally, we have investigated atrocities committed due to these social evils, but not undertaken to engage with the people to change their mindset. We also are enjoined to defend in particular the civil liberties of the weaker sections of society and of women and children.'

We must remember that the aims and objects enshrined in the PUCL constitution make us different from most other rights organizations. Our aim is not limited to stopping a few selected types of violations or violations of the rights of a selected sections of society (e.g. women, children) or to oppose activities adversely affecting some human rights (e.g. environment) but much wider in its scope and range. It is as ambitious as promoting democratic way of life and civil liberties. It is as fundamental as securing the dignity of the individual, which is at the root of all human rights. It is as all- embracing as securing the rule of law, and as down to earth as stopping police excesses, the third degree method, prison and judicial reform which are the crying needs of the masses.

Human rights cannot be protected without going to the masses, arousing them and inspiring them to fight for their rights. Our role is of a very potent catalyst.

I urge the Convention to deliberate on the most effective way for playing that role.

The PUCL constitution clearly shows the way to its aims and objects .It is for us not to deviate and follow it. ❑

Summary Report of 12th PUCL National Convention, Patna

The 12th National Convention of the People's Union for Civil Liberties (PUCL) concluded successfully in Patna on 6th and 7th December, 2014. Over 300 delegates from throughout India participated in the Convention including delegates from Tamil Nadu, Karnataka, West Bengal, Gujarat, Chhattisgarh, Jharkhand, Delhi, Rajasthan, Bihar and elsewhere. It is for the first time that a PUCL National Convention was held in Bihar. It is noteworthy that Bihar has a strong and active unit since the days when Jayaprakash Narayan inspired activists to raise issues relating to civil liberties right from the time of the emergency imposed in 1975.

The Convention was addressed by Justice Rajinder Sachar, a former President, and Prof Prabhakar Sinha, the current President in the inaugural session. Justice Sachar referred to the mandate of the constitution which enshrines several rights of people, which covers right to protest against their denial as well as right to a decent living. Prof Sinha spoke about the need of working to protect the rights of common people on a day to day basis.

The first delegate session started with a comprehensive presentation by Dr V Suresh, the General Secretary of the Organisation. He flagged some of the key issues before the PUCL today including the

widespread violations of rights by uniformed forces committed with impunity across the country; the need of affirming the `dignity' of all citizens, especially the marginalised and excluded communities so as to ensure `development with democracy and dignity'; and the importance of working to `deepen' democracy as democracy and human rights are two sides of the same coin. The issues of development and threat to ecology and environment were also highlighted. Following the presentation of national level challenges before the PUCL and the human rights movement, the participating state units highlighted the key human rights concerns in their states, shared their organisational experiences, problems and future plans. After a round of open discussion, chaired by noted Supreme Court lawyer Sanjay Parikh, discussion was summed up by Vinay Kantha from Bihar and Rohit Prajapati from Gujarat. There was a cultural programme presented by IPTA in the evening.

The second day of the Convention began with a presentation by Prabhakarji on `How to take human rights to the common people' which was followed by a vibrant discussion in a plenary session with members from all the states sharing their views on practical measures and strategies on taking human rights to the masses. While the human rights violation context in different states varied, a general consensus emerged that we needed to think `out of the box' to undertake activities which would reach out to the larger population to sensitise them to get involved with the human rights movement. The need to be sensitive to the cultural, social and historical contexts of each state while at the same time evolving a practical programme of action was also underscored by many members. This general discussion was followed by `break out' sessions on 5 thematic issues with delegates choosing a group of their choice. States with many delegates were requested to ensure that their members participated in as many of the thematic sessions as possible, so that the message of the discussions can be disseminated further in their states. Delegates were also informed that the themes for discussion were formulated based on the organisation wide discussions on `Reimagining PUCL' that has been going on for the last 2 years; a consideration was to club together a number of diverse but interconnected issues of human rights concern. It was also explained that while there are numerous other issues of human rights concerns which were outside the ambit of these thematic classification, the idea was to identify issues which were of common concern in all or many states in India so that PUCL as an organisation can evolve a national action plan on these issues. Members were also requested to propose a tentative action programme at the end of their discussions, which can then be taken forward in the next National Executive meeting.

The five thematic discussion groups issues were:

(i) `Human rights violations under ordinary laws', moderated by Nishant Akhilesh from Jharkhand;

(ii) `Draconian laws, state terrorism and impunity', moderated by Sudha Bharadwaj from Chhattisgarh;

(iii) `Communalism, communal violence and State response', moderated by Kavita Srivastava from Rajasthan.

(iv) `Development process, ecology and human rights issues', moderated by Rohit Prajapati from Gujarat.

(v) `Human rights violations of marginalised communities: Dalits, tribals, women, sexual minorities and others', moderated by Dinanath Pente from Jharkhand.

The moderators presented a summary of the discussions to the plenary with participants in their groups supplementing the presentation. The richness of discussion, the depth of understanding and the varieties of action programmes which can be undertaken was on display during the presentations and discussions. It was decided that detailed report of the discussions in each group will be circulated throughout the organisation and State units requested to discuss it internally and make suggestions for national level campaign and activities. This will be thereafter discussed in the next National Executive meeting to take place in end February, 2015 when concrete shape will be given to formulating national level activities on the concerns highlighted under each thematic subject.

Several participants expressed their anguish against growing communalisation and majoritarian assaults on minority groups in the country. The spread of ideology with tacit and indirect support including new initiatives in the knowledge and education sector are particularly worrisome. The increased control of natural resources, sometimes even grabbing of common resources, by the corporate sector is leading to a marginalisation of ordinary people in many states including among others, Chhattisgarh, Jharkhand, Odisha and Rajasthan. People's protests are being suppressed, even bypassing the laws and legal procedures in many cases, against which PUCL has been raising its voice. In many states, particularly where special laws like Armed Forces Special Powers Act or similar other repressive draconian laws are applied, people's basic constitutional rights are being negated with impunity.

A number of resolutions were passed at the National Convention. These included the need to launch vigorous programme to counter violation of human rights on various issues across India.

Participant from Rajasthan, Jharkhand, Delhi, UP, Bihar, Chhattisgarh, Tamil Nadu, Karnataka, Gujarat, West Bengal and Assam expressed serious concerns on the rise of the ideology of `majoritarianism' putting the rights of the religious minorities in grave danger. It was felt that it was not a situation of communalism but a majoritarian assault on the rights of the people of the minority. The PUCL needs to engage with this in a major way and apart from continuing to do Fact findings and legal cases, it needs to take this engagement right upto to the individual person. It was also strongly suggested that a dialogue with different sections of the youth needs to be undertaken, along with making the Government's accountable on this issue. A national team was constituted to monitor what was happening in the country.

The convention also pointed out that it is unfortunate that the Chhattisgarh government instead of respecting and abiding by the Supreme Court verdict asking it to respect rule of law and disband Salwa Judum should instead continue to threaten, harass and intimidate activists who have highlighted the brazen human rights violations committed by the state police and other groups under its patronage. PUCL condemned in the Convention such brazen attempts as by the Chhattisgarh government to criminalize dissent and silence critics.

The PUCL also strongly condemned the amendments in four major labour laws in Rajasthan, which completely take away basic human rights of the labour as well as its right to association. PUCL is concerned that similar efforts are underway in other states as also in the centre, to do away with laws and policies which afford some measure of protection of the rights of workers and labour in India.

The PUCL convention also expressed its concern about the Report of the `High-Level Committee' constituted by the new NDA Government in August for review of Environment and Forests Laws which recently submitted its report to Ministry of Environment, Forest & Climate Change (MoEFCC). This Report which has recommended major changes in legal and policy architecture of current environmental laws and policy in India is both retrograde and harmful for sustainable, human development by recommending that many important provisions of law protecting environment and ecology from rapacious and destructive development be done away with. If the recommendation to restructure existing environmental protection laws and policies are brought about, they will seriously endanger citizens and environment and will, in effect, dilute and negative sound jurisprudence and principles of environmental protection evolved over the last 2 decades due to numerous citizens' groups fighting for environmental justice. The PUCL condemns the Government of India's efforts to dilute the present environmental laws in the name of development and appealed to people to fight against this move of the Government of India collectively.

The convention ended on a high note with members departing energised by the intense discussions, animated participation and clear cut action programme which emerged during the discussions in the Convention. Members expressed their sense of fulfilment and satisfaction with the efforts to streamline the organisation to bring activities in tune with the PUCL constitution and the greater transparency and inclusiveness brought about by ensuring elections to committees at all levels of PUCL according to procedures and in a time bound and open manner.

There was unanimous appreciation expressed by all states of the efforts of entire Bihar state unit to the meticulous planning of the event, including hosting it is a very beautiful campus, arranging cultural events by IPTA, and in many small and big ways, expressing how they `cared' that out-station delegates had a memorable experience.

