

# RED BANNER

Voice of Democratic Movements in South & South-east Asia

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**Front cover:** Protestors fighting pitch battle with police during agitation against human rights violation by the government in Kashmir in summer, 2010; internet source from [www.google.co.in](http://www.google.co.in)

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## INDIAN SUBCONTINENT

### The Ambivalent Ritual of 1947 And The Politics of Misrepresenting an Indian Nationhood

*Malem Ningthouja*

*Long years ago we made a tryst with destiny, and now the time comes when we shall redeem our pledge, not wholly or in full measure, but very substantially. At the stroke of the midnight ... (a) moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance... \**

When Nehru jubilated millions of the Indian patriots with the *Tryst with Destiny* on 15 August 1947,<sup>1</sup> the political rhetoric of an Indian nationhood embodied in the speech and the ecstatic panorama of the Independence Day ritual was an expression of the epitome of an imagined India. Nehru's 'India' was a powerful polemic presentation. It had found resonance among the bulk of consumers whose national imagining was affiliated to the projection of an Indian nationhood comprising the Northeast. However, it had varying meanings, implications and impacts upon those peoples who had aspired for political self determination outside India. When these peoples were forcibly brought into the Indian Union, Nehru's rhetoric had become a threshold to the subsequent challenges *vis-à-vis* the concept of an Indian nationhood.

Perhaps, on the eve of the independence there was widespread imagining among the then Indian political leaders that, "...there has arisen in Indian, an Indian nation, an Indian nation with an Indian culture and an Indian civilisation. ...".<sup>2</sup> In other words, the history of the Indian nationalism entered into a new phase from 15 August 1947 onwards. The British colonialism was replaced by the agenda of the Indian rulers who would subsequently try hard to inherit the British colonial territorial assets<sup>3</sup> and to establish their control over the territories that were subsequently grouped under the geo-administrative rubric referred to as India. On 26 January 1950 the Indian Republic was formally ritualised with a spectacular effect so as to mechanise the term *unity in diversity*<sup>4</sup> a mass appealing concept. Henceforth, India has been officially defined with an institutionalised totalizing meaning, i.e. nation. However, the term nation coined for India exemplifies statist construction of a trope, i.e., a jargon of the Indian nationalist protagonists.

If one would shift perspective from the statist version and read from the anti-colonial perspective of those who are revolting against the Indian State, one would reveal that there has been Indian territorial expansionism and geo-political interest in the newly acquired territories, e.g. Manipur. The argument is that there can be counterpoising political discourses often and respectively buttressed by fabricated political terms, generated and promoted by contending parties. This would suggest that political terms can be coined to have political roles. Terms / jargons, therefore, are artefacts / commodity specifically produced and circulated in the course of political assertion and negation. Since a political term denotes “a more comprehensive or a more restricted concept,”<sup>5</sup> it has political value and is policy oriented and vice versa. The term Indian nationhood certainly influences several minds; mould conceptions, directs and justifies policies and also produces counteracting terms.

Political terms are descriptive and functional, e.g., terms pitting against terms such as ‘president rule’ against ‘emergency’ and ‘military action’ against ‘terrorism.’ The pretext and context of a particular situation could be represented/ misinformed by coining or using several reinforcing terms. Pre-existing terms are readymade narratives or short cut descriptions. As such be the condition, terms could be coined or procured, and distributed to twist meaning or to mould knowledge or to draw attention. A misused term could become anachronistic at the receiving ends as it is being used to represent something that it does not fully correspond to. Being deflected from actual representation, an anachronistic term could produce wrong understanding and rendered many into making reactionary or counterproductive decision.

The perception is that a term implies both description and action. Wherever concept or description would have to corroborate action, terms are either appropriated or denied so as to correspondingly be used for political assertion or negation. In order to assert a concept or political goal one may promote a pre-existing term and relate the description offered to by the term with an action, thereby, relatively justifying the action. In order to defend our political stand we may challenge or negate certain descriptive terms being arbitrarily super-imposed upon us. For instance, in Manipur thousands of lives have been lost, properties worth of millions of rupees have been destroyed and thousands of people remain marginalised in the name of ‘counter-terrorism’ to defend what is being termed as the Indian ‘national security’. The terms ‘counter-terrorism’ and ‘national security’ were being used by the Indian State; reserved ‘national security’ as the precondition for imposing what it called ‘counter terrorism’ upon those who are fighting against the exploitative regime. The two

terms misrepresent the political question raised by the progressive forces. If the Indian State “shall be no obligation to give any citizen, ... information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence,”<sup>6</sup> it implies concealing of information related to Manipur on security grounds, e.g., archival materials for historical research from 1913 onwards are being classified; therefore, is the *raison d’être* of misrepresenting Manipur to serve the vested interest of those who classified the documents. What is being allowed to read about Manipur may become a deception as a result of the ban imposed on what is being termed as seditious or anti-national. Deception through misinformation or linguistic forgery to misrepresent becomes crucial to control the subjective consciousness of the people who are being considered as disloyal to the oppressive policies of the Indian rulers. Politically, such misrepresentation not only de-contextualise the misrepresented people, but also depoliticise the consumers who are being misinformed and anchored towards the statist policy; thus, making them unable to generate progressive consciousness for the practical solution to the crisis created by the rulers who have material interest in the linguistic forgery.

Linguistic forgery that is being aimed at misrepresenting people could be discovered in the Indian nationalist historiography writing about Manipur. In all such works, pre-independent India was identified with a nation and Manipur was located into that nation. Those writers may be called integrationist writers. Firstly, integrationist writers of primordial hype perceived that political integration was derived from common religio-cultural foundation. The common origin was traced in the pristine state of *vedantic* rituals and *Mahabharata*, i.e., Hinduism. A cosmology for Manipur was constructed in which the writers attempted to articulate that the Hindu god *Shiva* had drained out a mythical Manipur ocean with his *trishul*, thereby, making Manipur a habitable place. While tracing Hindu origin for the projected Indian nationhood, such writings deliberately depicted a religio-cultural homogeneity and ignored the multi religio-cultural composition of both Manipur and India. But the attempt was to identify India and Manipur with Hinduism and relatively to identify cultural boundary with the superimposed administrative boundary. Secondly, integrationist writers of modernist hype traced the origin of integration in British imperialism. According to them the ‘Asiatic’ Manipur of the nineteenth century, i.e., subjective and objective isolation, was opened up and consolidated by the British, and subsequently integration became inevitable and the only viable historical condition in the context of the

twentieth century geo-politics and capitalist globalisation. Indian nationhood became a necessity and those who challenge it are being shown as terrorists.

Both the categories of the writers have written about Manipur from the Indian statist paradigm. Both have emphasised on the semblance of cultural commonality and imperialist commercial relation as the predetermined factors for the integration of Manipur into the Indian nationhood. In integration, they explained, there is common opportunity for citizenship and modernity, i.e., nationhood, security, peace and progress. According to Nehru “the future of Manipur State obviously lies with the Union of India. ... (Manipur’s) business of defence must be shouldered by the Union. In other ways too ...: the Union would, no doubt, help Manipur State to develop itself in many ways.”<sup>7</sup> They covered up the class interest of the Indian rulers to take control of Manipur. Instead, Manipur liberation movement has been relegated by identifying it with *atavism* incarnated in the form of ‘modern’ terrorism. In this way the Indian nationalist protagonists misinform the people's aspiration for right of self-determination, identify it with the derogatory term terrorism, and justify counter terrorism in the format of military intervention. Such misrepresentation hardly becomes democratic initiative to resolve the political question.

As I have mentioned earlier, there are competing narratives *vis-à-vis* the statist narratives. Dominance of a particular political term *vis-à-vis* competing terms can be said to be permanent only when the rest of the competing terms are absolutely phased out. Until then competing terms would continue to play roles and enjoy dominance in varying degrees. Linguistic misrepresentation of depicting a stable Indian nationhood is merely a component of success story construed by the Indian nationalists. It is a systematically planned out attempt to govern, direct and nourish up public mind towards a national imagining, i.e., horizontal comradeship in the words of Anderson.<sup>8</sup> However, there have been narratives about enduring “durable disorder”<sup>9</sup> in the Northeast that have drawn attentions, e.g., Manipur national liberation movement.

