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PUCL Wishes all its readers and Subscribers Merry Christmas and Happy New Year, 2023

EDITORIAL:

Message on International Human Rights Day, 10.12.2022

10th December, 2022, though symbolically celebrated as International Human Rights Day to mark the adoption of the Universal Declaration of Human Rights (UDHR) on that day in 1948, gives us in India an occasion to look back at the reality of human rights protection and the efficacy of institutional protections to protect rights violations.

As a nation though we boast reaching the height of excellence in technical progress and scientific advancement, when we have joined the select band of advanced nations in sending manned and unmanned rockets in outer space and the moon, where we have some of the richest businessmen in planet earth, we are nevertheless witness to the most abominable and shameful rights violations:

In the economic sector we are seeing rising inequality and soaring unemployment compete with extreme malnutrition; a nation with the biggest youth bulge in the world, which should have been our strongest asset, has however managed to squander an advantage to churn out a veritable army of unemployable engineers, doctors, teachers and other professionals, seething with anger, frustration and lost hopes. Our rivers are polluted with urban and industrial waste; our lands are made barren caused by contamination by uncontrolled use of fertilisers, pesticides and chemicals and effluents of industry and mining.

Hate politics and the majoritarian violence marks our politics, threatening the lives of millions of Muslims and Christians who are experiencing unprecedented violence and threat to their lives. The State agencies, who earlier remained as mute spectators to communal violence, are now actively participating in suppressing and subjugating minority communities through systematically executed and pursued demolitions of properties of minority leaders and groups in many states including UP, Assam, MP, Gujarat and Delhi, mass indiscriminate arrests and imprisonment under draconian laws.

Laws like the dreaded UAPA, NSA and other anti-democratic laws, has been weaponised to crush dissent and voices of democracy questioning the government. Democratic acts like organising protests, demonstrations and forming associations to protect their fundamental rights have been criminalised.

Constitutional institutions have systematically been made ineffective. Investigative agencies like the Enforcement Directorate (ED), CBI, ATS, IT and other departments have been brazenly playing the role of being like handmaidens of the ruling party used against not just political dissenters, but even against opposition party functionaries and other

groups. Sadly, the judiciary as custodians of the Constitution of India and protectors of fundamental rights have not played their role and abdicated their responsibilities.

IHRD thus is a symbolic day for all citizens committed to the Preamble and the Indian Constitution and to democracy to stand up and assert their opposition to the grave threat to civil liberties and human rights in

India today.

Let's derive courage and strength from those like Dr. BR Ambedkar, Jawaharlal Nehru, Sardar Patel, Abul Kalam Azad who dared to dream of a more inclusive, egalitarian, democratic India and gifted to Indians of all times, this most valuable of all laws, the Constitution of India. Raising our voices on 10th December will be a

fitting tribute to let it be known to all those who want to crush democracy in India, that until our last breath, we will fight to protect, preserve and promote human rights, democracy and the Constitution of India.

Dr. V. Suresh, National General Secretary, *People's Union for Civil Liberties* (PUCL)

10th December, 2022 □

Reports of State Units presented to the National Council between 4th to 6th November, 2022:

PUCL Chhattisgarh Report

Last few years have been tough on Chhattisgarh PUCL. The General Secretary of our State Unit, Ms. Sudha Bhardwaj was arrested on 28th August 2018. Subsequently we lost stalwarts like Mr. Rajendra Sail and Mr. Lakhan Singh. In a way CGPUCL lost its leadership and new individuals and members had to step-in. Leadership change can highlight differences which otherwise are buried deep. CGPUCL has endured the hard and unsteady times and with COVID-19 pandemic in control, we are looking forward to working for protection of human rights.

Movement for release of Sudha Bharadwaj & other activists in Bhima Koregaon case: Since the arrest of Sudha Bharadwaj, PUCL has been at the forefront for demanding release of all the activists in the Bhima Koregaon case. Regular protests, rallies have been organised by PUCL in different parts of the State in support of the arrested activists, demanding their release. PUCL was supported by other civil society members of Chhattisgarh.

Though there were various programmes in support of arrested activists in Bhima Koregaon case but the significant ones include-

- The Protest March and Sit-in on 28th August 2019 at Raipur.
- On 25th June 2020, protest was organised in Bilaspur remembering the imposition of emergency in 1975 and comparing it with today's "Undeclared Emergency".
- On 8th November 2020, a protest was organised with a

demand to "Save Democracy" at Raipur.

- Protest March in Bhilai on 10th December 2020.
- On 14th August 2021 a rally along with talk and discussion was organised in Bilaspur, on the subject of arrest of activists in Bhima Koregaon case under UAPA. The institutional murder of Fr. Stan Swamy in prison was condemned and the release of the activists was reiterated.

To show our support and solidarity individuals would periodically visit Sudha Bhardwaj in jail and especially on the date of her appearance in Court. The updates from prison, news about the criminal case and future course of action in the matter was a constant subject of all the meetings and programmes of PUCL until her release in December 2021.

Agitations against CAA & NRC: The Citizenship Amendment Bill which later became Act on 12th December 2019 and National Register of Citizens evoked nationwide protests and Chhattisgarh too was part of it. The protest was led by an umbrella forum name "Hum Bharat ke Log" which means 'we the people of India'. PUCL was part of the movement against CAA and NRC. But the programmes mentioned below were the initiatives of PUCL.

- A protest was organised by PUCL on 11th December 2019 at Bilaspur against the Citizenship Amendment Bill.
- On 3rd June 2020 another

protest was organised in Bilaspur against the repression and violence on the Anti-CAA protestors under the banner "Sab Yaad Rakha Jageya" i.e. 'Everything will be remembered'.

Fact-Findings

Strip-Search of girls, Jashpur: In March 2019, girls were strip-searched during examination in Jashpur district. A teenage tribal girl committed suicide because of the incident. CG PUCL conducted fact-finding of the incident and made recommendations to the state for future.

Casteist Proclamation on bathing ghat, Mahasamund: An incident happened in Basna, Mahasamund wherein the casteist prejudices resurfaced when a diktat taking caste names was proclaimed and written near a public bath pond that – lower castes should not take bath on the main ghat. The local Dalit community took strong objections to the incident. An FIR was lodged, locals organised demonstrations against the incident and Police made arrests.

The PUCL team visited the place and conducted fact-finding. This incident demonstrated that the caste prejudices still exists especially in the rural areas and it manifests itself and resurfaces through such incidents.

Burning of Jaitkhamb, Kawardha: The religious structure 'Jaitkhamb', which is a venerated Pillar of the Satnami Dalits was burnt by the dominant castes in village Dharampura, District-

Kawardha. The Jaitkhamb was on village community land and there were other religious places like Hindu Temples built on the same land. The Satnamis had been using the land for religious worship for more than a decade and initially there was no objection to the use of land by the Satnamis.

But somehow only the part of land used by Satnamis was targeted by the dominant castes in collusion with the district officials. Unnecessary violence was used against the members of dalit communities and as usually happens in such cases FIRs were registered against the victims of violence to harass them and quell the dalit protests.

Use of RPG by Security Forces - Pusnaar Village, District-Bijapur: The local activists shared the news of RPGs found in Naxal affected Bastar. The PUCL team which was visiting the area decided to take out time and visit the village Pusnaar. On visiting the village PUCL members were shown the dud RPGs which did not go off. The villagers told that the DRG (District Reserve Guard) force used the RPGs and though no one was injured or died but the RPGs landed near the inhabited village and in one case it landed less than 100 metres from a dwelling house. A Complaint on the issue has been made to NHRC.

- **Persecution of Christian minorities:** In 2022 an ambitious task has been taken by CGPUCL to document the incidents of persecution of Christian minorities across Chhattisgarh. As this fact finding spread to about 12 to 15 districts, teams were formed which visited different places on separate dates. The fact finding was an educating experience for the teams as we were unaware of most of the methods and means used for persecution of Christians. The visits and interaction with the victims is over but the arduous task of preparing the final report is pending.

- **Destruction of tribal dwellings, village Saraipani, District- Kanker:** In February 2021 forest department had damaged about 22 houses of tribals in village Saraipani, District- Kanker. The PUCL team conducted fact finding of the incident and it was found that instead of ensuring compliance of the Forest Rights Act, the administration and the Forest Department were shamelessly damaging and destroying the houses of poor tribals.

Chhattisgarh has witnessed similar incidents in Kawardha district were the tribals especially the Particularly Vulnerable Tribal Groups (PVTGs) and sometimes even Other Forest Dwellers' houses have been destroyed or burnt by the Forest Department. It is important to mention another incident when 13.9 Hectares of Forest land was encroached by a State Minister, Mr. Brij Mohan Agarwal, the Forest Department did nothing about it until the matter was reported in the newspapers.

- **Silger Fact Finding:** On 17th May 2021, 3 tribals died after the state police force opened fire on the tribals opposing establishment of CRPF Camp at Mokur near their village. A pregnant woman was injured in the stampede that ensued and later succumbed to her injuries. The administration offered compensation to the deceased while the Police was quick in labelling the deceased as Maoists. This incident drew sharp opposition from the tribals of the state and thousands of tribals from all over Bastar joined the protest which has been called 'Silger protest' in local media.

PUCL conducted fact-finding on the issue and extending its' legal and other support to the protesting tribals.

Press Statements & Submissions

- Press release demanding action against the police and security forces found guilty by the Sarkeguda judicial commission.
- The PUCL team met and gave suggestions to the Committee led by Justice Aftab Alam formed to consider the release of 'Tribal Prisoners'.
- PUCL also has been at the forefront of campaign for law for protection of journalists. A draft law has been prepared by PUCL and submitted to government.
- Statement issued by PUCL opposing the Hon'ble Supreme Court Order by which it ordered eviction of Tribals from Forest whose Forest Rights Claims were rejected terming them as 'Encroachers'.
- Condemning the arrest of activist Hidme Markam under UAPA law.
- Press conference in Jagdalpur against the Silger firing incident and fake encounters of innocent villagers in Niram village and Nilawaya village.
- Demands made by PUCL to the Chhattisgarh Government with respect of COVID-19 pandemic made on 23rd March 2020.
- On 27th July 2020 PUCL submitted documents to the special committee of NHRC on 'Impact of Covid-19 Epidemic on People's Human rights'.
- PUCL also gave its suggestions to the 'High Powered Committee' appointed on the order of Hon'ble Supreme Court to address problem of overcrowding in prison during Covid-19.
- PUCL has sent complaint to NHRC about the arrest of activist and Human Rights Defender Hidme Markam.
- A press conference in Raipur was organised by PUCL to show its solidarity and support to a Dalit family from Surdongar, Bemetara whose house was demolished by the

administration.