(This summary is a revised version of the Press Statement issued during the media meeting on 7th December, 2014 at the conclusion of the 12th National Convention drafted by Prof. Vinay Kantha, Prof. Daisy Narain and Kavita Srivastava)

V. Suresh, National General Secretary

Post Script: On 6th December, 2014, the Bihar state PUCL had organised a discussion meeting with students and leaders of students movements at the historic Patna College. The meeting was chaired by Prof. Daisy Narain, President, Bihar state unit. Dr. NK Chaudhury, Principal, Patna College while welcoming the gathering also pointed out that Jayaprakash Narayan, among many other stalwarts of the freedom movement, studied in the Patna College and that students of the college paticiapted in large numbers during the student agitations of the 1970's both preceding, during and after the emergency period. Prof. Prabhakar Sinha, Dr. Binayak Sen, Rohit Prajapati, Dr. Lakshminarayana, Prof. Vinay

PUCL wishes all its readers a Happy New Year, 2015. **- General Secretary, PUCL.**

Kantha and Dr. Suresh (all national office bearers) participated in the meeting. Particularly noteworthy was the intense nature of the discussion and the deeply politically well-informed content of the discussions with the students representing diverse students' unions. The vibrant dialogue so moved the Principal, that in an impromptu manner he announced that the formation of a `Human Rights Platform' in the college which would regularly organise programmes and meetings on human rights. Dr. Chaudhury explained that the Platform was being launched in recognition of the PUCL National Convention being held in Patna and in Bihar for the first time since PUCL was formed in 1976 by JP.

To begin with the Principal announced that the first meeting of this platform will be held on 10th December, 2014, international human rights day. ❑

PUCL President's letter to Fr. Jose:

PUCL and Communalism

16th December 2014

Dear Fr Jose,

I am glad you told me about the feeling of some of our members that the PUCL's position was somewhat anti-Hindu. Nothing can be further from the truth. The PUCL is unambiguously against communalism. I would like to draw attention to the following provision in its constitution:

"2(n) to combat social evils which encroach on civil liberties, such as untouchability, casteism and communalism."

It is the constitution of an organization, which explicates its position on the various issues. The members who felt that an anti-Hindu position was being advocated by a speaker should have asked for a clarification, and if not satisfied, should have asked the President or the General Secretary to inform them about the PUCL's position. Had this been done, there would have been no misunderstanding.

The PUCL is against communalism of not only the majority community but also of the minority community, as it is not compatible with democracy and human rights, which do not permit discrimination between persons or community on the ground of religion, birth, sex or many others. However, it views the communalism by the majority community as a greater threat to human rights and democracy than the communalism of the minority community. For example, the communalism of the Hindus cannot pose a threat to the citizens of Pakistan or Bangla Desh as the communalism of the majority community of the two countries. The communalism of the majority community in Pakistan has reduced not only the members of the minority community to a second class citizens but also endangered their lives under anti-blasphemy law and discriminatory treatment under the ordinary laws.

Religion based communalism of the majority community is a grave threat not only to the minorities but also the members of the majority community. During the rule of the Taliban in Afghanistan, the women were forced to remain confined to their homes and were forbidden to go to school to study or stir out of it to go to work. In Pakistan, the law does not recognize men and women as equal. The evidence of two women is considered equal to one man's evidence by the courts of law. No man can be punished for rape only on the evidence of women witnesses. Women are raped in the police stations and no punishment follows because the victim cannot get male witnesses to support her allegation. The law also provides that if the allegation is not proved the complaining woman would be stoned to death for charaterlessness. Thus, the victims of the Muslim majority in Pakistan are not only the minorities but the entire population and democratic rights.

The PUCL does not condone communalism practiced by any minority but is specially and deeply concerned by the development in the country following the rise of the BJP to power. Books are being forced to be withdrawn under threat, the Governor of UP (who is not expected to make political statement based on his personal view) makes a public statement for building Ram Mandir at Ayodhya knowing full well that the matter is pending in the Supreme Court, BJP M.P. Adityanath declares that 'Babri demolition was a show of Hindu unity and asks not to stop 'Ghar Wapasi' (i.e. reconversion of the Muslims and Christians to Hindu). Sakshi Maharaj, another BJP M.P. declares Nathuram Godse a patriot for killing Mahatma Gandhi; meetings on the issues contrary to the views of the BJP and its associates are disrupted and vandalized. Schools run by the Christians in Chhattisgarh have been forced to hang Ma Saraswati's pictures and asked to discontinue being addressed as Father. These are only a few examples of what is happening all over the country.

If these anti-national activities are not opposed, we may become a clone of Pakistan or Afghanistan under the Taliban. Anti-national acts are not only those which are a threat to our security from other countries but all those acts which subvert our democracy and are a threat to our human rights. The PUCL was born to fight Indira Gandhi's dictatorship to restore our democratic way of life, civil liberties and the rule of law. In fighting the attempt by the forces making a determined bid to destroy all that we, as a nation, have achieved is only a continuation of

the fight for the cause for which we continue to exist and act.

The communalisation of the majority community leads to fascism, which is a threat to all, not only the minorities. Hitler did not kill only six millions Jews but mercilessly exterminated even those Germans who seemed to oppose his totalitarian system of government. Many of them were his close associates. The PUCL is only against the forces which are trying to communalise the majority community and not against the majority community itself. It is opposed to the attempt to communalise the majority community and the fascist acts of usurping our democratic rights not to save the minorities but all Indians including the majority community. No community is bad, but all of them have to be saved from the forces of evil, which are ever active to mislead them for their evil purposes.

Prabhakar Sinha ❑

No Logic in Judges' Transfer

Supreme Court accepts the Govt. suggestion on outside Chief Justices

Rajindar Sachar

Self-Inflicted wounds seldom heal. I am reminded of this whenever I think of the transfer policy of High Court judges being followed by the Supreme Court. No doubt the power of transfer of judges from one High Court to another is to be found in the Constitution. But when in 1963 some amendments were to be made, the then Law Minister in order to remove apprehensions about the misuse of power assured Parliament that the transfer of a High Court judge would only be done with the judge's prior consent. But in 1975 the High Court judges were the target in series of non-consensual transfers because they were said to be too independent. The Supreme Court, one had hoped, recognising the danger to the independence of the judiciary, would strike down this provision - but rather it self-inflicted a wound by continuing to uphold this power.

I fail to see any logic in the present policy of transfers. Normally transfers may be explained by the Supreme Court by relying on what is ironically called the "uncle/ nephew phenomenon", namely to transfer those judges whose sons or brothers are practising in the same High Court - though to me this unnecessarily accepts an adverse assumption without any solid proof. But to transfer a judge at the initial stage is most unfair. There is double jeopardy. When judges are appointed in one court and then transferred to another, they are denied the right to practice in the parent court. The more damaging aspect of the transfer of judges is the practice of appointing outside Chief Justices and judges notwithstanding the fact that at the Chief Justices' Conference held in 2002 it was resolved that the policy of having outside Chief Justices of High Courts be discontinued. But the government was apparently not happy with it because in such a case it would have no hand in the appointment because the senior most judge of a High Court would automatically have to be appointed the Chief Justice. Later on, however, the Supreme Court collegium yielded to the government suggestion of outside Chief Justices and the damage was done.

There are no past precedents in India nor in other countries like the USA and the UK does this practice prevail. In fact, in the USA, in many states the Supreme Court justices, whether elected or appointed, are not posted outside the state. No one has found fault with this practice in the USA or the UK. Why this gratuitous insult to the Indian judiciary?

I have never understood the logic of transferring the senior most judge whose turn has come to head the court in which he has worked for almost 10 to 15 years and with the functioning of which and also the lower judiciary he is most familiar. To transfer him out of the state for a period of one or two years to a new court to which he is a total stranger, most likely not even knowing the names of his colleagues, is a strange concept of advancing the administration of justice. He may willy-nilly have to rely only on the opinion of a few select colleagues and officials which unfortunately may spell further disharmony in the High Court. Is there any special reason why the judiciary wants to devalue experience and, thus, score a self-goal and reduce its own effectiveness?

Let us not indulge in hypocrisy of judges being tigers and fiercely independent - yes they should be but practical life is different. We know to our shame how apparently Supreme Court judges caved in during the Emergency (1975) and how the threat of transfer kept many quiet. Do not forget that judges come from the same background as the rest of us mortals.