Dyakov’s work on the national question in India in the late 1940s<sup>10</sup> and the Memorandum of the Communist Party of India submitted to the British Cabinet Mission in 1946<sup>11</sup> are some of the examples that had articulated multi-national theory for India. The depiction of a stable Indian nationhood cannot defeat the depiction of instability by the multi-national theorists. This inability illustrates the failure of the Indian rulers in the power politics. The failure proves that the semantics of successful integration articulated by the Indian leaders is a cover up laying beneath

it several weaknesses. On the other hand the weaknesses have become a history that cannot be tempered with. It cannot be erased from the history that Manipur till 14 October 1949 was a territory outside the Indian Union. India annexed Manipur without the popular consent on the following day. If the Indian nationhood had to be constructed on the principle of voluntary federation, Manipur national question would not have become a serious concern for the Indian leaders in 2004, who after 57 years of the jubilant Independence Day ritual have taken the pain of vowing to the Indian constitution and condemn for “... on 14<sup>th</sup> of August (2004), as you all know, Sir, they have celebrated their independence. They unfurled their own flag. It is a question of seceding from the Union of India and the anti-Indian feelings are precipitating in Manipur ... This is all about Manipur.”<sup>12</sup>

The linguistic forgery that depicts a stable Indian nationhood, perhaps, raises question mark against the militant way of constructing an Indian Union comprising the Northeast peoples. If Anderson’s *horizontal comradeship* or Stalin’s *common psychological makeup* was a necessary qualification for nationhood, then, how do we interpret the imperial psychology of the Indian rulers when they use the military power and the Armed Forces Special Powers Act 1958 to kill people without impunity so as to keep Manipur within India at any cost? Does it explain a stable nationhood or an oppressive regime? The political psychologies between the Indians and Manipuris as two different psychological collectives had not been completely assimilated into one as a result of the colonial and oppressive character of the Indian rulers. Common psychological attachment is a historical product and it might have been developed in 60 years had the Indian rulers reverted from expansionist objectives and relied on what may be called voluntary unionism characterised by the provision of right of every nation/ nationality to retain the right of secession.

My argument is that there has been a pace of psychological distance that the Indian political rulers had reserved for themselves while dealing with Manipur. The distance has rendered the concept of a stable Indian nationhood promoted by the Indian rulers a paradoxical and capitalist interest. The Indian leaders of 1940s had gazed upon the Northeast with an exotic imagination. For them the Northeast was an unexplored resource, a strategic frontier, an anthropological show piece, a wild space of different race that must be colonised and tamed by what was considered the Indian civilising hands, and of course an inheritable British colonial asset. Report of the Sub-Committee on North – East Frontier (Assam) Tribal and Excluded Areas, submitted to the Constituent Assembly of India on 28 July 1947 substantiates my argument.<sup>13</sup> It is an irony that while the Indian leaders who had talked about an Indian nationhood comprising

the Northeast, on the eve of the Independence were still ignorant about the Northeast and that they would have to rely on the information that was available to them only in July 1947. How many of them would have read the report in detail is doubtful as most of them were intensively preoccupied with issues on communalism, caste question, and anti-communism and so on. Their subjective consciousness for the Northeast was a mere imagining bent on imperial hangover for spatial control over what Sardar Patel had termed 'weak spots' for India.

Nehru's constant fear for potential Manipuri inclination towards communism<sup>14</sup> and the 'forward policy'<sup>15</sup> to the *Jewel of India*,<sup>16</sup> Sardar Patel's racial prejudice reflected in his concern over racial-cultural affiliation of the Northeast population and subsequent speeches and statements made by several Indian political rulers would substantiate my argument. Nehru's deep rooted fear for the potential rebel against the Indian control of the Northeast had led to the investment in the pre-emptive forward policy, i.e., to keep the Northeast under the military control. For an Indian leader like Sardar Patel, the *Iron Man of India* who had taken the pains of fulfilling an extensive Indian 'territorial vision' encompassing the Northeast, Indian racial affiliation and cultural characteristics seemed to him all forms of racial and cultural features but minus what he believed as characteristically Tibetan and Mongoloids.<sup>17</sup> The Northeast peoples were suspected because they had Tibetan and Mongoloids physical appearance. Logically, only those who would possess indo-aryan physical features should be the genuine citizen, trustworthy, and the rest of the population were considered suspect community. It is indeed unfortunate that right from the beginning the Indian nationalist protagonists had failed either to extend friendly hand or adopt peaceful & democratic approach while dealing with the Northeast.

The pace of the psychological distance has been continuously harboured by the subsequent Indian rulers till today. If Shivarj Patil's "brothers, men and officers of the Armed Forces, are living thousands of miles away from their homes and from their places and exposing themselves to all kinds of dangers that are involved in countering insurgency...",<sup>18</sup> he was not only drawing a measurable distance between Manipur and India (reciprocally representing distant land and home) but also had derecognised from 'Indianness' those Manipuris who were serving in the Indian army and were being deployed in Manipur. According to Mr. P.R. Kyndiah, a member of parliament from Meghalaya there has been "a very wrong perception about the North-East. The analysis was over simplistic". In fact, Kyndiah had raised in the Indian parliament on 8 March 2001 that, "When there was some police firing or militants' firing in Shillong, seven

businessmen were killed and in one of the newspapers they said, 'Five Indian businessmen have been killed', as if Shillong was not in India. Is this the media perception too? This is wrong. When there was a change of Government in Manipur and the Samata party took over power, they said: 'Kohima calling'. They did not know that the capital of Manipur was Imphal. This is how we look at the North-East. How can we solve the problems of the North-East if we do not know even the State capitals and if we do not know that Shillong is a part of India? ... When I was the Head of the State in Mizoram, I received a letter from the Ministry of Defence addressed to: 'P.R. Kyndiah, Governor, Mizoram, Agartala'. Agartala is the capital of Tripura. This is the kind of ignorance that is there about the North-East. This is unthinkable."<sup>19</sup> Not surprisingly L.K Advani<sup>20</sup> made a speech on 13 August 2008. He related the genesis of Manipur into pre 1947 India. On the other hand he located India somewhere outside Manipur. His emotional invocation that Manipur could be far away but would be and never be far away from "our heart," was rhetoric of fitting an exotic land into the landscape that was his own imagining. The wide gap between the depiction of a stable Indian nationhood and the suspicion or 'otherness' harboured at the subjective conscience of the Indian rulers has rendered Nehru's *Tryst with Destiny* into an exaggeration and misrepresentation.

Nehru had defined and depicted a stable Indian nationhood from the statist paradigm. His *Tryst with Destiny* informs to us more about a project, i.e., geo-politico-economic interest. He had not been able to create a nation in the strict sense of the Marxist term. The Independence Day ritual of 1947 remains ambivalent and paradoxical from what it tried to convey. The trend of linguistic forgery / delusive representation is aimed at concealing from the public the hasty and militant way of India building attempt. In reality, from the time of Nehru until today, the Manipur-India political conflict continues. To sum up, Manipur liberation movement, that is bent on the pre-existing Manipuri nationalism, is a political response to the class based exploitative political economy super-structured by the Indian rulers through use of military power and the promotion of reaction. There is a need for the collective effort to bring an end to any form of suppressive and repressive tactics and find out a democratic solution to the political question.

#### Endnotes:

\* Excerpt from the speech delivered by Jawaharlal Nehru, Prime Minister of the Dominion Government of India on the Occasion of the first Independence Day on 15 August 1947.

<sup>1</sup> Tryst with Destiny was a speech made by Jawaharlal Nehru, the first

Prime Minister of independent India. The speech was made to the Indian Constituent Assembly, on the eve of India's independence, towards midnight on August 14, 1947. It focuses on the aspects that transcend India's history. It is considered in modern India to be a landmark oration that captures the essence of the triumphant culmination of the hundred-year Indian freedom struggle against the British Empire in India and development of India towards an independent nationhood: *Tryst with Destiny*; Nehru's speech, 14/15 August 1947.

2. Statement of hon'ble Mr. Shri Krishna Sinha (Bihar: General) on Monday, 16 December 1946; *Constituent Assembly Debate*, Volume I.
3. Undemarcated Northeast frontier including Manipur.
4. It is widely circulated that India is a nation composed of diverse social, cultural, linguistic, etc. peoples.
5. Guido Zernatto, 'Nation: the history of a word' in John Hutchinson and Anthony D. Smith, eds., *Nationalism Critical Concepts in Political Science*, Volume I; London, Routledge, 2002.
6. On 15th June, 2005 the Government of India passed 'An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto'; *The Right to Information Act, 2005*; Act No. 22 of 2005, dated 15 June 2005.
- \* Several historical files and sources of information concerning the history, society and politics of Manipur in the Indian National Archive are being classified.
7. Jawaharlal Nehru's letter to the Maharaja of Manipur, dated 22 May 1947; *Selected works of Jawaharla Nehru*, Volume II; Delhi, Nehru Memorial Museum & Library. p. 257
8. Benedict Anderson, *Imagined Communities, Reflections on the origin and Spread of Nationalism*, London, Verso, revised ed., 1995
9. Sanjib Baruah, *Durable Disorder: Understanding the Politics of Northeast India*; Delhi, Oxford University Press, 2005.
10. A. M. Dyakov, 'The National Question in the Indian Union and Pakistan' in *Revolutionary Democracy*; Vol, IX, No. 2, New Delhi, 2003.
11. G. Adhikari, ed., *Marxist Miscellany*, Volume Eight; Bombay, People's Publishing House, 1946. pp. 120-24.
12. Statement of Shri Manjo Bhattacharya on Law and Order Situation in Manipur; Lok Sabha, Tuesday, 17 August 2004.