Legal Interventions

Pathalgadi Case: The Pathalgadi movement was expression of assertion of tribals driven by the discontent against the state against the State's disregard and apathy for the protective laws like PESA Act, Special provisions with regard to Fifth Schedule Areas, Forest Rights Act etc. The movement originated in Chhotanagpur Area and North Chhattisgarh also saw Pathalgadi Movement in year 2018. The villages were constructing a small wall replicating a big rectangular stone slab and writing down their understanding of law and constitution as applicable in Schedule V areas.

In Chhattisgarh the state used false FIRs with baseless allegations to stop the Pathalgadi movement.

Multiple FIRs were registered against the villagers and people were arrested. Arrest of tribal leaders and villagers brought the movement to halt.

PUCL had conducted fact finding on the issue and the incident of FIRs leading to arrests of villagers. PUCL has been involved with the movement from the beginning and its members have provided legal assistance to the tribal villagers in the criminal case. Firstly PUCL helped the accused to obtain bail. Presently the criminal trial is pending and PUCL is representing the accused in the criminal trial.

Custodial death of Pankaj Beck: In 2018, a man named Pankaj Beck was killed in Police Custody because of the brutal torture in Ambikapur, District- Surguja. The PUCL team conducted fact finding

of the incident and found out that the police has made shabby attempt to cover up and portray it as suicide committed by the accused driven by the feeling of guilt.

PUCL has provided the legal assistance to the family of the deceased. The writ petition seeking independent investigation is pending before the High Court.

Arrest of Hidme Markam: A tribal women and activist from Bastar, Hidme Markam has been arrested by the Chhattisgarh Police and 4 FIRs have been registered against her on the charges of her being a left wing extremist. The charges include the provisions of UAPA law. PUCL has been pursuing her case and providing her the legal representation. □

Assessment of Past Work and Challenges before Chhattisgarh PUCL

1. **Fact-Findings:** With our limited resources and capability, the Chhattisgarh unit takes up fact-finding tasks which remind us how interesting it is to work in the field of human rights. Fact findings take us to nook and corners of our state which we would normally never visit. It also reminds us that our work is small compared to the work that needs to be done.

With every fact finding the first thing we resolve is to prepare the report as soon as possible. But more often than not, our Fact Finding Report is delayed. The primary reason is most of the members take out time from their profession or work for PUCL and its human rights work. Someone runs a shop or an NGO or works as journalist, teacher or a lawyer etc. Still we need to take out time to complete our reports within reasonable time. We have not been able to produce timely fact-finding reports and would like to change it in future.

2. **Spreading reach of PUCL:** Chhattisgarh is a big state and most of our membership is not evenly distributed. There are districts where we have just one or two members and in some cases not even one. Most of the time it's the

same group of PUCL members who run from one end of Chhattisgarh to other. If the membership and reach of PUCL is increased we will function as a better organization.

3. **Legal intervention in name of PUCL:** Though PUCL has been providing legal support and assistance to victims and individuals but CG PUCL has not filed Writ Petitions or PILs on behalf of PUCL. There are issues which can be raised by PUCL through Court interventions. It is just one thing which was never paid attention and we will like to remedy it.

4. Impact of PUCL's intervention

(i) Chhattisgarh State has expressed its intent to bring a law for protection of journalists. This has been due to the joint efforts of PUCL and the journalists. The law has not been enacted yet, so the objective is still unfulfilled but it is still an achievement that the State government has promised to enact such a revolutionary law.

(ii) PUCL has provided legal aid and assistance to victims of

State repression as in Pathalgadi cases, the tribal leaders and villagers were granted bail by the effort of PUCL. Similarly in case of activist and HRD Hidme Markam, PUCL has been representing her in court and has obtained bail in 2 cases, but she could not be released as there are 2 other cases against her.

(iii) In Silger firing and the protests that followed, PUCL's fact finding and the press conference was vital in raising the issue. Chief Minister proposed meeting with the representatives of protesters and a meeting happened. The representatives themselves were not unanimous and unsure of their demands and therefore the meeting was fruitless.

Organizational Strength & Limitations

The strength of CG PUCL is that it does not know its limitations. We are saying this because we have undertaken huge tasks which any other organization with similar means and resources would

normally never take up. For example our recent Fact Finding mission to document persecution of Christian minorities all over Chhattisgarh state. The Fact Finding involved covering about 15 districts, so separate teams visited different places over a period of time. The fact finding visits are over and report has to be prepared.

After the arrest of Ms. Sudha Bhardwaj in Bhima Koregaon case and demise of Mr. Rajendra Shail and Lakhan Singh, younger members had to step in their shoes. Leadership change has magnified differences between members. All of us are committed to PUCL and have conviction for the human rights work. Our commitment to common cause is much larger than the trivial differences and we are certain that CG PUCL will carry on its work. The trust of ordinary members to the present leadership and the work done by PUCL in last 4 years shows that we will overcome our shortcomings and build on the legacy of our seniors leaders.

Addressing Challenges

1. Defending Secularism: The biggest challenge before PUCL and Civil Society of India today is to protect India's secular character. Indian Polity today is for all purpose an undeclared Hindu majoritarian state. The 2 most important agenda of BJP & RSS i.e. Ram Temple, Article 370 have been achieved. With regard to Uniform Civil Code, Triple Talaq has been declared illegal. Targeting of Hijab and 4 marriages of Muslims remain on the wishlist of Sangh Parivar.

The political agenda of the nation is being set by militant Hinduism. Political parties are not willing to give tickets to Muslims. They cannot speak against persecution of minorities, violence against CAA-NRC protesters or even the shameless release of convicts in Bilkis Bano's case. Leaders and political parties often dabble in soft Hindutva. Some do knowingly like Arvind Kejriwal recommending picture of Goddess Laxmi on currency notes while some like Rahul Gandhi do so due to lack of clarity and understanding of it. It is

important here to mention that Rahul Gandhi addressing a rally said- This country has 2 kinds of people, one is a Hindu and other is *Hindutvawadi*.

In such a discourse, where is the place for any other minority who is a non-hindu. Most of us are familiar with happenings of national politics, so we would like to share what is happening in Chhattisgarh. The congress government in the state led by Mr. Bhupesh Baghel is also peddling in soft Hindutva. The state government has taken up a project name '*Ram Van Path Gaman*' which intends to develop the places which are proclaimed to have been visited by Lord Shri Ram during his '*Vanvaas*'. Interestingly the shape of Chhattisgarh is much like a Tamarind and what is more interesting is the route taken by Lord Shri Ram begins at the northern top of Chhattisgarh, then the route zig-zags across the length of state from north to south and finally the route makes an exit at the southern tip of the state. One imagines whether Lord Shri Ram knew that in future Chhattisgarh State will come into being and traversed the state from north to south.

Also Mata Kaushalya Temple is being built by government from funds of State Exchequer. What message does the government intend to send is clear- if BJP builds one Ayodhya temple, Congress is building tens of temples in the Ram Van Path Gaman Project. Not just this, the Panchayats are being sanctioned money for renovation of temples as seen in Jashpur district (Unconfirmed sources say that the fund is from MLA LADS fund). Action is not being taken against perpetrators of violence on minorities, especially Christians on belief that minorities do not have any choice as they cannot support and vote for BJP.

Just one last example of how a '*Dharm Sansad*' was organised on 17th to 19th December 2021 in Raipur. The organising committee included top congress and BJP leaders. One religious leader Kalicharan used abusive word against Mahatma Gandhi and

praised Nathuram Godse. Later FIR was registered against him and he was arrested. Open calls to take up arms for the cause of Hindu Rashtra was made in the programme. If Mahatma Gandhi would not have been abused alongwith showering praise for Nathuram Godse, then the Chief Minister was supposed to attend the Dharm Sansad.

So, we have a duty to preserve and protect the secular character of our nation.

2. Custodial Torture: Chhattisgarh has witnessed regular custodial deaths in last few years. The deaths may have stopped for now, but it surely indicates that the colonial practice of custodial torture is still in vogue. Most of the time there is no direct evidence of the crime and since police department tries to protect the perpetrators who are from same department this practice continues without any check.

At least 3 instances have come to light where the accused in police custody have been portrayed to have committed suicide by hanging which obviously was a cover up attempt to hide custodial torture of the individuals in police custody.

In context of Bastar, the police and the security force have invented a new form of custody which they call 'preventive custody'. Imagine young women in such custody. Such preventive custody is usually given to individuals who have been shown to have surrendered and given up naxalism. The justification for 'preventive custody' comes from the threat perception to the life and health of the surrendered individuals.

3. Fighting for right to protests democratically: Chhattisgarh government through its Home department has issued circulars to District Collectors and Superintendents of Police that prior permission will have to be taken for agitations, dharnas and other protest.

Such order curtails the democratic rights as a blanket order making prior permission a prerequisite is beyond reasonable restriction. □

Report of PUCL Delhi

Friends,

I present before you the report of PUCL, Delhi. The report is in 2 parts. One for the period from 12th November 2018 to 11th August 2022. The other pertains to the period from 12th August 2022 when the general body meeting of PUCL, Delhi was held and fresh election took place.

November 2018 to 11th August 2022

As per the information collected from various members and inputs from Mr. N.D. Pancholi president of Delhi PUCL the following activities were undertaken by PUCL Delhi.

Last election of Delhi PUCL were held in August 2022 and previous to it the election were held in November 2018. The report covers activities from November 2018. In the beginning in the wake of '10 December –Human Rights Day a full day conference organized in association with Citizens for Democracy under the caption "Threats to Indian Democracy and Road Ahead" at Gandhi Peace Foundation New Delhi. Prominent members of civil society participated.