That transfer policy continues to defy logic has been brought to public notice very recently and rudely when I read in a newspaper about the appointment of nine judges in the Punjab and Haryana High Court. All of them, we are told, were asked to give their consent to be transferred any time at the discretion of the Supreme Court, though they were given the useless lollypop of inviting their three preferences of the states to which their transfers could be made. I understand none of them has any relation practising in the Punjab and Haryana High Court. Three have already been ordered to be

transferred. How a choice has been made and by what norms is not immediately known. So arbitrary and one may even say unsympathetic is the decision that amongst these three there is a lady judge, who has no parents and, being unmarried, no immediate family she can take with her to the new strange place. I am quite sure that if the executive had transferred any officer in such circumstances the Supreme Court would have pontifically reprimanded the executive for justifying its arbitrary and discretionary anti-women attitude - sarcastically this action of the collegium has given a pleasurable justifiable occasion to retort loudly: "Physician heal thyself first".

Let me make it clear that I have never seen or met any of these nine appointees, nor have I known the parents or relations of any of them. My distress is because of the deep attachment I have to the Punjab and Haryana High Court, where I spent my best years at the Bar and where friends were gracious enough to elect me the president of the Punjab and Haryana High Court Bar Association unopposed in 1967-68. So any decision touching the High Court by the mysterious working of the collegium naturally disturbs me. I also know closely the trauma of transfers from my experience during the 1975 Emergency. But then we were political animals and could bear the trauma, namely, family disruption and isolation, tolerably well. But there is no justification for putting the politically neutral judges, especially a single lady judge, to the trauma of transfers and tragically that too at the hands of the family head - the collegium of the Supreme Court.

I know I am sounding harsh, but let me in my defence call to aid the observations of Justice Holmes of the US Supreme Court who said: "I trust that no one will understand me to be speaking with disrespect of the law, because I criticize it so freely…but one may criticize even what one reveres… and I should show less than devotion, if I did not do what in me lies to improve it."

Published in **The Tribune**

(Tuesday, November 25, 2014) ❑

General Secretary's letter: 18 December 2014

To: All National Office Bearers; All State Presidents, General Secretaries & Members-PUCL National Executive.

Announcement: Next PUCL National Executive Meeting in Delhi on 28th Feb & 1st Mar. 2015

This is to inform you that the First 2015 PUCL National Executive meeting will take place in Gandhi Peace Foundation, Delhi on 28th February and 1st March, 2015. Lodging arrangements are being made for those from outside Delhi. We request that all the National Executive members please attend the same without fail.

We also request members to intimate your (i) participation in the meeting (ii) time of arrival and departure and (iii) if you need a bed to stay in GPF. The third piece of information is especially required as we need to confirm booking of that many rooms to GPF. We have been asked to confirm the number of rooms we require by mid-Jan 2015.

Agenda: we will naturally seek to give shape to the discussions we had during the Patna Convention. We request however colleagues to suggest issues/plans/suggestions that we should discuss.

Of importance is to finalise two to maximum three national level campaigns to be taken up by PUCL nationally, involving all the state units. We request State office bearers to discuss this with their colleagues and members and come with concrete proposals for action.

Membership: Just to remind everyone, the National Executive is made up of the National Office Bearers + the Presidents and General Secretary of each state. Since a few states have 2 General Secretaries each, we would like to suggest that both of them attend the Executive meeting. This will help in process of decision making and implementation as there will be continuity.

A few states have still to have elected bodies like Odisha, Maharashtra and some others where fresh elections have still not been completed like Gujarat, Kerala. We have been inviting those members who have been acting as coordinators / anchors in the states and invite the same for this meeting. Hopefully we will be able to have properly constituted state committees soon.

We also have to finalise the status of AP and Telangana states.

Substitution: We would like to remind colleagues that based on our collective decision, for the last few meetings we have insisted that only the nominated persons attend the national meetings of both National Executive as also the National Council. We urge all the members to ensure that we follow this norm.

Just in case for some office bearer is unable to come due to a personal reason and wants to nominate another state office bearer, please inform us prior to the meeting so that it can be discussed and approved.

Looking forward to meeting you all in end Feb, 2015.

In solidarity,

V. Suresh ❑

PUCL Ajmer:

Sheru Mohmed Is No More

We are sorry to inform you that Sheru Mohmed, a strong defender of Human rights and PUCL Member in Ajmer Unit, is no more. His sudden death took place on 15th of November 2014. Ajmer PUCL will miss him very much. Our heartfelt condolence to his family members.

Sr. Carol Geeta, D.L. Tripathi, O.P. Ray, Anant Bhatnagar and all PUCL friends from PUCL Ajmer,

PUCL Gujarat: 13 December 2014

'T.S.R. Subramanian Committee' is interested in "Management of Environment" and not in "Protection of Environment"

Rohit Prajapati and Krishnakant

The BJP's Election 2014 Manifesto categorically assured the industrialists that policies to promote industrial growth will take precedence over those that ensure environmental protection. This is consistent with the "Gujarat Model of Development," which led Gujarat State to become number one in pollution. To make operational this commitment to industrialists, on 29 August 2014 the Modi Government appointed the ***T.S.R. Subramanian committee*** to review six environmental laws. Officially known as the ***"High-Level Committee constituted for review of Environment and Forests Laws,"*** the committee was tasked with submitting an exhaustive appraisal of six environmental laws to the Ministry of Environment, Forest & Climate Change (MoEF&CC) within two months, with subsequent a one month extension. The specific laws were: [1] The Environment (Protection) Act, 1986, [2] The Forest (Conservation) Act, 1980; [3] The Wildlife (Protection) Act, 1972; [4] The Water (Prevention and Control of Pollution) Act, 1974; [5] The Air (Prevention and Control of Pollution) Act, 1981; [6] The Indian Forest Act, 1927.

In spite of the impossibly short time frame, ***surprisingly*** the committee submitted a report with detailed recommendations to develop a totally new structure of ***NEMA*** (National Environment Management Authority) and ***SEMA*** (State Environment Management Authority) to replace the Central Pollution Control Board & State Pollution Control Boards. The Committee also proposed a new umbrella law 'The Environmental Laws (Management) Act, 2014' (ELMA). The name "***NEMA"***, "***SEMA"*** & "***ELMA"*** clearly indicates that the committee is interested in ***"Management of Environment"*** and not in **"Protection of Environment"**. This committee dealt not only with the six laws under review but also suggested some fundamental changes in two other laws, [1] The Forest Right Act, 2006 and [2] The National Green Tribunal Act, 2010. It appears that the committee particularly scrutinized environment-related laws which have been effectively used by the people to protect the environment.

The committee was expected to read, discuss and review 1. the laws and various notification, amendments and circular issued under these laws, 2. land mark judgements of courts on Environment Laws of the Indian Courts and courts of advance countries, 3. status of environment of the country, and public consultation with various concerned state authorities, mainly the industrial associations across the country and with the people and people's organisations. Yet, during one instance of a public consultation in Bangalore, the committee chose to walk out of the consultation rather than engage in a discussion when people's organisations raised fundamental questions regarding terms of reference of the committee and various other issues. Actually there was no serious consultation across the country organised by the committee to deliberately avoid the real feedback on the concerned issues by people's movements and affected people.

It is also surprising for us that a former Cabinet Secretary - Government of India, Former Secretary to Government of India, a former Judge of the Delhi High Court, a senior Advocate of Supreme Court of India, a Joint Secretary of MoEF&CC of Government of India and Member Secretary of Gujarat Pollution Control Board felt confident and competent to do the task within three months without a proper consultation across the country and to propose new laws and new structures to "implement" the law.

We leave it to academicians, researchers and sensible people to make their own assessment about the assigned task of the committee keeping in mind the competency of the committee members and time period given to them to review the six environment laws.

The committee at many places describes its ***"concern"*** about the

status of environment, but in practise made explicit suggestions to give free hand to the polluting industries and eliminate their legal accountability to the land, environment and the people.