13. 'Our report (Volume I) is divided into two parts and the evidence forms a separate volume (Volume II). In the first part of our report we have given a bird's eye view of the areas as a whole, noting in particular their common features and giving the frame work of the scheme of administration recommended by us. In Part II a largely descriptive account of the different areas is given separately and we have mentioned their special features or needs'; Report of the Sub-Committee on North –East Frontier (Assam) Tribal and Excluded Areas; Constituent Assembly of India, Council House, New Delhi, 28 July 1947.
14. Prime Minister Nehru's Note on China and Tibet, dated 18 November 1950', reproduced in Karunakar Gupta, *Spotlight on Sino- Indian Frontiers*; Calcutta, Friendship Publications, 1983.
15. Military intervention and bureaucratic control are seen as pre-emptive measures to defeat any potential threat to Indian geo-political interest in the Northeast.
16. An embellishing term that Nehru had coined for Manipur. Writing about the conditions of Manipur in 1960s Mr. Maloy Krishna Dhar, Former Joint Director, Intelligence Bureau, had redefined the termed Land of Jewel. According to him Indian bureaucrats and military officials who had opened up smuggling and corruption den in Manipur, 'came to Manipur with linear pockets but went home with fatter ones. It was, for them, indeed, a land of jewels'; Maloy Krishna Dhar, *Open Secrets: India's Intelligence Unveiled*; Delhi, Manas Publication, 2006. p. 98
17. Sardar Patel's letter to Jawaharlal Nehru', 7 November 1950; reproduced in Gupta, *Spotlight on Sino- Indian Frontiers*.
18. Statement of the Minister of Home Affairs Shivraj V. Patil on Law and Order Situation in Manipur; Lok Sabha, Tuesday, 17 August 2004.
19. Further discussion on the Motion of Thanks on the President's Address initiated by Dr. Vijay Kumar Malhotra and seconded by Dr. S. Venugopal on 7 March, 2001; Lok Sabha, 8 March 2001. <http://164.100.47.132/psearch/Result13.aspx?dbsl=2266>, accessed in June 2005.
20. Speech delivered by L.K. Advani, leader of the opposition party in the Indian parliament on the occasion of Manipur Patriots Day, 13 August 2008, organized by the Manipur Diaspora Community, Delhi.

### **Historians' Statement on Ayodhya Verdict**

The judgement delivered by the Lucknow Bench of the Allahabad High Court in the Ram Janmabhoomi-Babri Masjid Dispute on 30 September 2010 has raised serious concerns because of the way history, reason and secular values have been treated in it. First of all, the view that the Babri Masjid was built at the site of a Hindu temple, which has been maintained by two of the three judges, takes no account of all the evidence contrary to this fact turned up by the Archaeological Survey of India's own excavations: the presence of animal bones throughout as well as of the use of 'surkhi' and lime mortar (all characteristic of Muslim presence) rule out the possibility of a Hindu temple having been there beneath the mosque. The ASI's controversial Report which claimed otherwise on the basis of 'pillar bases' was manifestly fraudulent in its assertions since no pillars were found, and the alleged existence of 'pillar bases' has been debated by archaeologists. It is now imperative that the site notebooks, artefacts and other material evidence relating to the ASI's excavation be made available for scrutiny by scholars, historians and archaeologists.

No proof has been offered even of the fact that a Hindu belief in Lord Rama's birth-site being the same as the site of the mosque had at all existed before very recent times, let alone since 'time immemorial'. Not only is the judgement wrong in accepting the antiquity of this belief, but it is gravely disturbing that such acceptance should then be converted into an argument for deciding property entitlement. This seems to be against all principles of law and equity.

The most objectionable part of the judgement is the legitimation it provides to violence and muscle-power. While it recognizes the forcible break-in of 1949 which led to placing the idols under the mosque-dome, it now recognizes, without any rational basis, that the transfer put the idols in their rightful place. Even more astonishingly, it accepts the destruction of the mosque in 1992 (in defiance, let it be remembered, of the Supreme Court's own orders) as an act whose consequences are to be accepted, by transferring the main parts of the mosque to those clamouring for a temple to be built.

For all these reasons we cannot but see the judgement as yet another blow to the secular fabric of our country and the repute of our judiciary. Whatever happens next in the case cannot, unfortunately, make

good what the country has lost.

**Signed by the following historians:** A. Murali, Amar Farooqui, Amiya Kumar Bagchi, Anil Chandra, Aniruddha Ray, Archana Prasad, Arjun Dev, Arun Bandopadhyaya, B.P. Sahu, Biswamoy Pati, C.P. Chandrasekhar, D. Mandal, D.N. Jha, Farhat Hasan, G.P. Sharma, Geeta Kapur, H.C. Satyarthi, Indira Arjun Dev, Indira Chandrasekhar, Iqtidar Alam Khan, Irfan Habib, Jaya Menon, Jayati Ghosh, K.K. Sharma, K.M. Shrimali, K.N. Panikkar, Kesavan Veluthat, Lata Singh, M.K. Raina, Madan Gopal Singh, Madhu Prasad, Mahendra Pratap Singh, N.K. Sharma, Najaf Haider, O.P. Jaiswal, Parthiv Shah, Prabhat Patnaik, Prabhat Shukla, R. Gopinath, R.C. Thakran, R.P. Bahuguna, Rahul Verma, Rajendra Prasad, Ram Rahman, Ramakrishna Chatterjee, Romila Thapar, S.Z.H. Jafri, Santosh Rai, Shakti Kak, Shalini Jain, Shireen Moosvi, Sitaram Roy, Sohail Hashmi, Sukumar Muralidharan, Supriya Verma, Suvira Jaiswal, Utsa Patnaik, V. Ramakrishna, V.M. Jha, Vivian Sundaram, Zoya Hasan

### **Ayodhya Verdict**

Both government and opposition and the public in general are rightly in panic awaiting the verdict on Babri Masjid by Allahabad High Court – a situation brought about by the faltering non secular stand by all the concerned governments. The High Court is to give verdict t on the following points;

1. Was the place under Babri Masjid the birth place of Lord Ram.
2. Was there or not a temple on the land on which Babri Masjid was built.

Now it is obvious to the meanest intelligence that it is impossible to prove that birth place of Lord Ram was under the Masjid – it may be a matter of faith, genuine or contrived or otherwise, but that is no proof, nor can it ever be put forward as a legal ground to take away the land from the Mosque.

If the finding is that Masjid was not built on a temple, then the Muslims get the land back and free to use it in any way including the building of Mosque.

In the alternative it may be held that there was a temple on the land of Babri Mosque. But even with this finding the suit by VHP/RSS has to be dismissed. Admittedly Babri Masjid has been in existence for over 400 years till it was demolished by goons of VHP/RSS in 1992. Legally,

speaking the Sangh Parivar would have no right even if a temple had been demolished to build the Babri Masjid.

I say this in view of the precedent of the case of Masjid Shahid Ganj in Lahore decided by the Privy Council in (1940). In that case there was admittedly a Mosque existing since 1722 A.D. But by 1762, the building came under Sikh rule and was being used as a Gurdawara. It was only in 1935 that a suit was filed claiming the building was a Mosque and should be returned to Muslims.

The Privy Council while observing “their Lordship have every sympathy with a religious sentiment which would ascribe sanctity and in violability to a place of worship, they cannot under the Limitation Act accept the contentions that such a building cannot be possessed adversely” and then went on to hold “The Property now in question having been possessed by Sikhs adversely to the waqf and to all interests thereunder for more than 12 years, the right of the mutawali to possession for the purposes of the waqf came to an end under Limitation Act. “On the same parity of reasoning even if temple existed prior to the building of Masjid 400 years ago, suit by VHP etc has to fail”.

There is another reason why in such a situation, suit would fail because in common law, even a rightful heir if he kills his ancestor, forfeits his right of inheritance. In the Masjid case too, there was ‘murder most foul’ and hence the murderer cannot be allowed to take the benefit of his own dastardly deeds, whatever the legal position may be.

It is true that sometime some Muslims groups in a spirit of large heartedness and as a measure of mutual accommodation, suggest that if it was found that the Masjid was built on the site of a temple, they would not like to now build a Mosque on the said site because the Koran forbids Muslims to build a mosque by demolishing any other religious place. But even then, if Muslims choose not to build a Masjid on this site, the ownership and use of the land remains with them. Hindu cannot under any circumstances lay a claim to this site which was under Babri Masjid.

Some well intentioned persons come out with apparently neutral suggestion of building a multi Religious complex on the site. To me this would be surrender to rabid Hindu Communal sentiment - whatever explanation you may give, a Muslim then would feel less equal citizen if even after he has won, he is asked to share this site with the goons who destroyed the Holy Mosque. This would be a defeat of secularism and against our constitution which mandates that all citizens, whether Hindus, Muslims have equal Rights and are equal before law.