Violence at Bulandshahar, UP:

There was violence in Bulandshahar area against Muslim community on the plea of cow protection where a police inspector was killed. A team from Delhi unit visited the area talked to the people concerned and found that the violence was deliberately perpetrated. Pre-planned and provoked.

Anti-emergency day 25/26 June:

PUCL, Delhi, in association with CFD and Jan Hastakshep every year observe anti-emergency day on 25th/26th June. The said meetings were held in 2018, 2019, 2020, 2021 and 2022. Prominent personalities and activists spoke in those meetings. This year the speakers were Hartosh Bal, Nandita Haksar, Qurban Ali, Nandita Narain & some other. In 2022 Lawyers for

Democracy also joined the other three in organizing the meeting.

In December 2021 a very good meeting was organized by Delhi PUCL in association with Lawyers For Democracy and Jan Hastakshepat the Press Club of India, New Delhi on the topic "Democratic Institutions and Human Rights: Challenges today" in which Mr. M.K.Venu of Wire and Mr Sanjay Parekh, Senior Advocate who is our National Vice President and some others spoke. The meeting was well attended.

Protest Against Plan of Railways to demolish Jhuggies situated near the railway tracks:

In 2020 Railway Ministry, on the strength of an order of the Supreme Court, declared that it will demolish Jhuggies situated near the railway lines in Delhi. It created panic as around three lakh families were going to be affected. PUCL team consisting of N.D.Pancholi, Sheoraj Singh, Amit Srivastav, Surya Prakash visited several such colonies and assured the residents of its support. Some organizations approached the Supreme Court and the demolition was got stayed.

Jahangir Puri Demolitions: On 20th April 2022 the Delhi Municipality started demolishing some houses in Jahangirpuri, Delhi PUCL issued protest letter and PUCL activist Vertika Mani and Mukesh with other colleagues visited the concerned Municipal Commissioner and protested and delivered the protest letter.

Support to Kisan agitation:

Delhi PUCL supported the Kisan agitation and its activists visited Shinghu Border several times. Those who made visits and addressed meetings of the farmers included N.D.Pancholi, Tejinder Singh Ahuja, Amit Srivastav, Surya Prakash and Mukesh.

Passing away of Justice Rajinder Sachar and Kuldip Nayar:

Two stalwarts of civil liberties movement, Justice Rajinder Sachar, former President

of PUCL and Mr. Kuldip Nayar, prominent journalist and member executive of PUCL passed away in the year 2018. Delhi PUCL organized condolences meetings for both of them in the Constitution Club, New Delhi. Large number of activists, advocates, journalists, political leaders joined in the condolence.

Case of Mohd Qamar: Mohd Qamar claimed that he was born in India and had gone to Pakistan with his mother at the age of 10 yrs. His mother died there. When he grew up he came to India around 1989 on Pakistani Passport, married in India, had five children. Meerut police arrested him in 2011 for violation of visa and he was sentenced to imprisonment for 3 and half years. He was released from jail in 2015 but sent to Detention Centre in Delhi for deportation. Pakistan High Commission refused to accept his nationality. He was languishing in prison since 2015 at detention centre when Delhi PUCL took up his case in 2017. Two times Delhi High court was approached, and National Human Rights Commission with a prayer that he may be allowed to reside with his family at Meerut, UP. Ultimately matter reached the Supreme Court this year and Mr. Sanjay Parikh, Senior Advocate and National Vice President PUCL argued the matter because of which Supreme Court ordered his release and allowed him to reside with his family.

Fact Finding in Tripura: A team from Lawyers for Democracy and Citizens for Democracy visited Tripura on a fact-finding mission on 31st October and 1st November 2021 about some communal incidents that occurred in Tripura. Amongst the lawyers team, a member from PUCL Delhi unit also participated. A press conference was organised in Delhi which was addressed amongst others by President of our Delhi Unit Mr. N D Pancholi and Mr Amit Srivastav and

Mukesh both members of PUCL Delhi Unit. The Government of Tripura took a strict view and lodged an FIR. Feeling apprehension of arrest the Supreme Court was approached which granted relief from arrest.

Rescue of a Tribal girl from Yamuna Nagar, Haryana: PUCL Delhi received information regarding a tribal girl who had been detained against her wishes in a domestic house hold in Yamuna Nagar district of Haryana. On receipt of information Ms Vertika Mani became actively involved in the issue and undertook the journey to Yamuna Nagar where with active support from some other associations the tribal girl was rescued and her custody handed over to a social tribal organization of Assam.

Cause of Refugees: Delhi PUCL took up the cause of refugees and its representatives participated in various meetings and demonstration to espouse their cause. When eminent human rights activist Nandita Haksar got a landmark judgment from the Manipur High Court for protection of seven Myanmar refugees in March 2021 directing the Central and state governments to provide protection to them so that they are able to reach New Delhi safely and apply for refugee status at the office of UNHCR. Nandita Haksar from Imphal requested PUCL Delhi to receive these refugees at Delhi and help them in Delhi. Mr. N.D.Pancholi and Mr. Amit Srivastav received those refugees at Delhi airport in March, produced them at the local police station for registration where police refused to acknowledge them in their record. The refugees got accommodation in the Vikaspuri area and are residing there since then. They also got refugee identity card from UNHCR. The important aspect of Manipur High Court judgment is that it declined to follow the order in which SC had refused to provide protection to Rohingyas stating that the said order of Supreme Court

was without reasoning. The Central Govt. has challenged the said judgment in the Supreme Court after about one year which is pending. One of the main thrust of arguments of Mr. Tushar Mehta, Solicitor General, before the Supreme Court is that those who helped the refugees in India should be punished as they have committed offence in giving assistance to illegal immigrants. The appeal survived the bench of Justice Khanwilkar who heard it for almost three months before retiring.

Several refugees held demonstrations before the office of UNHCR from time to time and PUCL activists went in support of them. Once two refugees, one Sudanese and another Iraqi, knocked the door of Israeli Embassy for seeking monetary help and soon the embassy officials called the police which took them to Tughlak Road Police Station. Several intelligence agencies were involved in questioning them as the matter related to Israeli embassy. However Mr. N.D. Pancholi and Mr. Deepak Mayur, PUCL activists visited the police station and ultimately succeeded in getting them released within two days.

Support to CAA agitation: Delhi PUCL has supported CAA agitation and its activists participated in protest meetings. Once PUCL Delhi during covid gave call for demonstration at Jantar Mantar and submitted a memorandum to the President of India appealing to repeal the CAA.

Internship Programme: Delhi PUCL has been conducting its internship programme since 2015 for law students who come from various universities in India. During physical internship classes for students were being organized in the PUCL office which were conducted by N.D.Pancholi and Ms. Shalu Nigam. Internship programme included visits of students to various courts in Delhi including High Court, National Human Rights Commission,

National Consumer Disputes Redressal commission, Central Administrative Tribunals. It also included arranging lectures by several activists and intellectuals at Gandhi Peace Foundation. Students also participated in demonstrations and protest meeting and made visits to several Dharnas at Jantar Mantar. They were also asked to make surveys regarding some burning issues. They are asked to write a research paper on an important issue of human rights or a legal issue of their choice consisting of 8 to 10 pages. Issues include Death penalty, Sedition, Detention Law, UAPA, Hate Speeches, Love Jihad, CAA etc. etc.

Besides the above there are several issues which emerge from time to time in which Delhi PUCL participate with other organizations., like yearly Demonstrations demanding justice for victims of Sikh massacre of 1984, demolition of Babri Masjid.

Report from 12th August 2022 to till date

The General Body meeting of PUCL took place on 12th August 2022 in which a new executive committee was elected. Majority of the members have also been in the former executive committee. The general body meeting was preceded with some controversies and the same was conducted in the presence of observers from the national office bearers. However, the elections took place unanimously.

The new executive committee as a first step undertook the process of consolidation and broad basing the executive committee. In accordance with the resolution which has been passed in the general body meeting giving the executive committee the power to cope executive committee members and nominated office bearers, co-option some more members to the executive and nomination of some of the members as office bearers was undertaken unanimously. The new

executive from its very beginning started discussing the strengths and weaknesses of the organization in Delhi and the formation of the strategic plan. Prolong discussions were undertaken and strategic plan and the same was adopted with inputs from the members. It was decided that the organization will move forward as per strategic plan and goal which has been decided. The goal which has been decided as follows:

➤ **To enable all citizen of Delhi to be conscious of their rights and so that they can resist their infringement.**

The meeting also fixed targets for membership for 2 years, 4 years and 6 years. And I am happy to inform that the organization in Delhi is at present moving forward in accordance with the strategic plan

which had been brought down and presently the executive committee had started the process of formation of the operational plan. One of the key things undertaken was an analysis of the existing membership and we reached on the conclusion that the membership primarily coming from 4 sections i.e.

1. Members of legal fraternity
2. Academics
3. Media person
4. Social activist

Looking at the existing membership it was decided that in the initial stages we will be targeting these 4 sections and increasing our membership and outreach.

Public Meeting on "In Defence of Liberty, Equality and Fraternity".

As a part of outreach on 15th October 2022 Delhi PUCL

organized a very successful meeting on the above issue. The meeting was addressed by: Justice Jaspal Singh, Saba Naqvi, eminent journalist, Mr Sanjay Parikh, Senior Advocate Supreme Court, Mr N.D.Pancholi, Mr. Tajinder Singh Ahuja. Auditorium was overcrowded.

The difficulties/ weaknesses of the organization as identified are that the mass base of the organization is extremely limited, there is a huge constraint of financial resources and although the number of issues to be undertaken is large. The resources for effective intervention are extremely limited. We are confident that if we move in accordance with the plan we will be successful in overcoming and resolving these constraints. □

Jharkhand PUCL Report

Introduction: Johar to all from Jharkhand, the land of revolutionary freedom fighter Birsa Munda!

To describe the state of human rights and civil liberties in Jharkhand, it would suffice to say that it is a school of human rights abuses. The mineral rich earth here has become a curse for Jharkhandis. Big corporates tie up with politicians in power to grab natural resources including water, forest and land. Any form of protest is met with repression and violence. The Jharkhandi society, which has inherited resistance, struggles against this loot. This is where the violation of human rights and civil liberties begins.