The committee in its preamble states:

> "1.2. […] Over the past decades, national and regional economic space has become more energy-intensive, also impacting on the environment. […] Livelihood issues still dominate the social and political manifestoes. […] There is now an urgent necessity for integration of environment, economic and social issues in the development paradigm."
>
> 1.3 […] In the race for development, which ideally ought to improve the quality of life of the citizen, the relationship with environment is often lost sight of. […] it is implicitly imperative for each generation to leave the environment to the next generation in a better state than they found it. […] Already Delhi is rated as one of the most polluted cities in the world; and many other Indian cities appear in the same list. We need to take heed of the very recent Intergovernmental Panel on Climate Change (IPCC) call from Copenhagen that the earth is flirting with danger – the alarm flag has been hoisted. […] A knee-jerk attitude in governance, flabby decision-making processes, ad hoc and piecemeal environmental governance practices have become the order of the day. The legal framework has not delivered."
>
> 1.4 The lasting impression has remained that the Acts and the appurtenant legal instruments have really served only the purpose of a venal administration, at the Centre and the States, to meet rent-seeking propensity at all levels. This impression has been further strengthened by waves of large scale 'clearances', coupled with major delays in approvals in individual cases. It should also be added that our businessmen and entrepreneurs are not all imbued in the principles of rectitude – most are not reluctant, indeed actively seek short-cuts, and are happy to collaboratively pay a 'price' to get their projects going; in many instances, arbitrariness means that those who don't fall in line have to stay out.
>
> […]
>
> 1.5 The Committee finds uneven application of the principle of separation of powers as established by the Constitution of India, in the administration of environmental laws. […] Judicial pronouncements frequently have supplanted legislative powers, and are occupying the main executive space. […] However, the perceived role of ad-hoc committees in decision-making and implementation appears to have reduced the MoEF&CC to a passive spectator, with little initiative except waiting for the Court to say what next. […] The Executive, as pointed out has not covered itself with glory – indeed it has invited the attention of the judicial branch through lack of basic care. […] Who pays for pollution? Who suffers? Who enforces? Who monitors? Who punishes? The legislations are weak, monitoring is weaker, and enforcement is weakest."
>
> 1.7 The principal aim of Environmental Laws should be to ensure enhancement of environmental quality parameters and maintenance of ecological balance.
>
> 1.8 The Committee takes note of the fact that the dynamic equilibrium between environment conservation and development for inter-generation equity is the need of hour."

The above remark gives the impression that the committee is truly committed to protecting the environment and is fully aware of the need to address loopholes in the present laws, implementing authorities and mechanisms. The substance of their suggestions and recommendations, however, demonstrate that the committee has not attempted to plug loopholes but instead creates more loopholes or give complete freedom to industries by making them unaccountable to laws, nature and people.

In para 1.3, 1.4 & 1.5 the words "flabby decision-making processes", "waves of large scale 'clearances', coupled with major delays in approvals in individual cases", "Judicial pronouncements frequently have supplanted legislative powers, and are occupying the main executive space" imply that these were the real worries of the committee. And that is why the committee mainly focused on delay in environment clearance approval, decision making process and judicial pronouncement against the concerned authorities and industrial projects while giving the recommendations to get rid of these "major hurdles" of the industries across the country.

The committee in its executive summary states:

<u>At Page 10</u>

> "1. […] While India has a strong environmental policy and legislative framework, much of the problem relates to weak implementation of the various acts and the rules there under. Conservation advocates, project proponents and judiciary – none is satisfied with current environmental governance and the policy tools currently deployed in the management of the sector.
>
> "2. […] While the pace of diversion of forest land has decreased in recent years, the target of 33% of land area as forest cover is a long way off; the more disturbing aspect is that the quality of forest cover has seen a secular decline. New forestation policies to attract investment of growing forests in private land, and providing a statutory safeguard – a classification of 'treelands' as distinct from 'forest' has been recommended."

<u>At Page 11</u>

> "3. The Committee also has recommended identification of 'no go' areas, which are in forest areas or inviolate zones – primarily with the criteria of over 70% canopy cover and ***'Protected Areas'*** which should not be ***disturbed except in exceptional circumstances, and that too only with the prior approval of the Union Cabinet.***
>
> "5. […] Newly proposed full time expert body National Environmental Management Authority (NEMA) at

the Centre, and State Environmental Management Authority (SEMA) would be the premier institutions to evaluate project clearance, using technology and expertise, in a time bound manner, providing for single window clearance (the existing Central Pollution Control Board and corresponding State agencies would be subsumed respectively in NEMA and SEMA when they come into existence). A 'fast track' procedure for 'linear' projects which provide benefit to community at large, as well as power/ mining projects, as also projects of national importance has been recommended."

At Page 12

"6. Environmental Management policies and programmes, and environmental mapping of the country, will facilitate pre-identification of locations for industries.

[…]

"8. A new model 'umbrella' law, ELMA, to give a statutory cover to the above has been recommended, incorporating inter-alia the concept of utmost good faith, as also the proposed national institutions and agencies."

In the executive summary the committee's other similar main concerns are expressed in clear words in para 3, 5, & 8 ***'Protected Areas'*** which should not be disturbed except in exceptional circumstances, and that too only ***with the prior approval of the Union Cabinet***; A ***'fast track' procedure for 'linear' projects***, the ***concept of utmost good faith***." In the name of "***utmost good faith"*** the committee wants to give more '***freehand'*** to the industries rather than making them more accountable to laws and environment. The word 'linear project' is so widely define by the state that they can include many more projects in that list as when they wish. As a solution to implement these ideas the committee suggests new authorities call National Environmental Management Authority (NEMA) at the Centre, State Environmental Management Authority (SEMA) at the state level and a new law the ELMA.

In chapter 3 of the introduction, the Isha Upanishad is quoted: "Everything in the universe belongs to the Supreme God. Therefore, take only what you need, that is set aside for you. Do not take anything else for you do not know to whom it belongs." We do not know what the committee means by "take only what you need, that is set aside for you." Who will decide "set aside for you" in this capitalist world?

While the committee quotes the miserable state of the environment throughout the report, the committee's recommendations are more concerned with delaying development projects due to environmental protection laws. Removing these "delays" remains their main focus in their analysis of the problems and all major suggestion made by them in terms of new authorities and the new law the ELMA. These contradictory concerns are laid out in chapter 3.

At Page16

"3.3.3 […] The land under 'forest' has increased from 40.48 million ha. in 1951 to 77.18 million ha. till date; the position on tree cover, with significant qualitative decline during this period, is disheartening."

At Page 17

"3.3.3 […] Rampant ravaging of forest cover due to mining and industrial operations over the years, coupled with weak enforcement of compensatory afforestation programmes have led to judicial intervention in the administration of forest and environment laws. […] The procedure for approval for diversion of forest land has been seen as tardy and *time-consuming, delaying the development projects*. […] The rampant ravaging of forest in ecologically fragile areas has catalysed public protests from the 80s & 90s, inviting the attention of the judicial forums which have backed the cause of conservation of forestry. The major lacunae in country's forest governance have been pointed out by judiciary, without adequate policy response from the executive.

3.3.4 The judiciary has been in the forefront of the policy formulation in the field of forest and environment over the recent decades, inter-alia declaring environment and ecology as national assets; the principle of 'sustainable development' has now been rendered as a part of Article 21 of Constitution of India."

At page 19

"3.3.6 […] The policy recognises that environmental protection is an integral part of the development process, requiring a precautionary approach through economic efficiency on the basis of the concept of polluter pays, equity, legal liability and integration of environmental consideration in sectoral policy."

At page 21

"3.5 […] Our country is one of the fastest growing economies of the world; the growth momentum is still to get accelerated, to raise standards of living of crores currently in misery and poverty. The engines of growth have depleted the natural resource base and impacted our environment. This is the challenge for sustainable development.

3.6 […] The courts have become the first resort to resolve environmental conflicts, rather than the final forum for protection of rights because of perceived inability of the regulatory agencies. Judicial initiatives guiding the policy framework and implementation module started with Supreme Court directive in for closure of limestone quarries and have continued with landmark stewardship in providing air ambient quality in Delhi, the Matheran case, Aravali mining, Dehradun Mining, Shriram Gas Leak, Ganga Pollution Case, Bicchri Pollution Case, Taj Trapezium case, Deepak Kumar Vs. State of Haryana, Lafarge case, forest conservation matters, Godhavarman case, wildlife policy among others. […] Informal regulations including the activities of community action, social media, civil societies, NGOs and others have helped revive the call for renaissance in environmental governance regime, which is currently hindered by population pressure, weak institutions, rights of local residents, and above all

weakness in the executive machinery."

At Page 22

"3.7 The judicial pronouncements in India have drawn heavily upon the principles of sustainable development, doctrine of proportionality, margin of appreciation and the eternal principle of polluter must pay."

The real intention, perspective and understanding of the committee are reflected in the chapter 4: Approach & Methodology.

In Chapter 4 of Approach & Methodology the committee states:

At Page 23

"4.1 In undertaking its work, the Committee applied the following principles, as applicable in each situation:

[…]

b. Transparency, to the extent feasible in all aspects of management of the environment, particularly in the context of providing approvals and clearances.

[…]

d. Ease the process of approvals, without compromising the sanctity of the environment."

At Page 26

"4.5 [...] The Committee noted that the cause of environment preservation is not adequately met by the present monitoring methods.

4.6 […] Accordingly, the Committee has not just suggested new legislation, it has also given pointers for amendment of existing rules, regulations, procedures and executive directions; it has also called for review of aspects of current policy, for the consideration of the MoEF&CC.

4.7 […] There has also been demand for a 'single window' to deal with the clearances under different Acts. This has been prescribed/ elaborated in Chapter 7."