A multi Religious Complex or multi culture Centre or a hospital can obviously be built by the joint free will efforts of both Hindus and Muslims. But such a complex if it is to be built necessarily must be on the land away and outside the Masjid complex, and that too only if the Muslims give their consent - obviously as vacant land belongs to the Muslims. But under all circumstances, the site under Babri Masjid must remain in the exclusive possession of Muslims who will be free to use it in any way the community decides.

I feel that the government should start doing an exercise of consultation, preparation on these lines – to await helplessly trying to anticipate what the verdict would be is like a pigeon who on seeing a cat closes its eyes with the delusion that cat will go away – the result is obvious.

Equally I feel that leaders of all communities, political parties, social workers should start planning to meet the situation, because this matter requires the involvement of people at grass root level and the matter does not brook any delay.

The legal position is clear. It is only the weakness of political will that is responsible for the Ayodhya imbroglio to continue as one of the most bitter disputes within the country. By keeping the Ayodhya issue alive, the country has been kept away from addressing its most urgent task – how to meet the challenge of the growing pauperization of the masses. And that includes both Hindus and Muslims.

Sd/-

Rajindar Sachar

*Chief Justice (Retd.)*, High Court of Delhi, New Delhi, Chairperson Prime Minister’s High Level Committee, On Status of Muslims (Ex.)

Dated : 13-09-2010

New Delhi.

### Condemn Attack on The Ima Keithel: Condemn Mismanagement Deliberated by the Government

Dear Friends,

Thousands of women traders of the Ima Keithel (*lit.* Market of the mothers) in the heart of the Imphal City of Manipur have been systematically displaced and marginalized over the last few years in the name of modernization of the Keithel by the Government. The apprehension about and the plight of losing the trading opportunity to higher bidders has not been adequately addressed. The democratic demands to deliver with economic justice to the displaced women traders have been repeatedly suppressed. The Central Government has remained a mute spectator and has been allowing the reign of corruption, bribery, favoritism and mismanagement in the allocation of seats and the construction process of the Keithel. In connection to the issue, we, the women representatives of the Khwairamband Nupi Keithel Vendors' Welfare Association have come to Delhi to highlight the plight and the helpless voice of the women traders who have been victims of the enforced displacement.

Perhaps, the Ima Keithel, which is located in the heart of the Imphal city, accommodates about 4000 women trade license holders and about 5000 street vendors. The Keithel is historically significant because it is run exclusively by the women from different parts of Manipur. It is one of the oldest market places and clearly stands out as the cradle of the fervent economic, social and political activities of the women in Manipur. About half a decade year back the Government of Manipur, on the pretext of urban modernization projects, had started reconstruction of the pre-existing three market sheds that constitute the Ima Keithel. We had welcomed the project. However, it has been a matter of controversy and unrest ever since the nefarious nexus of political leaders, bureaucrats, contractors and big business houses began to play opportunism with the project to take control of the market seats into their corrupt pockets. Corrupt practice of the State officials shows its sole care for the gains of the privileged sections out of the pains of the most of the world of lives and hopes of those who are far, distant, low and bare.

Mismanagement and anomaly in the construction process and allocation of seats has been exposed times and again. As of now we have

found out:

- The government had not fulfilled the terms and conditions of the Memorandum of Understanding (MoU) jointly signed by the representatives of the Ima Keithel and the Manipur Government on 19 April 2005.
- Arbitrary cancellation of some of the non-transferable permanent licenses and forcibly conversion of some of the permanent license holders to the devalued category of temporary license holders.
- The government till date has not made into public the blue print of the construction project including the total number of sheds & seats to be constructed, allocation plan, amenities and other facilities.
- The government since the 19<sup>th</sup> April 2005 MoU has not respond to the repeated appeals and memorials presented by the women traders seeking for permission to have meaningful discussion on the issues mentioned above.
- There has been neither an announcement of the list of the original permanent license holders nor a written assurance to allocation of seat to the license holders.
- The government has yet to implement the aims & objectives of the Street Vendors Bill and the National Policy on Urban Street Vendors 2009.

As a result, what comes out of this mega project is the tragedy of loss of livelihood and hopes to several women traders of the Ima Keithel. While many women who had been doing business had already lost their allocations, many who are yet to get are not in the position to get the allocated seats any more. And the most impending is the loss of hopes for widowed victims of armed conflict and those who regularly come from far off places to the Keithel to earn a day's meager income. As consequently the Government has now pushed Manipur into another level of trouble in its urban construction sector, thereby, exasperating rural urban divide in terms of trading opportunity on the one hand and further widening the gap between the privileged and the marginalized on the other hand.

We, representing the economic interest of the thousands of women traders of the Ima Keithel, therefore, demanded that:

- The seats for original license holders who are being temporarily accommodated to trading in the temporary market sheds located at the then Imphal District Hospital site be allocated to the newly

constructed women markets with effect from the day of the inauguration of the women markets.

- Seat & shed be allocated to the license holders who till date have not been allocated seat & shed to carry out their respective trade.
- The existing temporary market sheds which are at present allocated to some of the license holders, after being vacated by the later as a result of allocation to the new women markets, be available for allotment to the existing street vendors.
- Seat arrangement / allocation in the Ima Keithel should be carried out by the Government in consultation with and involvement of the representatives of the Ima Keithel.
- The Government of Manipur must fulfill the terms and conditions of the MoU of 19 April 2005.

We believe that the struggle for economic earning in this particular case is not merely a fight against corruption alone but a fight against the ideology of the domination which makes possible for the corrupt officials to grow and thrive. We, therefore, express the plight of the thousands of women traders in Manipur, protest the material implication of domination by the corrupt officials and the nefarious designs of displacement, and appeal to all the likeminded organizations and individuals to join hands to adequately address the concerned crisis that remains unresolved for several years.

Thanking you

L. Mema  
President,

*Khwairamband Nupi Keithel Vendors Welfare Association, Manipur.*  
2<sup>nd</sup> September, 2010

## Know Your Rights

Articles 371 – C of the Constitution of India read with “The Manipur Legislative Assembly (Hill Areas Committee) Order, 1972” by the President of India empowered the Hill Area Committee (HAC) with immense authority and great responsibility for efficient administration of the tribal areas of Manipur. But the State Government of Manipur under the autocratic and dominant force of the non-tribals coupled with the ignorance and complacency of the elected representative of the tribals, deprived us from enacting and enforcing such laws and rules which will truly engrain, uphold and strengthen democratic process at the grass-root level in the hills.

Some of the glaring example of deprivation and dangers of order of 1972 and Manipur (Hill Areas) District Council Act 1972 are briefly discussed below.

### DEPRIVATION

1. Para 4, 5 and 6 of the Manipur Legislative Assembly (Hill Areas Committee) Order, 1972 empowered the HAC (i) Legislation of Laws (ii) Planning and implementation of development programmes (iii) executive function in so far matters related with the hill areas of Manipur. All these power and function are to be enforced through the respective district councils.
2. The HAC is also to allocate fund to the District Councils from the Annual Budget of the State Plan in so the Hill areas are concern.
3. Transfer and posting of all executive heads are to be enforced by the HAC in so far they are related to the Hill areas.
4. Hospitals, Primary Health Centres, High Schools and colleges, roads other than National High Ways are to be Subject matter of the HAC and to be enforced through the District Councils.
5. Till now these powers and function have not been affected.

### DANGER

1. The Manipur (Hill Area) District Council Act (Third Amendment) 2008, section 29 (i) clause XIII empowers District Council to occupy and sell/allot land from villages. It can also set apart certain areas of Village land for purposes the Council thinks fit. This section contradicts with the Manipur State Hill People (Administration) Regulation, 1947 and the Manipur (Village Authority in Hill Areas) Act, 1956.
2. Section 29 (1) clause (XIV) of the Act also empower District Councils to manage forest can be declared as National Park or Protected Forest or Reserve forest by a District Council without much a do with a village authority.
3. Section 29 (2) (a) empower District Councils to recommend to the State Government for appointment or succession of Chief/ Headman/Chairman without the knowledge or approval of the concern village.
4. Section 29 (2) (b) authorities District Council to issue orders by its own volition in matters relating to inheritance of property, marriage and divorce and control or regulation of customs and tradition.

5. The Deputy Commissioner is empowered by 46 (3) of the Act to suspend any resolution of the District Council if he/she thinks it improper or contravenes rules.
6. Section 47 of the Act empowers the Deputy Commission to recommend suspension of the District Council if he/she thinks the Council has violated rules. The District Councils are still kept at the whims and mercy of Deputy Commissioners in spite of the fact that the District Councils are constituted by elected representatives of the people.