Death by starvation, displacement, land acquisition, mass transfer of forest land, shooting, false trial, murder in the name of encounter, human trafficking, police excesses, worse condition of jailed prisoners, murder in the name of witch, mob lynching, Rape, death in custody, violation of constitutional provisions as well as non-implementation of people's laws

like forest rights made in the interest of tribals is a big challenge. The State of Jharkhand has witnessed a massive rise in violation of human rights. Be it custodial torture, gender based violence, mob-lynching or Adivasi rights, Jharkhand has unfortunately seen a rise in such cases. As per the report submitted in the Lok Sabha, in the year 2020-21, the reported cases of custodial death in Jharkhand was 54 which increased to 81 in the year 2021-22. Similarly, reported cases of police encounter for the year 2020-21 was 5, which increased to 9 cases in the year 2021-22 as per the official government reported cited in the monsoon session of Lok Sabha this year.

As per the Indian Express report dated 08th March 2022 - In the three years preceding the current (financial) year, Jharkhand recorded 166 custodial deaths — 156 in jails and 10 in police custody — according to the data submitted by the Home, Prison and Disaster Management Department in the Assembly on Monday.

While these are a data of reported cases, there remain many which never make it to the news. Sadly there was hardly any case investigated, an officer arrested or even a departmental enquiry issued.

The condition of undertrials in Jharkhand is also worrying. The total number of jails in the State is 31. There are seven Central Jails, 16 District Jails and seven Upkaras. The total capacity of these jails are 17, 421 whereas a total of approximately 20,000 prisoners are lodged in them. There are 14,445 undertrials in these jails, while the number of convicted prisoners is more than 5200.

Regarding the misuse of the UAPA law, as per the NCRB data, cases registered under UAPA in Jharkhand in the year 2015 was 44 and person arrested was also 44. Whereas in the year 2019, the number rose to 105 cases registered and 202 people arrested under the UAPA law.

The State which claims to protect the fundamental right of *jal, jangal*

aur jameen(water, forest and land) of the Adivasis has failed to stand by its promises. The claims for Community Forest Rights under the Scheduled Tribes And Other Traditional Forest Dwellers (Recognition Of Forest Rights) Act, 2006 has been pending for years which puts the Adivasis under the risk of losing their land arbitrarily by the government.

On disability rights, PUCL Jharkhand has come across several instances where disability pensions were denied and other forms of discrimination were meted out to the disabled.

We also witnessed a sharp increase in crime against women where the state failed to take an instant action or prevent the crime. Several cases of witch hunting, rape, torture were reported from different parts of the State in the past few months.

The instances mentioned above is not exhaustive and there has been several other cases of human rights violation. This is only a brief representation of the state of human rights.

The state government failed to protect the rights of the citizens and to add to their sufferings, even the statutory bodies are lying vacant. The State Human Rights Commission, State Women Commission, State Commission for Protection of Child Rights, State Information Commission are lying vacant and almost defunct. Even though these bodies were toothless, still provided a forum for investigation into the crimes and acted as a recommendatory body for compensation to the victims. The judiciary consumes time and money which is already not reachable to many in the State. Access to justice is still a distant dream in Jharkhand.

PUCL Jharkhand -We have our unit in five districts of Jharkhand — Ranchi, East Singhbhum, Palamu, Garhwa and Dumka. Talks are going on in Dhanbad, Giridih and Bokaro, the unit is likely to be formed by the end of this year.

Fact-findings done by PUCL, Jharkhand

PUCL Jharkhand has tried to intervene in as many cases as possible considering their limitations of manpower and finances. PUCL Jharkhand took up following fact findings –

1. Custodial death of Dhaneshwar Mehta under the custody of Excise Department, Jharkhand

- On 21.08.2021, the local newspapers reported about death of Sri Dhaneshwar Mehta, resident of Madhukam, Ranchi under the custody of Excise Department, Ranchi. It was alleged by the family members that he was picked without any warrant and despite complaining of ill health, he was not provided any medical care until he fell unconscious/semi

a. Conscious. A video footage went viral which showed officials of excise department carrying the body of Dhaneshwar Mehta holding his hands and legs, without any stretcher. He was arrested by the excise department under allegations of doing business of illegal liquor.

b. Pursuant to the above reports, a fact-finding team was constituted by PUCL, Ranchi to prepare an independent report since it prima-facie showed a case of custodial death caused due to medical negligence.

2. Mob-lynching of Sanju Pradhan in Simdega District, Jharkhand

- On 05.01.2022, the local newspapers reported about the mob lynching and burning alive a man named Sanju Pradhan in Besrajara village, District Simdega over the allegation of cutting down 6 trees. On After a few days, the incident started taking a political turn with members of BJP visiting the place of incident and fresh reasons for his death came up. The new

allegation was that the victim objected to open selling of cow meat and cow slaughter in the region, due to which he was killed. Considering the heinous nature of offence and prima facie violation of the human rights due to inaction by the police and forest department, a fact-finding team was constituted by PUCL, Jharkhand to prepare an independent report.

3. Police torture of Amanat Hussain and his wife Sabra Begum by Bokaro Police, Jharkhand

- On 02.01.2022, the local newspapers reported about the third degree torture given to a school teacher namely Amanat Hussain which resulted in severe damage to his legs and as reported, the right toe nail came off due to severe beating. It was also reported that his wife Sabra Begum was assaulted by the police personals. They were tortured on the charges of theft. PUCL Ranchi conducted a fact finding on this incident and provided legal support the victim.

4. Custodial death of Kalicharan Khewat by Bokaro Police, Jharkhand

-PUCL, Ranchi was informed about the death of one Kalicharan Khewat in the custody of Balidih police station. It was reported that one Kalicharan Khewat and Sanjay Singh were picked by the police personals of Balidih police station on the evening of 18.02.022 on the suspicion of theft. Next day in the morning Kalicharan Khewat died in the police custody while Sanjay Singh sustained severe injuries as a result of the police torture and was getting treated in the Sadar Hospital, Bokaro. The allegations of severe beatings were against Balidih PS-in charge Ms. Nutan Modi and other police personals

present at the station.

5. Pending claims of Community Forest Rights in Lohardaga District, Jharkhand-

On 06.08.2022 PUCL Jharkhand was contacted by Sri Paul Mickey Bhengra, a local activist in Lohardaga district regarding harassment of villagers of Lohardaga District by the district forest officials, their claims under 'The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights Act), 2006' (commonly called as Forest Rights Act or FRA), pending since the year 2019 and several irregularities in the land records. The matter pertained to Kisko Block in Lohardaga District. A three member team of PUCL Ranchi was formed to ascertain the claim and allegations of the villagers.

6. Forceful Displacement of Dalits (Musahar Caste) at Palamau District, Jharkhand

– On 30th August 2022, it was reported that at least 50 Dalit families from a village in Jharkhand's Palamu were allegedly driven out of their homes by members of the Muslim community in the area. PUCL, Palamu unit formed a team and conducted a fact finding on 03.09.2022.

7. Atrocities committed on primitive tribe namely Korba Tribe in Garhwa District-

In the remote areas of Garhwa district, where the primitive tribes live in the east, there has been a severe lack of proper facilities provided by the state government. Five Korba primitive tribe youths were brutally thrashed with their hands tied and a young man's head was twisted, the miscreants accused him of touching the idol during Durga Puja, in this case the police has registered an FIR and the criminals This incident is on 6th

December 2022. About 10 km west of Ranka block, women of Korba caste residing in the forest area of Lukum Bar village were brutally beaten up by the forest workers in which a woman was pregnant. The Korba primitive tribe, living in the area of LukKumbhar village for about 30 years, are repeatedly beaten up by the forest workers and threatened to leave the forest area, it was found that the people of those tribes are landless and forest other than the area of their livelihood. There is no means, they have not been provided any facility under the Forest Rights Act, this incident is of October 13, 2022, in the House Andaz village of Meral block, a person named Nathan Choudhary was murdered. Demanding action, the villagers held a peaceful protest in Meral, who were brutally beaten up by the Meral police. And were engaged in their daily routine, this incident was led by the Meral Circle Officer, this is a barbaric act of the police and an indicator of administrative failure, this incident is of 18 August 2022.

8. Closure of a school due to a mining project

- news was published in the newspaper regarding a school getting demolished for mining in Katautia Mines and the students there are being deprived of education. PUCL, Palamu team did fact-finding by reaching Katautia on 3/9/2022.

Initiatives undertaken / Cases filed

Legal Aid awareness and camps

- In a recent project, PUCL Jharkhand has collaborated with the National Law University (NUSRL) Ranchi to conduct legal aid camps in different districts of Jharkhand. A two member team from PUCL, Ranchi met the villagers of Naya Sarai in Ranchi

Jharkhand and provided legal aid assistance in various issues raised by them. With the intervention of PUCL, Ranchi the disability pension of a 100% disabled man and widow pension of women was started again. PUCL, Ranchi also provided legal aid to a blind girl who was a rape victim to get medical assistance, shelter home and a compensation of Rs. 10 Lakhs from the State government by filing the case before Jharkhand High Court.

Stan Memorial Lecture On 1st July this year, PUCL Jharkhand organized its first Stan Memorial Lecture which was delivered by the constitutional expert Prof. Faizan Mustafa, former VC of NALSAR University of Law.

Newsletter/Bulletin - PUCL Jharkhand has also started its own *bulletin* in the lines of National bulletin and the first issue was released in June 2022.

Legal Aid provided by PUCL- PUCL, Ranchi further provided legal aid to the victim of gang rape by filing a writ petition before the Jharkhand High Court for proper investigation. We also helped in petitioning for compensation on behalf of the victim.

PUCL Ranchi also provided legal support by filing cases before the Jharkhand High Court and district court in cases of fake encounter and police torture.

PUCL, Jamshedpur intervened in a case where an inmate at local prison complained of inhuman conditions.

PUCL Dumka intervened in a case where a case of custodial death was reported.

PUCL Ranchi has filed a petition before Jharkhand High Court on improving the medical facilities in prisons in Jharkhand, filling up vacancies in the State Human Rights Commission and also for reopening of a girls school.

Internship Program - PUCL Jharkhand provides internship throughout the year to young students to give them a glimpse about the working of human rights,

PUCL Jharkhand and increase awareness in them.