In para 4 (b) & 4.7 the word like "Transparency in the context of providing approvals and clearances and 'single window' remain their main concerns and they are not worried at all about the transparency in project clearance process for the project affected people. Thus their consistent concerns for the 'speedy project clearance' with 'single window' system remain intact.

In chapter 5, the committee's attitude to forest issues becomes clear.

At Page 28

"5.3 In this context a strategy is proposed which should focus on the following milestones:

[…]

• Streamline the process for forestry clearance."

At Page 32 & 35

"[...] Recommendation: Plantation of approved species on private lands could be considered for compensatory afforestation with facility for 'treeland' trading.

5.8 Streamline process for according clearance for diversion of forest land – The Committee noted that existing procedures for the diversion of forest land clearances take considerable time. […] Under the existing guidelines a time line of 210 days has been prescribed for processing applications at the State government level. […] The Committee has been led to believe that at times it takes over three years to obtain a clearance under the FC Act, 1980.

5.10 The Committee gives below some suggestions to help speed up the clearance process, in a tabular format, in broad terms, in so far as the forest clearance is concerned.

Recommendation: Revise procedure for clearance under FC Act as above, which is intended to reduce the time taken, without compromising the quality of examination. For linear projects, it is recommended that FR Act needs amendment to consider removal of the condition of Gram Sabha approval."

At Page 37 & 38

"5.11 […] The suggested revised procedures would speed up project implementation, concurrently tending to add to forest cover, simultaneously ensuring smooth CA implementation.

[…]

5.12 The concept is that the project proponent will pay a higher amount for afforestation; he will also finance afforestation of at least twice the amount of forest land that he has utilised. However, the actual mechanism of ensuring reliable and quality CA should be through a separate mechanism; **leaving the project proponent to focus on his project**."

Protecting and nurturing the forest is therefore not the main concern, but streamlining the process for forestry clearance is. And that is why the committee recommended that "FR Act needs amendment ***to consider removal of the condition of Gram Sabha approval***."

The committee promotes project proponents to simply ***'pay and use the forest land,'*** *which, if history is to be a lesson for the future, spells disaster for the nation's forests.*

Under the committee's vision outline in 5.12, project proponents have no responsibility towards ensuring afforesation as long as they put forth cash, "**leaving the project proponent to focus on his project**."

In chapter 6 on Wildlife the committee states:

At Page 44

"6.14 Respect for cultural traditions: India has a varied and glorious cultural tradition; while there are many national festivals, there are also localised festivals which are of great local importance in different States. Nature and animal worship has been part of the national culture. Thus, for example Nag Panchami in many States is celebrated and snakes worshipped during 5 days in Shravan month, as a thousands years-old tradition. It is to be noted that the snakes are never harmed – indeed are worshipped during this period. A dispensation in the various Schedules should be permitted to take into account such local practices, and reflect them in their approved schedules, through gazette notification.

Recommendation: The Schedules should provide appropriate provision for taking into account the needs of local festivals, subject to no harm or injury to animals."

One of main concerns of the committee to talk about this is to allow the project like 'Shabri Kumbh' in the Dang Distinct of Gujarat where government is facing the

problem because of intervention application in the Supreme Court.

In the chapter 7 on Environment Governance the committee speaks out its real commitment for the corporate houses. The primary goal: "making doing business easier in this country."

At Page 45

"7.1 […] Forest land diversion and clearance from pollution point of view, constituting the approval processes for project clearances are largely non-transparent, involving multiple approvals with overlapping processes, based on insufficient application of technology and reliable information, significantly dependent on data provided by the project proponent, to name a few weaknesses. The present system is procedure-oriented, with insufficient focus on the need to safeguard environmental considerations. From the analysis of the data seen by the Committee, the average time taken for clearances works out to significantly longer than specified in most cases, whereas most projects sooner or later obtain approval; one analysis indeed indicated that the percentage of approved projects works out to 99.1% – clearly the focus is not on substance."

At Page 47

"7.3 The Committee noted that the current administrative structure suffers from infirmities, inconsistencies and inefficiencies as listed below:

[…]

7. Non-accountable institutions.

[…]

7.4 The current environment clearance procedures for a project envisage a four-stage scrutiny for 39-types of scheduled economic activities."

At Page 49

"7.7 […]

• There is need for a single window clearance mechanism; this is not a new suggestion. Admittedly, an operational mechanism for this would require some effort in the beginning but it would certainly pay dividends. The Committee has made a recommendation in this.

It is proposed to revamp the clearance examination/ approval process, to define a new arrangement, using science and technology to the extent feasible, reducing the discretion currently allowed at various levels, to lead to a more rational process of environmental clearance which is more focussed on the reconstruction of degraded environment and holistic conservation of environmental entities.

Recommendation: Proposal to revamp the project clearance/ approval process.

7.8 It is proposed to create agencies, viz. National Environment Management Authority (NEMA) at national level and State Environment Management Authority (SEMA) for each State as the pivotal authorities to process applications for composite environmental clearance (one window), for category A cases through NEMA and for category B projects through SEMA."

At Page 50 & 51

"7.9.1 NEMA, will have a full time Board, with a maximum strength of 15. The Chairperson would have administrative experience and be at least of the rank of Additional Secretary in the GoI.

[…]

7.9.3 The functions and responsibility of NEMA will include consideration for approval of all the projects under its mandate.

[…]

v. Specifying standards for recognition of laboratories in pollution level monitoring.

[…]

ix. NEMA may give advice and direction to SEMA as required in respect of monitoring of projects, including advisories on technology, as well as administrative matters.

[…]

7.10.1 SEMA shall consist of a full-time Chairman and maximum 15 members; five of whom shall be ex-officio, to be nominated by the State Government; the remaining to be full-time professionals, with expertise and experience in various aspects of environmental management. The Chairman shall have administrative experience at least of 25 years.

7.10.2 The Chairman and Members, other than ex-officio Members of SEMA shall be appointed by MoEF&CC, GoI based on recommendations of the State Government concerned."

At Page 52

"7.10.2 The Chairman and Members, other than ex-officio Members of SEMA shall be appointed by MoEF&CC, GoI based on recommendations of the State Government concerned.

[…]

7.10.4

[…]

e) to evolve economical and reliable methods of treatment of sewage and trade effluents, having regard to the peculiar conditions of soils, climate and water resources of different regions and more especially the prevailing flow characteristics of water in streams and wells which render it impossible to attain even the minimum degree of dilution;

f) to evolve methods of utilisation of sewage and suitable trade effluents in agriculture;

g) to lay down effluent standards to be complied with by persons while causing discharge of sewage or silage or both and to lay down, modify or annul effluent standards for the sewage and trade effluents;"

At Page 53

"7.11 For each Union Territory, an Environment Management Authority (UTEMA) may be created, with appropriate modifications from the SEMA model suggested above.

[…]

7.12.2 The Union Government shall have the powers to give directions to NEMA and SEMA in the matters of project clearances. All such directions shall be binding on NEMA and SEMA.

7.12.3 NEMA shall have powers to give directions to SEMA in all the matters except project clearances which shall be binding on SEMA

[…]

7.12.5 In case of dichotomy in the directions between NEMA to SEMA and State Government to SEMA the matter shall be referred to GoI for a final decision

7.12.6 The assets and liabilities of CPCB shall stands vested in NEMA. The assets and liabilities of SPCB shall stand vested in respective SEMA."

At Page 54, 55, 56 & 57

"7.14 Project Approval process– The proposed revised application process for environmental clearance is shown in diagrammatic form below:

[…]

In aid of environmental reconstruction programme for conservation and speedy approval of the projects in a transparent accountable system, the following procedure is recommended:

[…]

iii. There should be sector-specific model TOR for EIA study. The model TOR should have a component for incorporating relevant information-sharing with the local area/ people where the project is proposed to be located. The project proponents upon submission of application should begin EIA study.

iv. NEMA/ SEMA should carry out a preliminary scrutiny of the application and within 10 days should prescribe a location specific requirement in the terms of reference of a project, failing which the project proponent will develop the EIA/ EMP on model TOR.

[…]

vi. The method of public consultation prescribed in the existing notification should continue with the modification that only environmental, rehabilitation and resettlement issues are captured in the public hearing. ***A mechanism should be put in place to ensure that only genuine local participation is permitted.***

vii. The extant provision of dispensing with public hearing should be continued only in respect of situations when it is reported that local conditions are not conducive to the conduct of hearing, or in the matters of projects of strategic importance and national importance.

[…]

ix. There is no necessity for public hearing in locations where settlements are located away from the project sites.

[…]

xi. The appraisal sub-group of NEMA/ SEMA should prescribe the specific monitorable conditions, for compliance.