### DEMEANINGACT

The Manipur (Hill Areas) District Council Act 1971 was drafted by Shri DG Bhave retired Chief Secretary of Manipur in 1971 and enacted by Parliament in 1972. The Act was drafted not keeping in mind the socio-political and economic reality of the hill people at that time. The Parliament also did not dwell on the hollowness of the hill and hence passed without looking into the efficacy of the bill. The Manipur (Hill Areas) District Council (Third Amendment) Act 2008 also did not take any step to empower the functioning of the District Councils. An increase of more subject matters in section 29 (1) of the Act does not cause any different as the Power and Function under section 29 of the Act remain the same. The Manipur (Hill Areas) District Council Rule 1972 is yet to be amended. As per the rule of 1972 a Council is empowered to execute scheme worth below Rs.50,000/- (Rupees fifty thousand) only. Such obsolete Act and Rules are still being enforced even after nearly 40 years of their enforcement as if the hill people of Manipur have not change at all. The hill people need an Act for the efficient functioning of District Council which will truly empower with (I) legislation in so far matters related with the livelihood and customs of the tribals (II) Planning for development, policy and programmes, and (III) executive in so far matters related with enforcement and local security.

Holding of District Council election in excitement and haste without knowing the spirit and contents of the Act and the Rules will only invigorate further the dangerous elements of exploitation against the tribals. This Act is literally an act of invasion on the polity, economy customs and tradition of the hill people of Manipur. Once election is held under this Act, we will be victims of economic and political exploitation and stagnation for another generation to come.

**Courtesy: The United Naga Council, 28 May 2010**

### BENGAL

## More Than Just An Arrest

*On 17<sup>th</sup> August 2010, social activist and our General Secretary, Naba Dutta, had been arrested from West Medinipur. Owing to unprecedented public outcry against the arrest, he was granted bail next day, but not before serious, and totally fabricated, criminal charges were brought against him. Why and how did this happen? Let us look at the context of this incident:*

### FACTS:

1. Mr Naba Dutta, General Secretary of Nagarik Mancha, along with Ms Prajnaparamita Dutta Raychaudhuri, Mr Dipankar Majumdar and Mr Gautam Ghosh, all associated with our organization, had travelled to the Narayangarh BDO Office (155 km from Kolkata) in Belda Subdivision of West Medinipur, West Bengal on Tuesday, 17 August 2010.
2. This team from Nagarik Mancha went there in solidarity with a hunger strike and a sit-in demonstration programme organized in front of the said BDO Office by the 'Paschim Medinipur Lodha Shabar Kalyan Samiti' (Lodhas and the Sabars are *adivasis*). This organization was agitating with a 14-point charter of demand which included a demand for rebuilding 11 hutments burnt down by politically motivated miscreants. Announcement about the demonstration had been made in a Press Conference at Medinipur Town on 12 August 2010 including the news about Naba Dutta's forthcoming visit.
3. Naba Dutta and others including Joydeb Singh (an activist with Paschim Medinipur Lodha Shabar Kalyan Samiti) headed towards Kolkata in their rented car (WB-02M-8565) just after 5pm. About 5 km from the venue a police car (WB-34N-0011) approached them and a plain clothed personnel (later identified as the OC, Belda PS) informed them that they were to follow the police car to Narayangarh PS.
4. However when the police car ahead of them did not stop at the said Narayangarh PS, Naba Dutta and others, sensing trouble, started making calls to their contacts from their mobiles. By then there was another police car behind. Soon more plain clothed personnel came over to their car and confiscated the mobiles from the team members. When asked whether they were being taken into custody, the police gave ambiguous and contradictory answers.

5. For the next two hours or so the 'convoy', in gathering darkness, kept moving aimlessly in and around Kharagpur Town and ultimately stopped at Sadatpur Investigation Centre under Kharagpur PS located on the Nimpura-Kalaikunda Chowmatha.
6. At Sadatpur IC, Prajna, Dipankar, Gautam, Joydeb and Ashok (the driver) were 'released' after submission of PR Bond, while Naba Dutta was taken away towards Manikpur Beat House (a guest house) under Jhargram PS, about 45 km from Sadatpur IC in a police car (WB-34N-0011). Incidentally despite being asked for the police did not produce any warrant or arrest/custody memo.
7. The remaining members of the team, after their 'release', drove to Manikpur Beat House, near Jhargram, but on reaching there were informed that Naba Dutta had been taken once again to Sadatpur IC and hence they drove back again.
8. While traveling Naba Dutta demanded to be told as to what all this meant and whether the police had any charges against him. In response a personnel asked him what harm was being done and Naba Dutta "should be enjoying the car ride".
9. Finally on reaching Sadatpur IC, after 9.30pm the arrest memo was 'prepared' virtually in the presence of the accused. Naba Dutta was charged in connection with Jhargram PS Case No. 227/2009 under sections 121, 121A, 122, 123, 124A, 142, 147, 148, 149, 307, 323, 324, 325, 379, 436, 440, 447 of the Indian Penal Code and under sections 25, 26, 27 of the Arms Act.
10. Hence in plain speak Naba Dutta was charged with: 'Unlawful assembly'; 'Rioting'; 'Sedition/Conspiracy'; 'Waging war'; 'Collecting arms to wage war'; 'Concealment with intent to wage war'; 'Attempt to murder'; 'Causing hurt/grievous hurt'; 'Theft'; 'Causing mischief by fire/explosive'; 'Criminal trespass'; 'Using/concealing prohibited arms'.
11. Jhargram PS Case No. 227/2009 was concerned with an incident in which some temporary structures and vehicles belonging to Rashmi Cement, a sponge iron factory at Jitushole near Jhargram was burnt down on 18 December 2009 and the CPI (Maoist) publicly took responsibility and justified their action as a retaliation to the inaction of the West Bengal Government towards closing down this hugely polluting unit.
12. Naba Dutta, 'legally' arrested after five hours of illegal detention, was then confined within the premise of the Sadatpur IC up to about 12 noon the next day that is, 18 August 2010. Subsequently, he was driven to Jhargram ACJM's Court Lockup.
13. Senior Advocate Sadhan Roychowdhury appeared on behalf of Naba Dutta along with a team of eminent lawyers.
14. It was found that Naba Dutta's name did not even appear in either the FIR or the Case Diary in connection with Jhargram PS Case No. 227/2009 in which he was said to be accused. We also came to know that as per police records Naba Dutta was not at Jhargram on that day but he was said to have hatched the plan regarding arson etc at the said Jitushole unit while at a public meeting, held two days back, in Salt Lake, Kolkata. This was obtained u/s 164 when two witnesses had stated the above fact in front of the Magistrate. This allegation actually refers to a day-long sit-in-demonstration in front of WBPCB Office at Salt Lake on Wednesday, 16 December 2009 between 10am and 4pm organised by scores of organisations and initiatives including Nagarik Mancha besides eminent members of the citizenry. The single point programme was to demand for total withdrawal of permission for running sponge iron units with existing technology in the districts of West Midnapur, Bankura, Bardhaman and Purulia.
15. Consequently Naba Dutta was granted interim bail by the Hon'ble Judge at the Jhargram ACJM Court at about 4pm, on Wednesday, 18 August 2010, almost 24 hours after being illegally detained by the police near Narayangarh.

#### **BACKGROUND IN BRIEF:**

Since April 2009, Nagarik Mancha has been consistently lending its support and solidarity to the protests at the grassroots against pollution from three sponge iron units at Gajashimul, Jitushole and Mohonpur in the Jhargram PS area, West Medinipur. The pollution has been devastating the life and livelihood of a large portion of the 50,000 inhabitants, predominantly tribals, in 50-60 adjoining villages under Patashimul, Lodhashuli, Shalboni and Manikpara Gram Panchayats.

Since 2006, Naba Dutta as the General Secretary of Nagarik Mancha has been leading investigating and fact-finding teams also to the neighbouring districts of Burdwan, Bankura and Purulia where sponge iron units have mushroomed in recent years, causing enormous environmental and socio-economic disaster.

Nagarik Mancha has taken up the sponge iron pollution issue with the West Bengal Pollution Control Board and in various courts of law. It has repeatedly petitioned the Left Front Government and its demands have been simple: the Government should follow its own rules and regulations – and those of the Central Pollution Control Board – in taking immediate restraining measures.

On 7 April 2010 a high powered meeting was held at WBPCB in which Nagarik Mancha was invited along with the victims of the pollution of the three sponge iron units near Jhargram. It was decided that a Notice will be served to all 55 large sponge iron units in the State asking for facts related to use of groundwater, coal etc. The Review Meeting, where Nagarik Mancha and the victims were again present, was held on 28 July 2010 where it was evident from the facts gathered by WBPCB in response to their official Notice, that most of the sponge iron units did not have requisite licenses and in gist, as per law, they were operating illegally. It was decided that this findings would be placed at the next Board meeting and suitable action, as per law initiated. That was about three weeks before the day of arrest of Naba Dutta.