Other initiatives undertaken by PUCL Jharkhand- On the occasion of International Human Rights Day on 10th December 2022, PUCL Ranchi formed a human chain to protest against the increasing violation of human rights in the State and demanded the abolition of draconian laws such as UAPA and sedition.

Protested against the institutional death of Father Stan by forming a

human chain.

Alongside the cases taken, PUCL Jharkhand time and again released several representations/letters on cases of human rights violation that was reported to take action in those cases.

Conclusion: The Corona crisis caused inconvenience but our pace has not stopped. We are trying despite having limited resources and numbers to make meaningful interventions. By connecting with the common man,

raising their issues, we will move forward and succeed with the call to stand together for the protection and promotion of human rights, civil liberties and constitutional rights. We expect your cooperation and help in this struggle. If you support us, we will definitely be successful. With this hope - once again Johar to all the members of the National Council.

Presented by **Arvind Avinash**
General Secretary, PUCL Jharkhand

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Tamilnadu & Puducherry PUCL State Report (since October 2018 to October 2022)

The previous State Conference took place on October 27 and 28, 2018 at Chennai on the topic of "Diminishing democratic space and expanding State Repression". Because of the Covid restrictions, the next conference did not take place in 2020 and it took place only in March 26 & 27, 2022 at Madurai on the theme of "Human Rights and Challenges faced by Tamil Nadu".

In 2018-19, there were 459 members. For 2022-23, there were 500 members. Kanyakumari district unit remains not functional. Whereas in Nilgiris district, it functioned with an Ad hoc Committee.

Fact Finding Missions: In Thalavaipatti of Salem district, a Dalit minor girl was murdered. Fact finding report was released on 14.11.2018.

During the Parliament Election in April 2019, Dalits were attacked by intermediary Vanniar caste at Ponparappi village in Ariyalur district since they cast their votes to Thol. Thirumavalavan. A fact finding report was released on 02.05.2019.

While repairing motor in a sewage pumping station, three labourers of a private firm died due to asphyxiation on 22.04.2022. After a detailed fact finding mission, we demanded to alter the charge from 304(A) IPC to the proviso of 304 IPC and add charges under

sections 3(1)(J) of SC/ST (PoA) Act and Sec.9 of The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. Very recently, the same sort of incident wherein three workers died while clearing the septic tank of a hotel.

In the name of Special Camp, foreigners mostly Sri Lankan refugees kept in detention for a long without trial. Many of the Sri Lankan inmates resort to fasting demand the release and earlier trial. On 07.07.2022, we met them to persuade their withdrawal and demanded the State intervention. Some of them released but the detention facility continues where the authorities claim that the period inside the camp cannot be reckoned to set off the sentence.

It is alleged that a girl student committed suicide in a school at Kallakurichi on 13.07.2022. Human rights organisations and political parties, parents suspected foul play demanded closure. On 31st July and 1st August, a team of PUCL office bearers and others visited the area and demanded prosecution and release the protesters.

Press Releases: Between October 2018 to Feb 2022, nearly thirty press releases were issued touching on various issues like freedom of expression, arrest of human rights defenders, farmers issues, arrest of muslim minorities,

UAPA, demanding release of seven prisoners in Rajeev murder case, custodial death of Jayaraj and Bennix and other ordeals of migrant labourers and landless labourers during pandemic. (See Annexure.2)

We issued a press release condemning the arrest of journalist Savithri Kannan who reported regularly in the Kallakurichi school issue which irked the State and the school.

Court Intervention: In March 2020, there were protests and agitations all over the State against CAA, NRC. Petitions filed seeking right to protest by various organisations. PUCL filed intervention petitions in those cases.

The CBI foisted false cases against the anti sterlite protestors. Charge sheet filed and the case is pending before CJM, Madurai.

Seminars:

1. Chennai district PUCL organised a State level seminar on "Dialogue on Communalism with Swami Agnivesh" at Press Club on 30.11.2018.
2. One day State conference was organised by Madurai district PUCL on 20.01.2019 on the topic of "Anti Sterlite agitation and its direction". National General Secretary V. Suresh, Kanagaraj of CPM, Henri from

People's Watch, Vanchinathan of "MakkalAdhikaram" and others shared a dais. Resolution passed demanding closure of the plant forthwith.

3. On the topic of "Federalism and duties of Citizens" a seminar was organised at Press club, Chennai. Ravi Nair of South Asian Human Rights Documentation Centre, Prof. Jawahirullah, President of MMK made a discourse against NRC and Art. 370 as to Kashmir.
4. On 24.10.2020, a virtual conference organised on the topic "Why UAPA has to be revoked?". Advocate Balan from Bengaluru, Advocate B.P. Mohan and Dr. V. Suresh shared their views.

Obituary

A virtual obituary meeting was organised on the demise of former PUCL member, scientist and an academician Kalpakkam Sridhar. Scientists, journalists, students and family members participated.

State Council Meetings (SCM)

On 24.02.2019, SCM was held at Youth Hostel, Chennai.

Second SCM was held on 07.07.2019 at MUTA Hall, Madurai. Virtual SCMs took place on 18.04.2021, 28.11.2021, 20.12.2021 and on 30.01.2022.

After the election, on 24.07.2022, State Committee meeting convened virtually.

On 08.10.2022, State Committee meeting was held at ICOSA Centre, Chennai. On the basis of the numerical strength of the members at State level, Ms. Fatima Babu was elected as National Committee member in addition to the nine members already elected.

Functioning style of State Office bearers:

From press releases to all the organisational matters, the office bearers of the State unit and the National Committee members elected from the State used to have consultations over WhatsApp, virtual and physical meetings and

then only decisions were taken and circulated or released. Deliberations of all the office bearers were always considered. Meetings of office bearers and National Committee members from TN held on 22.12.2019 at Trichy and twice virtually on 09.04.2021 and 18.06.2021.

Elections: As per decisions taken on 18.04.2021 in the virtual meeting of State Committee, it is decided to have the detailed procedures of election to the State unit and to the district level units. Messrs. K. Balakrishnan, Mary Lilly Bhai and C.R. Bijoy were appointed as election officers. As directed by them, between August to November of 2021, the district units conducted their elections with an observer from the neighbouring districts.

State level office bearers were elected unanimously on consensus. Election for National Committee members took place on 26.03.2022, the first day of State convention and the results were announced.

Challenges faced:

1. Due to Corona, the efforts to create an unit at Perambalur-Ariyalur district was left.
2. Earlier, we decided to organise a meeting at Nilgiris during summer 2020 and to conduct an election for office bearers. Again, Corona made it impossible.
3. There was a delay in finalising the members list.
4. Some of the district units took a long time to conclude their elections.
5. Due to Corona, meeting in person at State level as well district level officer bearers became tedious and make the progress slower process. Further, initially there was a hesitation to meet virtually.
6. Many of the office bearers at District level and active members are also active in other political parties, trade

unions and associations, which took their time and energy as well the concentration.

Recommendations for future

1. There must be a consistent effort to recruit youths into the organisation.
2. Training should be conducted periodically to inculcate the human rights culture among those youths.
3. State office bearers have to meet district unit members at regular intervals to expedite the activities.
4. Expanding the number of district units where there is no such one.
5. Environmental related human right issues be given more priority in our approach.
6. Efforts must put in Legal front like filing of PIL ought to be initiated on human rights issues.
7. At least once in a month, physical meetings should be convened to update the developments on human rights front.
8. Socio Economic issues, land rights, right to livelihood of migrants, landless labourers, preservation and promotion of federal structure of India, protection and due recognition for regional languages, rights of minorities, Dalits, refugees, women and marginalised sections of the society have to be given priority apart from custodial justice, prisoners' rights, torture, freedom of speech and expression.
9. It is pertinent to ensure that all the districts have PUCL units so that constitution of fact finding missions and interventions and making representations would be area specific.

A. John Vincent, General Secretary; **S. Sankaralingam**, President, Tamil Nadu PUCL ☐

Note: We had requested Sudha Bharadwaj to prepare a briefing note on human rights issues in Prisons based on her experiences and insights meant to be discussed in the National Council meeting held in Delhi between 4th to 6th November, 2022. The briefing note was to help focus discussion and debate on some of the key issues faced by prisoners, which seldom get discussed or addressed both by civil society members / groups as also within official and academic circles. We are sharing the briefing note with members and readers.

Note on Prisoner's Rights, Issues and Prison Conditions

Sudha Bharadwaj

1. Basic amenities in prisons

No doubt the standards and amenities in prisons differ widely - across states; between Central Prison, District and sub jails in each state; between men and women's jails. But even the "best" of jails like the well-endowed Yerwada Central Jail in Pune where we were lodged still falls far short of healthy/hygienic standards, let alone humane ones. Why do such conditions persist?

- A. These conditions are not considered "abnormal" by the jail officials, particularly because general living standards of the poor are so wretched and most prisoners are poor, so they are quite convinced that prisoners are having "a much more decent standard of living" in the jail than they would have had in their own homes. Besides they have an attitude that the prisoners are to be "punished" (even when they are undertrials) hence they should not be "pampered" or ask for better facilities. So there is a resistance to the even most reasonable demand of prisoners to improve their amenities. This attitude needs to be changed.
- B. Secondly, all "inspections" of jails, which happen frequently, are mere formalities. The weekly round of the Superintendent, the monthly round of the District Judge, the occasional rounds of higher dignitaries are all highly regimented. The prisoners are kept under strict control under fear of reprisal, and only the highly aware or else particularly stubborn prisoners actually succeed in raising grievances. Thus, there should be a system of effective, surprise checks by independent civil society representatives. Simple suggestions from prisoners like providing space/lines for drying clothes in the monsoon or providing sufficient numbers of drums or buckets for storing water, or repairing ancient fans and taps are routinely ignored out of sheer red tape.

C. Technically there are complaint boxes where prisoners should be able to raise their issues, but even these complaints do not reach the higher authorities and prisoners are afraid to make use of them for fear of harassment.