[…]

xiii. NEMA should submit its final recommendations to either for grant (with conditions) or reject (with reasons) within two months to the MoEF&CC; on which a final decision normally would be taken within 15 days by MoEF&CC – in case of rejection, with reasons thereof. Similarly, SEMA to decide the matters within two months.

[…]

xv. A tight time schedule should be prepared for each step in the process, with strict monitoring to ensure timely decisions. The Chairperson of NEMA/ SEMA, as the case may be, would be accountable for adherence to the timelines.

xvi. The entire clearance process should be through a web-based ICT tool to enable the project proponent to file and track their application as well as obtain the decision online.

The Committee considers that the recommended project approval process will bring in a simplified, streamlined, unified and transparent regime which will accord the utmost priority to the matters of environmental conservation and simultaneously will speed up the process of project approval with the help of heightened application of technology, ***making doing business easier in the country***.

Recommendation: The proposed revised project approval process envisages 'single window' unified, streamlined, purposeful, time-bound procedures."

In para 7.1, the committee makes it clear that their main concern is delay in approval process and transparency for the industries and for that they argues that in present system that whereas most projects sooner or later obtain approval; one analysis indeed indicated that the percentage of approved projects works out to 99.1% – clearly the focus is not on substance and that is why short-cut, fast-track "transparent mechanism" is a need of the day for the industries.

The committee states that the current administrative structure suffers from infirmities, inconsistencies, inefficiencies, and non-accountable institutions, and consequently suggests a more industry-friendly administrative structure which will benefit industries with a single window clearance system.

The committee proposes a national level authority called NEMA, which will have a full-time Board, with a maximum strength of 15 with the Chairperson of the rank of Additional Secretary in the Government of India. It was expected that the chairperson of the committee should be a technical expert but the committee's main concern is speedy, single window, fast track environment clearance with the administrative structure which is accountable to industries' need and greed.

The committee proposes other authorities at the state-level, called SEMA, that shall consist of a full-time Chairman and maximum 15 members; five of whom shall be ex-officio, to be nominated by the State Government; the remaining to be full-time professionals, with expertise and experience in various aspects of environmental management having the Chairman with administrative experience at least of 25 years. So now it is very clear that the state-level chairman will also be a non-technical person.

At the national and state levels, the committee proposes an administrative structure that provides a speedy, single window, fast track environment clearance that is accountable to industry's need and greed.

It is shocking to note that the Chairman and Members, other than ex-officio Members of SEMA shall be appointed by MoEF&CC, based on recommendations of the State Government concerned. That means there will be oversight of states; bureaucratic cronyism may thrive unchecked.

The committee recommended that the Union Government shall have the powers to give directions to NEMA and SEMA in the matters of project clearances and all such

directions shall be binding on NEMA and SEMA. In this way, the Union Government is the final authority; NEMA & SEMA are merely formal structure to facilitate the speedy environment clearance deemed fit by the Union Government.

The Environment Impact Assessment (EIA) of the projects are to be evaluated within 10 days, a timeframe so short that it will lead to haste in review rather than proper scrutiny. Shockingly, the project proponent – rather than an external and objective agency – will develop the EIA/EMP on model Terms Of Reference (TOR). Most past EIAs submitted by project proponents across the country reflect industry's myth that 'all is well,' although it is well accepted by the committee and most external accounts that environment degradation is rampant.

The committee sought to restrict participation of people in Environmental Public Hearing. And that is why committee suggested that a mechanism should be put in place to ensure that ***only "genuine local participation"*** is permitted. The committee sought to restrict even this ***"genuine local participation"*** by limiting local interventions to issues like environmental, rehabilitation and resettlement. This suggestion clearly indicates the committee wants to strictly restrict the people's participation in general and the participation of NGOs, and People's Organisations, whose assistance is required to the people because scrutiny of EIA need specially trained expertise. Thus ensuring that the polluters are given a lose rope and the affected communities are tied down & deprived of expert assistance.

The vision outlined is a commitment to industries clearly reflected in their suggestion that NEMA should submit its final recommendations to either grant (with conditions) or reject (with reasons) within two months to the MoEF&CC; on which a final decision normally would be taken within 15 days by MoEF&CC – in case of rejection, with reasons thereof. Similarly, SEMA to decide the matters within two months and the Chairperson of NEMA/ SEMA, as the case may be, would be accountable for adherence to the timelines. It is understandable why committee has failed to come up with such timelines and accountabilities of the concern authorities for people's complain because the committee's main concerned is industries and not people and environment.

The committee wants to make ***'doing business easier in the country'*** and that is why it recommends a revised project approval process with a 'single window' unified, streamlined, purposeful, time-bound procedures. In suggesting time-bound procedures, the committee's main concern is "***paper work"*** rather than genuine scrutiny of the projects' impact on environment.

In the chapter 7 on Environment Governance the committee further state:

At Page 57

7.15 Certain types of projects would require special treatment as listed below:-

i. […] Diversion of forest land for linear projects, except in 'inviolate' area should be appraised through a special cell in NEMA/ SEMA. A separate fast-track mechanism should be laid down by NEMA/ SEMA for approval of linear projects. […] the Committee recommends that the provisions of FR Act which make it mandatory to seek the approval of gramsabha should be amended to dispense with this condition in general to ensure that the benefit of such linear projects are available to the recipient population including the ones having habitat in forest areas as well.

[…]

Recommendation: Special treatment for linear projects, power/ mining sector and strategic border projects."

At Page 58

"7.16 […] While all technical aspects of an application/ proposal for clearance would be examined on merits by the NEMA, it was felt that the final approval or rejection powers should be retained by the MoEF&CC. […] The NEMA may not always be privy to such considerations; besides the GoI may not also like to share sensitive information in some instances with subordinate formations. Taking these factors into account, the Committee felt that the authority for final decision should be with the MoEF&CC, with the proviso that specific reasons need to be assigned when the Ministry disagrees with the findings/ recommendations of the NEMA in a particular instance."

At Page 59 & 60

"7.18

[…]

ii) The voluntary self-disclosure on compliance should be put on public domain for scrutiny. This should be a mandatory provision.

[…]

7.19 Administrative mechanism for project approval process

[…]

ii. The Committee notes that OMs have been issued redefining the scope of EIA Notification, 2006 cutting across various provisions of the appraisal process and attendant conditions."

As if the previous suggested structure were not enough, the committee further suggested that a separate fast-track mechanism should be laid down by NEMA/ SEMA for approval of linear projects. And that is why in the name of special treatment for "linear projects", power/ mining sector and strategic border projects that the provisions of the Forest Right Act, 2006 which make it mandatory to seek the approval of Gram Sabha should be amended. The committee not just reviewed the six environmental laws at issue but also suggested amendments in other laws also. The artificial justification of "national importance" is used by the committee for a fast-track clearance mechanism. For this

committee and the government, "National Importance" equates 'GDP' generating, regardless of the externalities for the environment or the people's health.

The committee wants to bring the concept of voluntary self-disclosure on compliance to avoid the routine monitoring for the compliance of the environment laws and terms and condition given in the environment clearance. What a great ***freehand*** to industries to build up making doing business easier environment in the country.

In Chapter 8 on Legal Frame Work it states:

At Page 62 & 63

"8.1 […] the Committee has adopted a method hitherto applicable in the field of insurance law. Under this discipline, the proponent and his supporting experts are required by law not only to tell the whole truth but also not to suppress any material facts.

[…]

Thus, the concept of 'utmost good faith' got legal recognition under the English Common law during the 18th Century – eventually to be made part of statutes. If the statements made by the insured turn out to be incorrect or if material facts were suppressed or concealed, the insurance company could avoid its liability. The law in India is the same.

8.2 Proposal for new law – Drawing inspiration from this concept under the insurance law and to meet the desirability of a 'single window', the committee being alive to the legal position that the lacunae noted could not be addressed through executive orders, has decided to recommend the following course of action:

[…]

(ii) The new law – Environmental Laws (Management) Act (ELMA) would oblige an applicant to disclose everything about his proposed project, especially its possible potential to pollute and the proposed solution thereto– in short all that would be relevant to making a decision on granting or refusing the clearance applied for.

[…]

iv) Introducing the concept of 'utmost good faith', ….

[…]

(vi) NEMA shall have control and superintendence over SEMA.

Amending different statutes and harmonizing them will be cumbersome and time consuming. But the problem at hand brooks no delay.

[…]

Recommendation: (i) To create a new 'umbrella' law – Environmental laws (Management) Act (ELMA) – to enable creation of the institutions NEMA and SEMA.

(ii) To induct the concept of 'utmost good faith', holding the project proponent responsible for his statements at the cost of possible adverse consequences; thus also contributing to reduction in 'inspector raj'."