Hence, the Nagarik Mancha has, in essence, only stood by the initiative of the people victimized by sponge iron units and has urged the authorities to follow rules and the laws of the land. Nothing more, nothing less. Only that it has been done consistently, led in the main by Naba Dutta.

The Government has remained a bystander from the word go, even going to the extent of patronizingly labelling these typically polluting units as 'iron and steel manufacturing units', buoyed by the need to fit these 'investments' in its declared dream of 'industrialization at any cost'. The sponge iron manufactures hankering for fast and dirty profit have expectedly viewed the anti-pollution campaign as a menace, and therefore it's no wonder now that the manufacturers and a section of the local administration are hand in glove, protecting each other's interests. It is a shame that the Left front Government has allowed this nexus to flourish in an area which was known to be its invincible fortress, thanks to the support it got from the tribal population.

#### **MATTERS OF SERIOUS CONCERN:**

Nagarik Mancha is of the firm opinion that it is not a just a case of an arrest of its General Secretary. There are issues which demand an engaging discourse in all possible forums.

1. Does the 'arrest' and release of Naba Dutta not send yet another 'message' in the form of a deterrent to non-party social activism?
2. Attempts to illegally suppress non-party social activism is growing by the day, and Naba Dutta detention/arrest is just another tactical move by a section of political parties in power and the section of the bureaucracy which is unfortunately becoming exceedingly politicised.

3. The era of trumped up charges which was rampant in the '70's is returning again with renewed vigour.
4. Capital governing dirty and discarded technology, as well as the power accruing from such capital is not only becoming aggressive and rampant but also excessively manipulative and lumpenised.
5. A section of the Government and most of the political parties are shielding the so-called 'investors' and extending every possible support to the law breakers.
6. Signs are evident, and it is getting clearer by the day, that most of the political parties prefer the civil society activism at the ground level to shrink leaving little democratic space outside the party structure.
7. A section of the executive is hell bent to obey orders of their masters even at the cost of breaking all laws and rules and directly violating human rights whenever and howsoever they choose to do so.

#### **ACTION:**

We urge all concerned to demand:

1. Unconditional withdrawal of all charges against Naba Dutta and all other social activists who are presently victims of similar trumped up charges;
2. Taking required and adequate steps against the concerned officers who dared to take law into their own hands while piling false charges against social activists;
3. Closing down of all the sponge iron units which are clearly identified to be causing havoc with the life and livelihood of the local inhabitants as well as having devastating effects on the environment.

We propose that these matters are appropriately communicated separately to:

1. The Hon'ble Governor of West Bengal, Raj Bhavan, Kolkata 700062; Fax: +913322002444, +913322001649; Email: secy-gov-wb@nic.in and governor-wb@nic.in
2. The Chief Minister, Government of West Bengal, Writers Building, Kolkata 700001; Fax: +913322145480; cm@wb.gov.in
3. The Chief Secretary, Government of West Bengal, Writers Building, Kolkata 700001; Fax: +913322144328; cs@wb.gov.in
4. The Member Secretary, West Bengal Pollution Control Board Paribesh Bhavan, LA Block, Sector III, Salt Lake, Kolkata 700098; Fax: +913323352813 +913323356730; Email: ms@wbpcb.gov.in

*Prepared and circulated by Nagarik Mancha on 20 August 2010*

## Land Grab For POSCO Project Begins

Today the Orissa government initiated “acquisition” of land in the proposed POSCO project area of Jagatsinghpur District, Orissa. The project is in complete violation of the law and this “acquisition” is part of an illegal land grab. We reiterate the following:

1. 3000 of 4000 acres in the POSCO area are forest land.
2. The people of the three affected gram panchayats have rights over this forest land under the Forest Rights Act of 2006. They are eligible; they have written proof of their presence in the area for a century.
3. As per the requirements of the Act the forest land cannot be taken for any other purpose without 1) fully recording and recognising all individual and community rights; 2) the communities of the area granting their consent in the form of a resolution.
4. Out of the four palli sabhas (gram sabhas) of the area, three have rejected consent.
5. No implementation of the Act has been done.
6. The forest clearance granted for the project is therefore illegal. Moreover the Orissa government was also sent a “clarification” by the Environment Ministry that stated that the “project cannot go ahead” unless the legal requirements of the Forest Rights Act are met.

As such the attempt to remove people is in direct violation of the law. The illegal collusion of the Orissa government and the Environment Ministry with POSCO has already been exposed. Please see here for a full set of documents proving these facts and for more details: <http://www.forestrightsact.com/corporate-projects/item/12-the-posco-project>

The ongoing take over of the land is evidence of the utter contempt in which both governments and corporates hold the law, and of how the government always uses force not to defend the “rule of law” but to defend the rule of money and resource grabbers.

*Campaign for Survival and Dignity*  
27 July 2010

## NC Saxena’s Letter to Jairam Ramesh Union Minister of Environment and Forest on FRA Violation at POSCO Site

Dear Shri Jairam Ramesh,

As you are aware, three members of the MoEF/MoTA Committee (Arupjyoti Saikia, Ravi Rebbapragada and Ashish Kothari) went to Jagatsinghpur as part of the MoEF/MoTA FRA Committee’s work. While there, they enquired about the FRA process in the district, including the villages to be affected by the proposed POSCO project. In brief, their findings are as follows:

1. There are Other Traditional Forest Dwellers (OTFDs) in the area, contrary to what the district administration is saying. Both documentary and oral evidence exists to this effect, including records of the old Bardhaman estate, rent receipts of the families from early 20th century, and forest settlement records. Some of this evidence is attached for your reference.
2. The FRA process has not been completed, in fact it has not proceeded beyond the initial stages, for various reasons. It is therefore incorrect for the district administration to conclude that there are no OTFDs in the area, without having gone through the process of claims.
3. The palli sabhas have given resolutions refusing to consent to diversion of forest land on which they are dependent. It is pertinent to point out here that these palli sabhas were convened by the district administration itself, after receiving instructions relating to the MoEF circular of July 2009, which indicates that the administration was aware of the presence of forest rights claimants in the area.

Interestingly, for a patch of forest land close to the land proposed to be diverted for POSCO, palli sabha consent was reportedly sought and obtained by the administration for a IOCL complex. Yet in the case of POSCO the administration is saying it is not needed.

In view of the above, the team’s conclusion is that any work related to the project in this area would be a violation of the FRA. This was informed by our team to the district administration on 24 July, and the state Chief Secretary on 27 July 2010. However, we have been informed

that the district administration is proceeding with land acquisition and demolition of the paan cultivation of people on forest land.

Our clear view is that such work is in violation of the Forest Rights Act. We therefore request you to urge the Orissa government to ensure proper implementation of FRA as laid down in the MoEF's July 2009 circular F.No. 11-9/1998-FC(pt) of 30 July 2009.

regards,  
NC

**3 August 2010**

**Note:** According to the MoEF, vide order dated the 29 June, 2010, and amended on 19 July, 2010, decided to constitute a Four Member Committee comprising of: Dr N.C. Saxena, IAS (Retd), Member, National Advisory Council; S. Parasuraman, Director, Tata Institute of Social Sciences; Promode Kant, Indian Forest Service (Retd); Dr Amita Baviskar, Associate Professor of Sociology, Institute of Economic Growth, to examine, in detail, the proposal submitted by the Orissa Mining Corporation Limited, under the provisions of the Forest (Conservation) Act, 1980, for diversion of 660.749 ha of forest land for the Lanjigarh bauxite mines in the Kalahandi and Rayagada Districts of the State of Orissa. Following the report submitted by the Committee, the Ministry of Forest & Environment, Government of India, vide letter no F-No 8-63/ 2007-FC, dated 5 August 2010, instructed upon the Principal Secretary (Forests), Government of Orissa to immediately stop handing over of the forest and non-forest land for the construction of the POSCO project. The instruction was protested by the Orissa government.

## GURGAON

### **Members of Garment And Allied Workers Union Beaten Up in Gurgaon**

Workers including of the Viva Global Factory, including women were brutally beaten up with hockey sticks and lathis by goons called in by the Management of Viva Global, the Gurgaon based sweatshop apparel house. The incident happened this morning between 9:30 and 10:00 AM when workers were to enter the premises of the Factory, as part of a tripartite agreement between the Management of Viva Global, the Labour Department and the Garment and Allied Workers Union (GAWU). The agreement was the outcome of a meeting between the three parties, held on the 23rd of August 2010. The prevention of workers entering the factory, is a serious violation of the above agreement. Besides being beaten, a few workers were abducted in a vehicle by the goondas and taken to an undisclosed destination. At least one worker is still missing.

To protest against the high handedness of the Management of Viva Global and its utter contempt for any laws, rules and rights of workers, the workers of Viva Global have resolved that the President of the GAWU, Ms. Anannya Bhattacharjee will be on an indefinite hunger strike outside the gates of the Viva Global Factory. The hunger strike began today after a notice to this effect was given to the Labour Department.