Some of the basic issues

- a. **Overcrowding** - This is a problem to lesser or greater extent everywhere, but acute in many places. It multiplies all other existing problems. The Arthur Road Jail in Mumbai houses more than 3000 with a capacity of 285. The executive solution to this is to build more jails. But the real solution lies with the judiciary - the tendency to arrest unnecessarily, the delay in hearing bail applications, the difficulties in obtaining sureties, the apathy towards indigent prisoners who cannot afford cash bail, the poor quality of legal aid, high pendency and delay in trial, and the overuse of draconian bail provisions - these must be tackled.
- b. **Need for improved facilities of toilets, bathrooms, provision for adequate water** - These very basic facilities are woefully inadequate in comparison to the number of prisoners, and the lack of hygienic facilities means proliferation of infections. Every second woman in Byculla Jail (including myself) suffered to greater or lesser degree from fungal infections of the skin. A jail has a population of several hundreds if not thousands - equivalent to a ward of a Municipal Corporation. The requirements for bathing, washing of clothes, utensils, cooking, toilets etc can easily be calculated, however the artificial scarcity enforced causes not just ill health, but serious conflicts among prisoners.
- c. **Quality of food** - Again there are differences between jails but corruption is a serious reason why funds earmarked for food stuffs are pilfered, why quality is

compromised etc. The growing unreasonable insistence on vegetarianism also compromises nutrition of the prisoners, though the special diet given to TB, HIV etc patients contains eggs and extra milk.

- d. **"Special items"** purchased by the prisoners to supplement their basic diet are also overpriced. In jails where prisoners work on vegetable gardens, the ready availability of green leafy and other vegetables makes a distinct difference to quality of meals, and such arrangements should be made wherever space permits. It would also provide healthy work for prisoners to be engaged with.

2. Health

This is one of the most serious prison issues. Prisons are well known breeding grounds for tuberculosis, skin infections, malaria and any contagion can easily take epidemic proportions due to overcrowding. The conditions during the Corona epidemic were terrible. What are the main issues here:

- a. There is a great shortage of qualified medical and nursing personnel in jails. Ideally there should be a proper hospital ward(s) with isolation and basic inpatient facilities in most jails. The Prison Statistics of India report shows that the ratio of the sanctioned strength of medical staff to prisoners is around 1:125 and the ratio of the actual strength of medical staff to the actual number of prisoners is around 1:219. Further, only 4.5% of the budget for prisons is used for medical purposes.
- b. While OPD is routinely conducted, there is often a callousness, a lack of careful consideration, mechanical disbursement of a few standard medicines, and a pronounced reluctance to refer prisoners for further medical tests or examination by specialists - as the latter involves organising a trip to hospital, police guard, and expenses by the jail on tests and

specialised medicines. This often leads to the neglect of diseases till they reach a point when they can no longer be ignored. Also because the jail psychiatrist treats only “dangerous” or “uncontrollable” mental patients, and there is no general counselling or therapy, doctors often presume many symptoms to be psychosomatic - which they might often be, but sometimes are not. Of course, once diabetes, hypertension, HIV, TB etc is detected, the medicine and diet regime kicks in with great effect. Many patients of rural backgrounds suffering from these have probably had their lives saved because they had such regular medication in jail.

- c. Trips to referral hospitals also are not planned properly. To get a simple thyroid blood test done and the result collected there may be 4 or 5 trips because of various steps to be taken in the government hospital not being completed in a day, expenses not being deposited by jail, the particular OPD not being available on some day and the police guard not being available on another day. Altogether this results in tiring out ailing patients and delaying their treatment. The solution would lie in a dedicated person from the government hospital supervising the dealings with jail patients, coordinating with the CMO of the Jail, and whose orders the police guard should be bound to promptly comply with. One woman died because a scheduled operation for a brain tumor was delayed by more than two years for one reason or another.
- d. Because of the lack of a jail hospital, the patients, after diagnosis, return to the overcrowded barracks where management of a chronic or acute illness may not be easy. Managing to get a bed for a terminally ill cancer patient was a Herculean task in Byculia and was finally possible only when she was shifted to a separate cell. Getting a chair to sit on for an arthritic patient was impossible. There is no professional nursing care and basically it is up to the prisoners to take care of their ailing barrack

mates, including cleaning up excreta and vomit, bathing them, persuading them to take medicines and food, and taking them to the OPD. Though surprisingly there are always some kindhearted souls who do this, it is a tenuous premise on which to base essential care. The resistance shown by the Talaja Jail to providing mosquito nets even in separate cells, and the endless litigation in the Special Court for the same, shows the extreme resistance to resolving simple healthcare issues.

- e. Something that needs to be made part of the jail protocol is, that when there is a diagnosis of a chronic or acute ailment, or a hospitalisation, or recommendation for a surgery, the same should be compulsorily communicated to the Court, the lawyer and the family of the prisoner. This will ensure that the family/ lawyer can take steps through the Court to expedite treatment or get better alternate treatment or secure bail for the prisoner. But courts remain oblivious to, and legal aid lawyers ignorant of, even serious medical conditions. It is a challenge for the prisoner or her lawyer even to obtain copies of her own medical record, which should be automatically provided.
- f. Psychological health is something that needs to be taken far more seriously in jails. While generally in all jails there is a psychiatrist who comes in once a week, and prescribes psychiatric medicines to patients whom the Jailer/ Staff or the senior undertrials/ convicts who perform jail duties refer to her; but these are only those who may be violent/ unmanageable, refusing to obey discipline or harming themselves or others. The fact is that all prisoners at some time or other during their prison time are in great need of counselling/ therapy. There need to be full time Counsellor(s) available to the prisoners all the time when they are not locked up. There is an ethical dilemma in counselling of prisoners, in that these Counsellors need to maintain confidentiality of the prisoner vis-a-vis the Jail and the Police authorities. Usually the

prisoners are unable to trust jail doctors to be independent of the Jail or Police. Counselling is an essential element of rehabilitation, if indeed there is any seriousness to the claim that Indian prisons are “correctional/ reformatory” institutions and not punitive in purpose.

- g. Covid made it amply clear that our jails are simply not in a situation to deal with epidemics. Here the formula of “decongestion of jails” needs to be taken far more seriously by the judiciary and legal aid services.

3. Communications with family and lawyers

- a. A prisoner is severely restricted in communications with her family, friends and lawyers, particularly for those arrested under security laws. For an undertrial prisoner under the UAPA, only one visit a week from a family member (no others) and two visits from a lawyer is permitted. For those under the ordinary criminal law, there may be more visits allowed including by friends. Regulations also vary from state to state. Over time, almost all jails have adopted the system of communication through a telephone connection across a glass window. While this makes communication more audible, it is also susceptible to surveillance, which is an issue of concern for lawyer-client confidential consultations. Minor children are supposed to be allowed physical contact with an incarcerated parent. Although the category of “friend” is recognised by the Jail Manual, particularly in the case of women prisoners, Jail staff usually are reluctant to permit prisoners to meet friends and certainly not of the opposite sex. Visits should be liberalised.
- b. Different jails have different practices for permitting letters in terms of frequency of letters, lengths of letters, and their recipients. Ordinarily the frequency is once a week or fortnight, and all letters - both incoming and outgoing are read by the Jail Staff. This process of censorship delays letters sometimes even upto 10 days, rendering the process of urgent communication infructuous. Jail

authorities should maintain absolute independence from the investigating authorities; however it has been seen that often letters or details about mulakats are shared by jail authorities with the police. There should be strict regulations regarding the same. This is particularly significant when the prisoners wish to write to their court, or to higher authorities regarding violations of their rights. Also the range of persons to whom a prisoner is permitted should be widened to include friends, colleagues etc.

- c. Communication between co-accused family members in different jails - husbands and wives, parents and children, siblings is permitted through video conferencing, however again the frequency is highly erratic. Co-accused not necessarily related by blood or marriage should also be permitted this facility in order to discuss their case, however it is not allowed.
- d. The Corona Pandemic saw a situation where prisoners were not being taken to court and physical mulakats were disallowed. In this situation after repeated legal interventions, including by the PUCL, telephonic mulakats was permitted with family members for 10 minutes every week and later twice a week. After physical mulakats were restarted these facilities were withdrawn, whereas they ought to have been continued for those whose family members were not able to avail of physical mulakats and for foreign prisoners. It is surprising that despite the obvious technological advance, this simple facility is being denied to prisoners.
- e. Even during Corona, a prisoner was not free to contact her lawyer at will and would be permitted a call only when the lawyer made such a request. By making phone facility available for lawyer-client communications, on request by either, at a reasonable frequency, even after physical mulakats have resumed, a great relief could be provided to the prisoners.

4. Legal Aid

- a. The quality of Legal Aid provided to prisoners is usually very poor. This begins with the extremely poor

remuneration of legal aid lawyers, which makes it financially unviable for the lawyer to make the frequent physical visits to jail necessary to ascertain the prisoner's story, and her changing situation as the trial proceeds; to even obtain copies of statements or case law for the purpose of preparing arguments; or to contact defence witness and present defence evidence. The legal aid lawyer remains accountable only to the Legal Services Authority and not to the client - the prisoner, who is unable to even instruct the legal aid lawyer since communication is not possible unless she is taken to court and the lawyer attends the court. Often the legal aid lawyer does not bother to file default bail applications when charge sheets are not filed and does not make the necessary effort to meet the prisoner and explain to her the import of the charge sheet, to prepare an effective defence. The Jail does not inform the legal aid lawyer about the health condition or other significant events in the life of the prisoner. There is an urgent need to provide effective, competent and accountable legal aid to those languishing behind bars - this is after all a Constitutional mandate. The "Legal Aid Defence Counsel Scheme" which has been started in selected districts by NALSA should be expanded to all districts and the number of Assistant Legal Aid Lawyers under the Scheme should be increased so that the legal aid cases can be given adequate time and attention.

- b. The prisoner who has neither family support nor a well paid lawyer, is usually in the dark as to the status of her case. The Jail should have competent staff, or should have persons deputed from the Legal Services Authority available on all working days, assigned to the specific task of providing information to the prisoners regarding the present status of their cases, taking out printouts of important orders, explaining the import of such orders, and to assist them to write out applications for their Courts. At present, it is only after repeated requests that the Jail Staff

reluctantly provide this information, and often are not competent to interpret the same. Legal aid lawyers who visit the jail are not the same who represent the prisoner in the courts, and there is rarely proper coordination between the two. Information about the status of her case is the right of a prisoner.