At Page 64 & 65

"8.4

[…]

The individual environmental Acts have continued parts to play on areas other than matters dealt with under the new Act. With the coming in force of the new Act the corresponding provisions under the different laws will yield to ELMA. Doubts and difficulties if any will be resolved through notifications by GOI.

[…]

8.6 Noise Pollution – […] Hence it is suggested that a comprehensive provision may be added to the Environmental Protection Act.

[…]

8.7 Appeals –

[…]

Recommendation: Procedure for appeals – creation of an Appellate Tribunal.

8.8 National Green Tribunals: ELMA proposes that the decisions of the Appellate Boards will be subject to judicial review by the NGT.

Recommendation: Judicial Review role for NGT."

On 'The Environmental Laws (Management) Act, 2014 (ELMA) the committee recommend that:

At Page 68, 69, 70 & 71

"3. Act to have overriding effect: The provisions of this Act shall prevail over anything to the contrary contained in any judgment or order of any court or tribunal and other enactments including the environmental laws dealt with under this Act.

[…]

4. Constitution of Environmental Authorities: The Government shall constitute

[…]

a. Chair: Person with administrative experience and of the rank of an Additional Secretary to the government or above or persons with unblemished record of service under any government of not less than twenty five years in the field of pollution control or environmental management.

b. Secretary: A serving officer not below the rank of a joint Secretary to the Government appointed for a term as may be prescribed.

(2) State Environmental Authority (SEMA):

(i) […] In addition there shall be five ex-officio members of the rank of secretaries to the State Government to be nominated by the State Government. The chairperson shall have administrative experience of at least twenty five years

[...]

5. Powers and responsibilities of NEMA and SEMA:

[…]

(5) NEMA may at any time issue clarifications or directions in writing to SEMA either as response or 'suo-moto' for maintaining uniformity of standards or for any other reason to be recorded in writing and clarifications and directions shall be binding on SEMA.

[…]

(11) NEMA shall normally make its recommendations, with reasons, for grant or refusal on applications for clearances within six months of the receipt of the application complete in all respects. However, NEMA may grant to itself more time not exceeding one month.

(12) SEMA shall normally dispose of applications for environmental clearances within six months from the date of receipt of applications on the prescribed format with all the required papers. However,

SEMA may grant to itself more time not exceeding one month.
[…]
6.1 Power of the Government: The recommendations of NEMA on an application for environmental clearance shall be forward to the Ministry of Environment, Forests and Climate Change who will record a final decision as expeditiously as may be possible.
6.2 The MoEF&CC shall have the powers to issue directions in all matters to NEMA and SEMA in all matters."

At Page 74 & 75

"13. Appeals
[…]
(2) The appellate Board shall not entertain appeal against the final decision after the expiry of thirty days from the date of the receipt order of final decision of the government. The Board may, however, in its discretion and for reasons to be recorded, extend the period of filing appeal by fifteen days.
[…]
(6) The Appellate Board shall dispose of the appeal normally within three months of its lodging. However, the Board may for reasons to be recorded reject the appeal summarily after providing one opportunity of hearing to the appellant and may impose costs against person found to be abusing the process.
[…]
15. Bar of Jurisdiction: Subject to the powers of the National Green Tribunal (constituted under Act 19 o 2010) reserved under the succeeding provision the decisions of the Government, NEMA or SEMA under this Act or matters related there to shall not be questioned before nor enquired in to by any court or tribunal either suo moto or at any ones behest on any ground what so ever.
16. Jurisdiction of NGT: Notwithstanding anything contained in any other law the National Green Tribunal may entertain applications by parties aggrieved by the decisions in appeals under S.12- 14 above for review on grounds permissible and subject to limitations applicable to judicial review of administrative actions by the High Courts and the Supreme Court of India."

At Page 77, 78 & 79

"23. Repeal and Savings:
(1) In Water (Prevention and Control of Pollution) Act, 1974, Chapters II, III, IV and VI and in Air (Pollution and Control) Act, 1981, Chapters II, III and V shall be repealed.
[…]
9.2 Creation of a new All India Service – Indian Environment Service –
[…]
Recommendation: An Indian Environment Service may be created, as an All India Service, based on qualifications and other details prescribed by MoEF&CC/ DoPT/ UPSC."

At Page 81

"9.5 Issue of new Notification to replace the EIA Notification, 2006- over the past 8 years more than 150 circulars, Office Memoranda and amendments have been issued by the MoEF&CC to provide clarity on the various aspects of the assessment process, making it difficult to take an accurate comprehensive view on the current position. These notifications may now be summarised in a new notification, rationalising and updating all these, to provide one single updated comprehensive set of directions."

At Page 84

"9.9 The Central database- NEMA should develop a central database through capturing, collating, classifying the inventories for geo-referenced master database. The reliance on geo-referenced database captured through satellite imagery for topography, hydrological features, vegetation, settlement patterns, and related other elements having a scientifically driven exercise will aid in effective environmental management including project clearances in a transparent, accountable matter, relying upon scientific principles, and sharply reducing delay."

At Page 86, 87 & 88

"9.11 Environmental reconstruction cost – […] This amount should be borne by the development projects beyond a specific size as a part of project life cycle and to be realised as a cess or a tax or a levy.
[…]
Recommendation: Identification & recovery of environmental reconstruction cost relating to each potentially polluting unit should be in-built in the appraisal process.
[…]
9.13 Generation of awareness of ecology and environment among the general public– The Indian tradition worships nature, and our scriptures are replete with references to the need to respect the environment. The theme of forest or green cover is repeatedly seen in the Vedas and Upanishads.
9.14 Environmental Remediation of polluted sites – […] The enabling provisions should be inserted in EP Act empowering Government to generate funds through levy/ cess and take over such polluted sites to carry out cleaning exercises directly/ through State Government or local body in PPP mode or in association with industry associations. The environmental reconstruction cost for new projects must incorporate a component for remediation.
[…]
Recommendation: MoEF&CC should prepare regional plan for carrying out remediation of polluted sites in consultation with the State Governments and enabling provisions should be incorporated in EP Act for financing the remediation task."

At Page 90

"9.15 Municipal Solid Waste (MSW) –
[…]
vi. Rag-pickers and the informal contractual system operational in urban areas should be integrated in solid waste handling system.
Recommendation: Municipal Solid Waste (MSW) management has not been given requisite attention hitherto. New systems and

procedures for handling MSW need to be in place early, for effective management of MSW and with accountability. Cities should set a target of reaching 20% of current levels in 3 years time to work out a mitigation plan."

At Page 92 & 93

"9.17 Application of science and technology –

[…]

viii. Restoration and remediation of critically polluted areas and environmentally degraded sites should rely upon modern technology-aided process to continuously ensure reduction in emission and discharge level in air, water and land as well as monitoring of the improvement made in the state of environment.

[…]

The potential consequences of mindless use of science and technology could possibly be illustrated by referring to the potential for medium/ long-term adverse affects through unprepared introduction of Genetically Modified (GM) food crops. While other Ministries naturally would aggressively push for early field trials and induction, the role of the MoEF&CC may have to be one of being a Devil's Advocate to advise due caution.[…] This is not to argue that use of science or technology should be limited; more to highlight the fact that appropriate caution needs to be taken."

At Page 94

"9.19.1 Mining operations –

[…]

iv. A special cell in NEMA would, with appropriate expertise deal with mining cases of all minerals, to facilitate early environment clearance with appropriate remediation.

9.19.2 Regular reliable power supply is of critical importance to national development, power projects need speedy appraisal, and clearance where warranted. These need to be examined on a fast-track basis, without compromising environmental considerations.

[…]

9.21 Incentives for compliant units – Currently there is no incentive for industrial units which fulfil the norms or achieve results better than the stipulated norms. […] Further, many Boards have initiated various schemes to promote compliance, but these are not linked to financial incentives – there is no effective mechanism in place that motivates industry to strive for continual improvement."

The committee, in the name of the concept of 'utmost good faith' wants to trust the industries and also want to give them free hand to do their business as usual.

The committee has suggested a new law called 'The Environmental laws (Management) Act, 2014 (ELMA) which not just provides for the need, but also the greed, of the industrialist.

The committee recommended a procedure for appeals by creation of an Appellate Tribunal and sought to limit the judicial power of the National Green Tribunals (NGT) to scrutinise the entire project. Instead, under ELMA, NGT will have a more restricted judicial review role. Again, the committee recommendations are beyond the terms of reference to review only six environmental laws, and in doing so, they attempted to curtail the power of important exclusive judicial mechanism for the issues of environment, such as the NGT.

To undo the existing avenues for recourse through legal intervention achieved by the environmental movement, ELMA shall prevail over 'anything to the contrary contained in any judgment or order of any court or tribunal' and other enactments including the environmental laws dealt with under this Act. With a single recommendation, the committee has sought to take away all major rights available to the people in protecting the environment.