Our demands are :

1. The abducted workers be immediately brought back
2. All workers be reinstated
3. The Management of the Viva Global apologise to the workers

Representatives of the Mazdoor Ekta Manch have also lodged a police complaint against the management for the unprovoked violence on workers and the abduction of workers. Viva Global is a major supplier of apparel to 'reputed' multinational superbrands such as Marks and Spencer. There have been serious violations of labour laws and human rights at the Viva Global Factory.

The Management has been using strong arm tactics against union leaders, representatives of workers etc., each time that the workers have demanded that basic amenities and legal wages be given to them. On the 21st of Aug 2010, at 6.00 PM, contract workers were locked out of the Factory in an attempt to illegally terminate them. Other workers (non-contract workers) had then demanded that contract workers be given their

rights in terms of notice pay and the PF amount that has already been deducted from their wages. Even on 23rd of August, when workers reported at the gate for duty, they were allowed to enter the factory. About 15 local goons with pistols had threatened the Union leaders and workers.

A group of workers and union activists had then complained about the incident to the Labour Department which led to the tripartite agreement which had resolved :

1. That there would be no goondagiri by the Viva Global Mangement whatsoever
2. All workers who were locked out would be taken back. Another tripartite meeting is also scheduled for Thursday the 26th of August for further discussions.

However, the Management of the Viva Global has already violated the agreement of the 23rd of August.

Rajeev Singh.

*For the Mazdoor Ekta Manch, Gurgaon.*

**25 August 2010**

## KASHMIR

### **Stop Violence Against Unarmed Civilians In Kashmir**

To,

The National Human Rights Commission,  
National Commission for the Protection of Children,  
Office of the Chief Justice of India,  
Ministry of Home Affairs,  
Chief Minsiter of J & K,  
Planning Commission,

Dear Sir,

We, the undersigned, as a vigilant group of citizens submit our concerns regarding the prevailing situation in Jammu and Kashmir and urge your immediate assistance in ensuring that the Government of India and the state government takes immediate action to prevent further loss of life and property and initiate an impartial investigation into the recent killings in the region.

The political situation in Jammu and Kashmir has worsened over the last few weeks, which has in turn strengthened the existing culture of impunity in the region. The current crisis also has serious humanitarian consequences.

On June 29, 2010 at least three persons were killed in indiscriminate firing and excessive use of force by the police in Anantnag district of the Kashmir Valley. Four persons were killed in firing on 5-6 July, 2010. It is estimated that more than 15 civilians have been killed and several others injured in the unprecedented use of force by the J & K police and paramilitary, especially the Central Reserve Police Force (CRPF) in a span of two-three weeks. Several of those killed were children: Tufail Matoo (17), Javid Ahmad Malla (18), Shakeel Ahmad Ganai (14), Firdous Ahmed Kakroo (17), Asif Hasan Rather (9), Ishtiyah Ahmad Khanday (15 from Anantnag), Imtiyaz Ahmad Itoo (17, from Anantnag), Muzaffar Ahmad Bhat (17), and Abrar Ahmad (17). Several protest marches organized across the Valley in response to the killings were met with indiscriminate firing by the security forces deployed in the region. We condemn the recent killings of children in Kashmir .

Over the past few days, the response by the security forces has been such that, on available accounts, even ambulances have not been spared. Media reports state that at three places, including at Safakadal

and at Sangam on the Srinagar- Jammu highway, the CRPF fired on ambulances. Moreover, due to the imposition of curfew in the Valley, paramedics have been unable to reach hospitals as a result of which the existing hospital staff have been working over 36 hour shifts to tend to the injured. Even journalists with valid curfew passes have also been attacked. On June 28, 2010 a group of journalists belonging to local and national media organizations were attacked by the CRPF in the Qamarwari area of Srinagar .

Yet again, the recent events highlight the impunity with which the security forces in the region continue to operate. One of the emblematic cases that highlight the legal impunity is that of the enforced disappearance and murder of noted human rights activist, Jalil Andrabi by the Rashtriya Rifle, an army unit deployed in the Valley. In March 1996, Andrabi was illegally detained by security force personnel while returning from work. Three weeks later his mutilated body was found on the banks of the River Jhelum. International and national pressure culminated in the filing of a charge sheet by the police against the five accused in the Sessions Court, Budgam. However, the main accused in the Andrabi murder, Major Avatar Singh remains free to this day. The case of Jalil Andrabi is merely one example of the ongoing human rights violations. Many local and international human rights organizations, including Human Rights Watch, Amnesty International and Physicians for Human Rights have documented the systematic violations of human rights by state and non-state actors and the entrenched culture of impunity.

The promulgation of special laws in the state of Jammu and Kashmir provides legal immunity to the armed forces. Under the Armed Forces Special ( Jammu and Kashmir ) Special Powers Act, 1990, armed forces personnel of the rank of a commissioned officer, warrant officer, non commissioned officer or of an equivalent rank have been granted extraordinary powers such as the authority to shoot and kill suspected lawbreakers. Further, the Act in requiring prior sanction for prosecution acts as shield for impunity for the non-prosecution of security force personnel involved in egregious human rights violations, including enforced disappearances and torture. Thus far, sanction for prosecution has been granted only in a handful of cases, and perpetrators remain free. Therefore, in the least the procedure for granting sanction for prosecution should be at least be made more expeditious, effective, and equitable.

In this context it is even more necessary to seek accountability of the actions of the security forces in the region. Under applicable national and international law, the killing of children and attacks against hospital and medical infrastructure is strictly prohibited.

In fact, in its Eleventh Plan, the Planning Commission of India outlined special measures for women in from conflict zones within India , which would imply that there are conflict zones within India . The ongoing situation so far mentioned is in contravention of International law, humanitarian law as well as fundamental guarantees provided by the Indian Constitution, including the right to life (Article 21). As concerns the former, we seek to bring to you attention principles enshrined in Common Article 3 of the Geneva Conventions; the International Covenants for Civil and Political Rights, 1976, and the Additional Protocols thereto; the Convention of the Rights of the Child, 1990 and its Optional Protocol; and the UN Security Council Resolution 1882 (2009) on the protection of children.

Regarding constitutional and national laws and adjudicatory policies, we may here refer to the following:

- The guidelines prescribed by the National Human Rights Commission (NHRC) on police action (of 12 May 2010) and in the police manual should be respected
- The Supreme Court decisions in *D.K. Basu v. State of West Bengal* (AIR 1997 SC 610) and *Rajesh Gulate v. Government of Delhi* (SCC 7 2002 129)
- The Supreme Court of India guidelines to check arbitrary police action and ensure punishment of perpetrators.

Given the use of unprecedented force, we urge that the security forces exercise restraint and refrain from firing at unarmed protestors. The Central and state governments must ensure that arbitrary and disproportionate use of force against civilians ends immediately and an impartial investigation is initiated into the killing of civilians. We urge the Government of India and the Chief Minister of Jammu and Kashmir , Shri Omar Abdullah to take immediate steps to:

- Put an immediate end to the violence perpetrated by the security forces
- Prevent attacks against civilian infrastructure, including hospitals and ambulances
- Ensure that the security forces respect the principle of proportionality while responding to civilian protests
- Initiate an independent and impartial investigation into the killings of peaceful protestors, several of whom were children
- Initiate an inquiry into instances of attacks on ambulance services
- Ensure that inquiries are conducted in a time bound manner and the report is made public

- Initiate legal and punitive action against persons who are found responsible for the killings of civilians
- Establish an independent inquiry commission to investigate the allegations of serious human rights violations, including enforced disappearances, killings, torture, rape and sexual violence in the region
- Invite and permit the relevant UN Rapporteurs, UN Special Representatives and members of the UN Working Group on Enforced Disappearance to investigate the allegations of human rights abuses in the region
- Initiate a general debate involving members of the Kashmiri civil society and others on impunity and AFSPA, and possible mechanisms to respond to the prevailing impunity

Constitutionally Yours,  
List of signatories  
Signed by individuals and organisations  
July, 2010

### **A Brief Report of The Proceedings of The Sit-In On The Evening of 7 August 2010 Against The Crimes On The People of Kashmir By The Indian State**

The evening of 7 August 2010 witnessed after a long long time voices of freedom from the people of Kashmir. Despite the heavy repression and the draconian laws to maim and incarcerate the people of Kashmir, to subjugate their indomitable spirit for Azadi, the evening of August 7 at the heart of Delhi just half a kilometre away from the parliament witnessed unprecedented scenes of assertion of the political will not to say genuine desire of the Kashmiri people for freedom from the exploitative and oppressive rule of the Indian State. Around six to seven hundred people had gathered including people from various peoples organisations in Delhi to protest against the increasing repression of the Kashmiri people.