5. Violence

- a. The nature and extent of violence used against prisoners, varies. For instance, after the case of the beating to death of Manjula Shetye in Byculla Women's Jail (2017), the other prisoners succeeded in getting an FIR filed against the Jailor and 5 other Women Staff i through their persistent protest. They are presently facing a murder trial for this murder.
- b. It is important to point out here that the Women Jail Constables avoid using physical force themselves against prisoners, but delegate this to the senior prisoners who also do paid jail duties. These prisoners who are variously called *kamvaalas/ numberdaars/ warders* also act as the spies and informers for the Jail Staff. In the name of discipline, they harass, insult, and beat prisoners, and are known to discriminate against poor or mentally unsound prisoners or those from disadvantaged groups such as Pardhis or Bangladeshis. They ensure that prisoners do not organise any collective action, and discourage anyone from raising grievances with the authorities.
- c. Muslim prisoners form a substantial section of the prison population, but in situations of gang war etc often a communalised Jail Administration can give a free hand to a "Hindu gang" to wreak violence on a "Muslim gang". Sometimes bullies among the prisoners are used to torture chosen targets like the Nirbhaya accused or like political prisoners often are. The only way to put a check on these practices would be for the courts and the independent visitors to jails to be highly sensitive to the complaints and grievances of the prisoners and to act promptly and effectively to protect them and to punish the perpetrators.

6. Discrimination

- a. In any jail, the vast majority are still the poor. Among the poor, the members of the Denotified Tribes (DNT), who are the easiest targets of the police in cases of petty crime, are treated with obvious contempt and considered "dirty" and are blamed for any theft in a barrack. They are forced to respond with vociferous defiance, and by keeping to themselves.
- b. Muslim prisoners are a substantial section. They assert themselves by keeping together to pray, observe Rozas etc. Usually, the well-off among them would provide the Iftaar to the poorer ones. While the Jail Staff, being prominently of the majority community, may make snide comments against them, usually they are forced to respect at least the religious rights of the community.
- c. The Bangladeshi women (Muslim), become the slave labour of a jail. They do not have any money or family support and usually have to undergo short sentences of 1-2 years where they do the work of the jail and also the personal chores of the better-off prisoners. They are not treated on par with other foreign prisoners of Latin American/ African etc origin who get special diets and other special privileges.

7. Work and Recreation

- a. Work is very important for indigent convicts. Working in the open fields of a jail, weaving jail durries and blankets, rolling agarbattis, carpentry, craftsmanship, file and envelope making, soap making etc are all activities carried out in various jails. While the work per se is very important in providing a regular routine and sense of purpose to a convict, the wages are extremely paltry and do not amount to a significant amount when the convict is finally released.
- b. Working in the jail mess is only allocated to very trusted convicts but cleaning vegetables, rice etc may be distributed in the barracks. Working in open fields is permitted after 7 years of sentence to able-bodied persons of "good conduct". This work also provides remission of sentence, which is the main way

for poor convicts to achieve an early release, since jail appeals take inordinately long and are often not competently represented. Remission and parole depend mostly on the "conduct" of the prisoner - something that is subjectively decided by the Jail Administration. There should be easier ways for a prisoner to ensure that such decisions are taken fairly, than only move the courts, an option available only to the reasonably well off prisoner or one with family support.

- c. If not work, at least healthy means of recreation should be available to prisoners. Urban prisons lack space for any form of sport. There is great parsimony exercised even in providing board games or carrom boards. The only thing that jails seem to be good at promoting are religious preaching and festivals. There should be adequate staff or adequate access provided to NGOs so that secular activities - effective teaching and training can be carried out. Music, dance and art can be therapeutic and carried out collectively. It is shocking that Jails refuse to permit Jail Manuals and basic books on Criminal Law like the Criminal Manual to be kept in the Library (this will incite the prisoners!!). Libraries can easily be well stocked if jails tie up with educational NGOs.

8. Rehabilitation

- a. Merely changing the nomenclature to "Correctional Services" has not changed the punitive character of the jail system. The first requirement is the absolute separation of the Jail cadre from the Police cadre, which is violated by the interchangeability of the top posts. The Jails should strictly be answerable to courts and should only provide information or access to the police when ordered by the courts.
- b. Jails are greatly understaffed and whatever staff is available is fully occupied in just maintaining the discipline in the jail - patrolling, counting, locking up prisoners etc. More of the Reformatory Staff - full time counsellors, teachers and social workers are required.
- c. Serious attention should be given not only to opportunities for

educated prisoners to pursue higher degrees, but for the majority of uneducated prisoners to acquire basic literacy and numeracy, and Class X and Class XII certificates. Libraries should be well stocked with good books particularly for neo-literates.

- d. The trainings provided should not be just to adorn the pamphlets of the NGOs and for photo shoots of the Jail Superintendents, but should be followed up by providing certificates, and the NGOs concerned should help the released prisoner find jobs.
- e. As described earlier there should be an adequate number of counsellors who professionally counsel the inmates and maintain professional confidentiality and help them to work out the difficult task of reintegrating into society after their jail term.
- f. The number of social workers assigned is also highly inadequate. The task of these social workers is to liaison with the families of the prisoners, their children kept in homes etc. In practice we find them only busy doing paperwork, whereas the task of bridging the gap between the prisoner and her family is a time consuming and intensive task.

9. Transgenders and Children

- a. The problems that transgender persons face, with the society refusing to accept their self-identification of their sexual identity, becomes greatly multiplied with the harsh and bureaucratic dealing of a jail. A person is identified as man or woman merely by the identification made by the police, perhaps only on superficial physical examination. In the three years that I was in jail I observed the case of two persons who identified as men in the women's jail and one person who identified as a woman in the men's jail. In an overcrowded barrack, with absolute lack of privacy, with bullies of backward values dominating, what discrimination/ humiliation/ abuse these persons undergo can be well imagined. The Jail should independently properly assess the gender of the prisoner as per the self-identification of the person,

and accordingly inform the court of its assessment.

Children can remain with their mothers till the age of 6 when they are either sent to a relative (on the order of the court concerned), or an institution. (Even a male child cannot remain with his father.) While children are generally treated relatively well, given special

food, and are showered with affection by other inmates as well as staff etc, there is a limit to how well the child can be, when her mother is suffering. Children are also subjected to the irrational regimentation of a jail routine. The condition of Children's Homes is also questionable in many cases. The regular and effective communication of

mothers with their children in such Homes is of great importance, so that the mother can promptly assess whether the child is suffering from negligence, discrimination, deprivation, or psychological issues. For mothers with minor children who cannot be given out, bail should be the rule and jail the exception. □

Courtesy: The Hindu, 14th December, 2022

The Attack on the Last Bastion — The Judiciary¹ Ajit Prakash Shah

Recent comments by the Vice-President, Jagdeep Dhankar, and the Law Minister, Kiren Rijju, can be read as a concerted attack on the collegium system, the Supreme Court of India, and even the basic structure doctrine (conveniently forgetting that it is this doctrine that has kept the Indian Constitution intact). Clearly, the present government continues to try and undermine judicial independence, which it has been doing since it first came to power in 2014. As a long-standing critic of the collegium system, I might have joined a chorus that called out the problems with judicial appointments. But this onslaught from the Government has been particularly disturbing and wholly unwarranted.

An 'elected autocracy': The Supreme Court, conceived as the custodian of the Constitution and the final arbiter of the law, has had an inconsistent history. The ghosts of *ADM Jabalpur* continue to haunt to this day. While the government under Indira Gandhi intended to destroy the judiciary during the Emergency, the entire Court, barring Justice H.R. Khanna, was also complicit in the erosion of citizens' rights that took place then. Over the decades, after much reflection and repair, from both within and outside the judiciary, those dark days have been seemingly left behind. But what worried us then has now re-emerged to torment us again.

The present move — of attempting to undermine and discredit the judiciary, as seen in the comments

— is part of the larger mission to make the executive the most powerful entity. Today, executive accountability is a thing of memory, for no one raises any questions about its actions. Since 2014, the Government has undertaken a well-crafted, deliberate takedown of various institutions and mechanisms that could hold the executive accountable. Its efforts may not be as brazen as the Indira Gandhi-led government, but the same ends are being achieved: the state is rendered practically comatose, and the executive, most often, has the upper hand.

Parallels can be drawn with 'elected autocracies', where elected governments use the very institutions integral to democracy to kill democracy itself and destroy civil liberties. We have heard nothing of the Lokpal since. The National Human Rights Commission has been made dormant. Investigation agencies are misused at the slightest opportunity, with action against activists, journalists, students, political opponents, or anyone who protests against the government. The Election Commission of India appears to have been clearly compromised. The Information Commission is almost non-functional. The list is long and disturbing. Others who can hold the executive accountable — academia, the press, and civil society — have also been systematically emasculated. Universities are under attack. An unbiased mainstream fourth estate

in India no longer exists, and the media operates mostly as a propaganda machine. Civil society, too, is being slowly but surely strangled.

And a resurgent judiciary: Since the Supreme Court's decision in 2015 on the National Judicial Appointments Commission (NJAC) Act, arguably, from the Court under the Chief Justices of India (CJI) Dipak Misra onwards, through the tenures of notably Justice Ranjan Gogoi and Justice S.A. Bobde, the judiciary has remained passive, even submissive, to the executive. Consequently, not even a whisper emerged against the collegium. However, with the last three CJIs, i.e., Justice N.V. Ramana, Justice U.U. Lalit, and Justice D.Y. Chandrachud, the Court is being more assertive and speaking in a non-aligned and confident voice. The executive seems to have recognised that the judiciary is the last bastion and final protector of civil liberties which it must overcome to claim its position as the most powerful entity in India.

History tells us that in the early years of modern India, decisions on judicial appointments were usually made on the advice of the CJI. Even if concurrence was not contemplated, for our founding fathers, an independent judiciary was non-negotiable. B.R. Ambedkar was unambiguous that appointments should have no political pressure and considerations, but that 'consultation with persons who are well-qualified ... to give proper

advice' would be appropriate. This was followed through the Nehru era.

Both the Indira Gandhi and Rajiv Gandhi governments attempted to manipulate the process. The collegium was created as a historical response to contemporaneous challenges, and succeeded in preventing the executive from hijacking judicial appointments. However, I maintain that 'judges appointing judges' is never a good idea, and a formal, structured appointments commission, with rules and accountability mechanisms, is the ideal way forward.