The committee in this chapter talks about environmental Remediation of polluted sites by public-private partnerships (PPP). This is a clear dilution of, and ethically contrary to, the "Polluter Pays" principle which Supreme Court of India has maintained until now.

The committee gives lip service on the issue Municipal Solid Waste. Instead of recommending the regularisation of the Rag-pickers, the committee clearly suggest that Rag-pickers and the ***informal contractual system*** operational in urban areas should be integrated in solid waste handling system.

The committee would have noted some basic facts revealed in the 'Report of the Task Force on Waste to Energy' dated 12 May 2014 by the Planning Commission of India. This report states "As per CPCB report 2012 - 13 municipal areas in the country generate 1,33,760 metric tonnes per day of MSW, of which only 91,152 TPD waste is collected and 25,884 TPD treated." The report further states, "Further, if the current 62 million tonnes annual generation of MSW continues to be dumped without treatment; it will need 3,40,000 cubic meter of landfill space everyday (1240 hectare per year). Considering the projected waste generation of 165 million tonnes by 2031, the requirement of land for setting up landfill for 20 years (considering 10 meter high waste pile) could be as high as 66 thousand hectares of precious land, which our country cannot afford to waste."

This waste generation figure covers only 31.15% population of India. Considering the waste generation figures of all of India, these figures will be even more daunting. The Planning Commission of India's report further states "A study, of the status of implementation of the MSW Rules 2000 by the mandated deadline by the States, was carried out in class 1 cities of the country. It revealed that in 128 cities except for street sweeping and transportation, compliance was less than 50% and in respect of disposal compliance was a dismal 1.4 %." What about the government's major role in policy making for the

reduction of waste and implementation of 'The Municipal Solid Wastes (Management and Handling) Rules 2000'? The track record in the implementation of these rules in the "Model State" Gujarat is worst.

The committee has completely ignored the deterioration of rivers/ rivulets and other water bodies around the industrial, urbanised and semi-urbanised areas.

The committee also feigns concern about Genetically Modified (GM) crops, but clarifies its real stand by stating that this is not to argue that use of science or technology should be limited; more to highlight the fact that appropriate caution needs to be taken. The committee by stating this clearly giving indication that GM crops are not a major issue for them.

The committee shows partiality for mining project by arguing in the name of "national importance" by suggesting special cell for its speedy environment clearance. These mining projects are known for large-scale displacement, soil, air, and water contamination.

The committee surprisingly suggests 'financial incentives' to the industries for its compliance.

At the end in Chapter 10 on summary of recommendation the committee clearly states:

> **<u>At Page 96, 97, 98, 99, 200 & 201</u>**
> "5. Revise procedure for clearance under FC Act as above, which is intended to reduce the time taken, without compromising the quality of examination. For linear projects, it is recommended that FR Act needs amendment to consider removal of the condition of Gram Sabha approval (Para 5.10).
> 6. […] An appropriate mechanism to be created to ensure receipt of the CA funds, and their proper utilisation, delinking the project proponent from the CA process, after he obtains other approvals, and discharges his CA financial obligations. (Para 5.11)
> […]
> 9. Regarding the issue of tackling damage to agriculture and farmland by amendments in Schedule 3, the MoEF&CC may issue circulars to all States apprising them of the legal position, suggesting that they may take appropriate action based on legal provisions.(Para 6.3)
> […]
> 21. Proposal to revamp this project clearance/ approval process. (Para 7.7)
> […]
> 22. Create National Environment Management Authority (NEMA) at Central Level and State Environment Management Authority (SEMA) at the State level as full time processing / clearance / monitoring agencies.(Para 7.8)
> […]
> 25. The proposed revised project approval process envisages 'single-window' unified, streamlined, purposeful, time-bound procedures. (Para 7.14)
> […]
> 29. (i) To create a new 'umbrella' law – Environmental laws (Management) Act (ELMA) – to enable creation of the institutions NEMA and SEMA. (Para 8.2)
> (ii) To induct the concept of 'utmost goodfaith', holding the project proponent responsible for his statements at the cost of possible adverse consequences; thus also contributing to reduction in 'inspector raj'. (Para 8.2)
> […]
> 33. Procedure for appeals – creation of an appellate tribunal. (Para 8.7)
> 34. Judicial Review role for NGT. (Para 8.8)
> […]
> 39. MoEF&CC may consolidate all existing EIA Notifications/ circulars/ instructions into one comprehensive set of instructions. Amendments or additions may normally be done only once a year. (Para 9.5)
> […]
> 48. MoEF should prepare regional plan for carrying out remediation of polluted sites in consultation with the State Governments and enabling provisions should be incorporated in EP Act for financing the remediation task.(Para 9.14)
> […]
> 52. The MoEF&CC may finalise the CRZ demarcation, and bring it into public domain to pre-empt ambiguity. (Para 9.18)
> […]
> 55. MoEF&CC may consider reworking standard-setting and revising a system of financial penalties and rewards to proceed to a market-related incentive system, which encourages 'green projects'. (Para 9.21)"

The committee had completely ignored and decided not to incorporate into their report how to address several critically polluted areas. The process of indexing critically polluted areas was initiated in 1989 and sustained by consistent efforts by the pollution-affected people, people's organisations and NGOs regarding the increasing pollution levels in the industrial areas of India had forced the Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs) to act. At that time 24 industrial areas including Vapi, Ankleshwar, Ludhiana etc. were declared 'critically polluted'.

Thereafter, in several meetings of CPCB and SPCBs serious debates on the pollution status of these areas were undertaken. Even after formulation of 'action plans' for the said industrial areas no substantial or qualitative change was observed in these industrial areas. For this reason, in 2009 the CPCB and IIT-Delhi, in consistence with the demands of the people's organisation's working on environmental issues decided to use a new method of 'indexing the pollution levels' of these areas, which is now known as the ***'Comprehensive Environmental Pollution Index' (CEPI).*** The CEPI includes air, water, land pollution and health risks to the people living in the area. However, our demand has been to include the health of the workers, productivity of land and quality of food / agriculture produce in the index since the presence of high levels of chemicals and heavy

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metals in food produce has severe health implications. This is affecting not only people living around the industrial area but anyone consuming it – hence not restricting the impact to the particular industrial area.

As per the agreed upon measures, industrial areas with a CEPI of 70 and above are considered 'critically polluted' areas while those with a CEPI between 60-70 are considered 'severely polluted' areas. In our opinion, those industrial areas with CEPI between 40-60 also ought to be labelled as 'polluted areas'.

In December 2009 the CEPI of 88 polluted industrial estates was measured; it was then that the CPCB and the Ministry of Environment and Forest (MoEF) of Government of India were forced to declare 43 of those as 'critically polluted areas' and another 32 industrial areas as 'severely polluted' areas. Following this study the MoEF on 13 January 2010 was forced to issue a moratorium (prohibition on opening new industries and/or increasing the production capacity of the existing industries) on the 43 critically polluted areas. At that time, many people's movement and environment groups had asked for a moratorium on all the 75 (43+32) polluting areas, but the powerful industrial lobby and state governments working in tandem prevailed**.** The murky politics and economics of 'GDP growth' prevailed over the cause of 'life and livelihood' of ordinary people and 'environment & conservation.

In 2009, the Ankleswar's industrial area of Gujarat, with 88.50 CEPI, topped the list of 'critically polluted areas' of India.

In 2011 and 2013, Vapi industrial area of Gujarat topped this list. Thus Gujarat continues to top in 2009 in 'critically polluted areas' in India and maintains its position in 2011 & 2013.

The recommendations of the committee are going to deteriorate the environmental condition further of these industrial clusters and there is chance that more such industrial cluster will join this list.

In the Chapter 10 summary of recommendations, the committee again reiterates its support of categorically amending the Forest Right Act, 2006 to remove the pre-conditions of Gram Sabha approval for so-called linear projects; revamping the project clearance/ approval process to follow a single window, time-bound environment clearance system that caters to the needs of industrialists over the environment; creating a new 'umbrella' law – The Environmental laws (Management) Act, 2014 (ELMA) – to enable creation of the totally new institutions NEMA and SEMA in place of CPCB & SPCBs, and instituting the concept of 'utmost good faith' as the guiding principal in environment protection under the guise of getting rid of the 'inspector raj'; and restricting the role of NGT to just Judicial Review, the modifying the EIA notification, etc. for the industries to built up making doing business easier environment in the country.

The 'high-speed' committee has given what corporate houses were asking consistently before the election from the new government and what was promised broadly in BJP Manifesto. Now it is crystal clear that for 'Modi Government' the word 'Environment' means only "Environment for Investment". ❑

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