The NJAC law could have fixed this problem but it had many flaws, structured to undermine judicial independence, including giving a veto to so-called 'eminent persons'. The Court could have read down these flaws and at least set up a body that could incrementally improve with every selection round. But the Government refused to accede to any change or modification in the law. Eventually, the Court was forced to strike down the law completely, leaving us, once again, with the collegium system.

Fixing the system of appointments: For better or for worse, the collegium system is currently the law of the land, which everyone, including the executive,

must adhere to. Instead, we see a defiant government refusing to cooperate, let alone consult, with the Supreme Court. Names proposed by the collegium are left pending for years, only to be eventually returned unceremoniously. The Government would also do well to think about its own culpability in allowing the problem of pendency and vacancies to fester. Pendency is caused majorly by poor judicial infrastructure, including an abysmally low number of judges. Court funding is at the mercy of the government, which is either particularly frugal or deliberately parsimonious in the matter. Similarly, vacancies in the higher judiciary are directly due to the Government's frequent refusal to accept names of persons who are out of favour, or who have not toed the Government's line.

All this points to the same thing repeatedly, i.e., the appointments system must be fixed. Pending a clear, rule-based system, even the existing collegium system can be improved, e.g., through well-defined criteria for appointments, transparency and accountability in selection, better methods of assessing candidates for elevation, and improved ways of ensuring diversity and representation. CJI Chandrachud, with two years in office, has a wonderful opportunity to make these changes, even as, in

the long term, we strive for a well-structured and balanced legislation on a judicial commission that brings in transparency without compromising judicial independence.

Until then, issues of pendency and infrastructure should be broached in appropriate forums, such as the Chief Justices Conference, or meetings between the Prime Minister and the CJI. Press interviews or parliamentary addresses are not fit stages for this, and only serve to incite acrimony and reinforce the view that the Government does not have a cooperative spirit.

We can rest assured that the leadership at the Supreme Court appears to be in good hands now and is resisting the pressure and attacks in a dignified and restrained way. If the Government continues to stonewall, perhaps the judiciary should find ways to persuade or even compel the Government to follow the law of the land. This is the best that the Supreme Court can do to protect democracy, and for the sake of Indian citizens.

Ajit Prakash Shah is former Chief Justice, Delhi High Court and Madras High Court, and former Chairperson, Law Commission of India

¹<https://www.thehindu.com/opinion/lead/the-attack-on-the-last-bastion-the-judiciary/article66259735.ece> @ 14Dec2022
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Courtesy: punjabtodaytv.com.

2nd Sachar Memorial Lecture, Delhi, 8th December 2022:

SC Needs to Go Beyond 2nd Phase on Right to Food Security: Justice Narasimha¹

Mohd Naushad Khan, *Punjab Today*, December 16, 2022

The second Sachar Memorial Lecture organized by Indian Society of International Law on, Right to Food Security was delivered by Hon'ble Justice P.S. Narasimha, Judge, Supreme Court of India at V.K Krishna Menon Bhawan, New Delhi on 8 December.

The first Sachar Memorial Lecture on Human Rights Concern and Challenges was delivered by

Justice Madan Lokur. During the program, book on, "Courts and Hunger," by senior Supreme Court lawyer Sanjay Parikh was also released by Justice Narasimha.

Justice P.S. Narasimha while referring to the book, the ideas behind it and humane effort said that it is the thought that matters and it is the will of a person that translates the thoughts into action. He lauded the role of the author and

congratulate him for not just the sensitivity on the issue but also channelising that sensitivity forward to find a viable solution.

Justice Narasimha while highlighting the role of the courts said that the story of the Supreme Court particularly with the context of hunger is episodic. This is perhaps in two phases and the time has come for the Supreme Court to go for the third phase in the context

of fight against hunger. When we speak about hunger or right to food we generally talk about the need for food and not want of food. And it the need which is not provided to all and that is a matter of concern.

“There is sufficient food or not is an issue of economics. There are lot articles to say that the world has sufficient food. The main concern is how it is distributed. The economic process marginalizes many numbers of people to become hungry and perish. Interesting part for us to consider today is the place the hunger and right to food has in our constitution” Justice Narsimha added.

“When we declare we the people solemnly resolve there is no reference to right created. The solemn resolve is to ensure that no one goes hungry. The first phase of the Supreme Court consideration of this issue and there is a series of judgements where it expanded this expression and declare it to include the right to food. That declaration that there is a right of an individual under our constitution that food is to be provided to him did not really helped the situation. Because that right even after recognition merely turned out as a declaratory. So, then the first phase was rather a recognition and a declaration in nature and one has to proceed further” said Justice Narasimha while speaking on Right to Food Security.

“And stage two came when the court realized simply declaration is not sufficient unless there is an obligation on state because only recognition is not sufficient. Even after the obligation in the second phase has not solved the problem. What we need to understand is that it is not merely an issue of law it is a combination of economics and its legal principles. The economics aspects of it has been researched enormously large number of factors contributed to the situation where the world is today. Is it more or less clear that it is not a production issue it is the distribution of food grains” he said.

On the complexity and nature of the problem, Justice Narasimha said that apart from economic issue there is also legal issue. We can discuss that in two parts: on is the entitlement and the other is duty orientations. Our constitution is primarily a right based primarily it prevents the states from encroaching the fundamental right of the citizens. The vocabulary of the courts is also on the provision of the constitutions obviously right based vocabulary. There needs to be a change in that vocabulary and the usage of the expressions and interpretations as to how constitutional provisions can now be interpreted as an absolute clear obligation on state. In the third phase the Supreme Court has to ensure the implementation of the right to will also have to set the accountability to ensure that all those below the poverty line do not go hungry.

Sanjay Parikh, senior advocate of Supreme Court while speaking in details about remarkable contribution of Justice Sachar in human rights, civil liberties, his commitments towards communal harmony, his personal and professional journey said, “In his Autobiography, ‘In Pursuit of Justice’, Justice Sachar had narrated many stories. One incident is quite interesting. In 1955, when father of Justice Sachar was the first Chief Minister of Punjab. Then Pandit Jawaharlal Nehru was invited to have breakfast at the residence. Justice Sachar who was full of socialistic ideas and opposed to certain policy decisions of Pundit Nehru, Shri Sachar politely told his father he will not join them for breakfast. He later felt that it was childish but called it as his useful, genuine and unshakable faith in socialism and social values which he continued to have till his death.”

He, added, “Another instance of his independent thinking was taking up of a case of human rights violation of illegal arrest against the government headed by his father

as the chief minister. Credit also goes to his father because he was appreciative of his son for being sensitive on such issues.”

Sanjay Parikh's book 'Courts and Hunger' explores the problem and solutions of hunger, why is hunger and starvation and what are the responsibilities of the Government? What role can the judiciary play as a protector of the constitutional rights of citizens in this regard?

The book, 'Courts and Hunger', seeks to find answers to all these questions related to widely reported starvation deaths in Odisha's Kalahandi, Bolangir and Koraput (KBK) districts through reporting a decade-long rigorous proceeding before the National Human Rights Commission and the Supreme Court of India.

This book is a complete document investigating similar cases. Renowned social activist Medha Patkar writes about the book – Hunger is an indicator of inequality. And it is not hidden but completely exposed. Most of the causes of hunger are man-made. This book will not only make people aware of the truth of hunger and starvation but will also interpret it from socio-economic roots keeping in mind the national and international legal system.

Human tragedy was man-made: the neglect, inaction and indifference of governance were the major causes of people's suffering. Amartya Sen's “Entitlement Approach” was used as a legal basis to recognise the social and economic rights of the poor. The judicially monitored exercise eventually brought about direct changes in these chronologically affected districts and led to significant improvement in the standard of living here.

Today, whether it is the case of migration of workers or the distribution of medicines during a pandemic or the making of social and economic benefits accessible to those living in the remotest regions, the State can efficiently

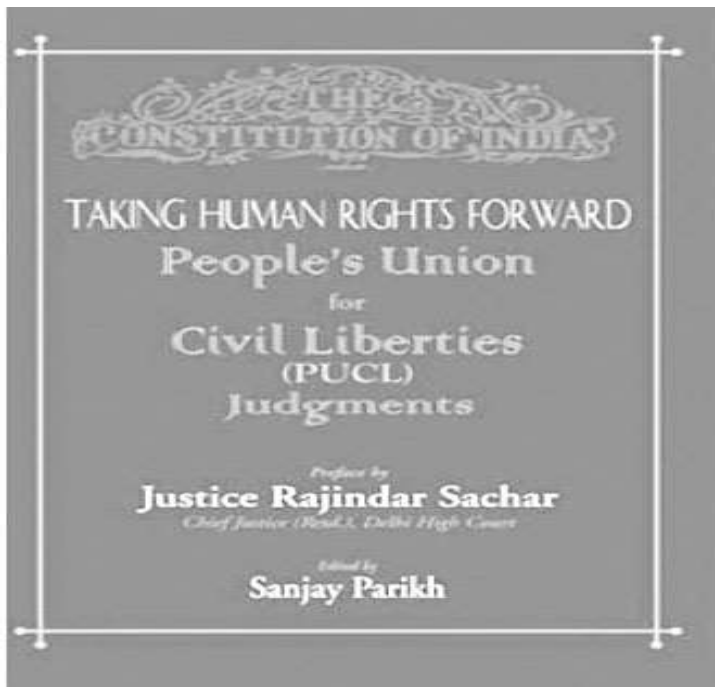
tackle all by adopting a similar systemic approach, by being transparent and accountable and by keeping the welfare of the people as its sole aim and object. The courts too, by being sensitive to their constitutional obligations, can effectively alleviate human suffering. This book shows the way forward.

Professor V.G Hegde, Chairperson, Centre for International Legal Studies, Jawaharlal Nehru University and EC member, Professor Manoj Kumar Sinha, Director Indian Law Institute also shared their views on the book. Family members of Justice Sachar, speakers and organisers also paid floral tributes to late Justice Sachar.

¹<https://www.punjabtodaytv.com/english/food/> @. 16.12.2022 □

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