Every Kashmiri—students, teachers, journalists, working people—who spoke in the meeting was unequivocal about their demand for Azadi which set the tone of the proceedings as the dharna cite reverberated with slogans against India’s occupation of Jammu & Kashmir and the demand for Azadi. Various people’s organisations from Delhi which participated in the meeting expressed their unconditional solidarity to the

struggle for freedom of the Kashmiri people. Revolutionary poet Vara Vara Rao who was also an emissary of the present CPI (Maoist) party in their early talks with the government of Andhra Pradesh asserted that the people of Kashmir are not alone in their struggle against Indian occupation. He pointed out that the fighting masses of Dankaranya, Orissa, West Bengal, Bihar and Jharkhand are with the struggle for freedom of the people of Kashmir. He said that the enemy of the both the oppressed people of Kashmir and the poorest and the wretched in India is the Indian ruling class which is a prop of US and other imperialist forces and the struggling people of Kashmir and India should join hands for the realisation of the freedom of both. Noted film maker Sanjay Kak pointed out that the Kashmiris should stop looking at themselves as victims. While it was important for the Kashmiri people to be emotional in their struggles braving the repressive machine of the Indian State it was also necessary to have a political temperament to see the light at the end of the arduous struggle. Mrigank from the Nav Jawan Bharat Sabha expressed his solidarity for the movement of the people of Kashmir. Narender from the Popular Front expressed his organisation’s support for what he termed as the “complete independence” of the people of Kashmir. Kavita Krishnan from the CPI (ML) (Liberation) talked about the scores of atrocities committed by the Indian army on the people of Kashmir as well as the need for a meaningful dialogue for which the Indian government should be made accountable. GN Saibaba of the Revolutionary Democratic Front pointed out that the rising struggle for freedom of the Kashmiri people will usher in the death knell of US imperialism. He also stressed that the liberation of the people of Kashmir is in the interest of the people of India who are also fighting for revolutionary transformation. Sharmila Purkayastha from the PUDR, former Ambassador Madhu Bhaduri, Karen Gabriel from Delhi University, Banojyotsna Lahiri from DSU JNU, Om from AISA JNU, Tara Basumatary from DU also spoke expressing their solidarity for the struggle of the Kashmiri people for Azadi. Members of the progressive cultural organisation Prathidhwani sang songs while some of the Kashmiri participants read out the poems of well known Kashmiri poet Agha Shahid Ali. Later in the night at 10 the meeting ended at a high note amidst thundering slogans for Azadi, Demands to resolve the Kashmir issue, condemning the fake Indian Democracy, to stop the Genocide in Kashmir, when one of the young Kashmiri thundered: “the Indian government terms our struggle anti-national. They brand us anti-national. I want to ask: How can you call us anti-national. We are not part of your nation. We were never. We are Kashmiri nationalists fighting for our freedom. We want Azadi!”

## **The Struggle Of Ludhiana Power Loom Workers**

Workers of about three dozen power loom factories in Ludhiana's Gaushala, Kashmir Nagar, Madhopuri etc. areas are on strike from 16<sup>th</sup> September 2010 under the leadership of the Karkhana Mazdoor Union (KMU). The workers have revolted against their pathetic living conditions, total absence of labour laws, callous attitude of the factory owners and administration and the opportunistic behaviour of the established trade unions affiliated to parliamentary left parties. They are energised by the recent successful strikes in 42 power loom factories in Shaktinagar area and the Jindal Textiles factory.

Ludhiana is among the big industrial cities in India and the industrial capital of Punjab. The main industries here are hosiery, bicycle, tyre, auto-parts, engineering etc. In recent years the workers in Ludhiana have been fighting for their basic rights e.g. the struggle of the thousands of workers of the big factories of Ludhiana such as Hero cycles, Rockman, Avon, Rolson, Highway, Garetave, Bajaj Sons etc; the militant struggle of the thousands of workers against the factory owners and police-bureaucracy after the Hindustan Tyres episode; the outburst of anger of the workers in December 2009 after the Dhandari episode, the workers hitting the road after a recent disappearance of a workers of Poddar Tyres. These outbursts are just a reflection of the terrible conditions of the life which the workers of Ludhiana are forced to live and the total failure of the governance system to protect even the basic rights of the workers. The anger of workers is expressed at times spontaneously and at other times in a planned and organised manner. It is because of this reason that most of the time section 144 of the Cr. P.C. is imposed in the industrial areas of Ludhiana which prohibits assembly of five or more persons and holding of public meetings besides other restrictions.

Most of the workers of Ludhiana are migrant workers coming from the states of Uttar Pradesh and Bihar. They are treated as aliens in their own country. These workers are subject to abject poverty and extreme exploitation. Despite toiling for 12-14 hours a day, most of the time they do not even receive the minimum wages fixed for a helper for 8 hours work {Rs 3400 (less than 80 USD) monthly}. In case of the power loom workers, there has been no increment in the piece rates and wages for last 10-12

years while the prices of all basic necessities like food, housing, medical care, travel have been skyrocketing. On the other hand there has been manifold increase in the profit level of the factory owners.

The working condition of the power loom workers of Ludhiana is so difficult and so dangerous that it can at best be called inhuman. Serious injuries and deaths at workplace are quite common in the industrial areas. Even basic safety measures and regulations are not implemented by the factory owners. Even the administration does not take any initiative to fulfil its constitutional obligation of implementing the labour laws in these areas. On the contrary in most of the cases, the administration is found connived with the factory owners to serve their interests. No labour law whatsoever is implemented in these factories. Provident Fund, Employees State Insurance, Job Card, Attendance Register have no existence here. The regional labour department is fully hand in glove with the errant factory owners and is suitably compensated for its services. Not only the factory owners have bought up the officials and police, they do not even hesitate to use the services of goons to intimidate the workers if they raise their voices for justice. In the Dhandari episode in December 2009, they unabashedly used the local goons called Bikers' Gang to brutally attack the agitating workers. Even the police favoured the factory owners and held the workers responsible for the violence. The owners portray any agitation of workers as being launched by "outsiders" and the local politicians and regional media also take the side of the owners only.

The workers of Ludhiana have been fighting for their rights for years through the established trade unions. But of late they have begun to realise that it is because of the betrayal of the leadership of opportunistic and corrupt trade unions such as CITU and due to the lack of well planned strategy that they have not been able to put up an effective resistance and the factory owners manage to crush their struggle. In a number of struggles of workers of large factories of Ludhiana such as Hero Cycle, Rockman, KW, Avon, Rolson, Highway, Bajaj Sons, Moonlight etc since 2004, the opportunistic, compromising, corrupt and pro-management character of CITU has been thoroughly exposed before the workers.

The recent surge of militant agitation among the power loom workers of Ludhiana began with the strike of the 42 power loom factories of Shaktinagar, Tibba Road areas on 24<sup>th</sup> August 2010 under the leadership of the Karkhana Mazdoor Union. It was the apathetic attitude of the power loom factory owners which was mainly responsible for the inhuman conditions of living which forced the workers to halt the work and choose

the path of strike. The main demands of the workers were: hike in the piece rates/wages, necessary provisions for the safety of the workers and implementing all the labour laws including identity cards, PF, ESI etc. The bold, organised and determined fight of the workers forced the power loom owners to relent and they were forced to agree to the demands of the workers. On 31<sup>st</sup> August the workers withdrew their strike after a written agreement with the owners. It was a glorious victory of the workers after a long time. A remarkable aspect of this victory was that the power loom owners were not only forced to hike the piece rates/wages but they also agreed to give half wages for the days of strike. It is very rare that the factory owners agree to pay for the days of strike. On the contrary, one can find many instances in the labour movement of Ludhiana like the shameful Avon Cycle agreement in which due to the compromising, pusillanimous character of the renegade leadership, the workers were forced to work for 9 days without pay as a punishment for going on strike.

After this a strike broke out in the Jindal Textile factory and there too it reached a successful culmination. It is noteworthy that this was after 18 years that a workers struggle had achieved such success in Ludhiana. During the last one and a half decade the workers of Ludhiana had fought many long struggles but they culminated in shameful defeat due to the betrayal of the established trade unions. The recent victory is important in this respect and it has raised the morale of the workers to a new high.

Meanwhile, workers of some other power loom factories agitating under another union were brutally attacked by armed goons of the factory owners last week. Around 50 workers were wounded in this lethal attack, some of them seriously. Karkhana Mazdoor Union has demanded the authorities to carry out an investigation and punish the culprits.

Taking inspiration from the recent successes in the Shaktinagar and Jindal factory strikes, hundreds of the power loom workers of about three dozen factories of Ludhiana's Gaushala, Kashmir Nagar, Madhopuri etc also decided to call a strike on 16<sup>th</sup> September 2010 under the leadership of the Karkhana Mazdoor Union. These workers are on a strike to force the factory owners to increase their piece rate/salary and to implement other basic rights. They are united and determined to make their strike successful. They have appealed to the fellow workers of other power loom factories who are yet to join the strike to come forward and join the strike to make the struggle more united and strong. Along with this the workers have also organised vigilant squads of their own against the possibility of fresh attacks by the factory owners. A great achievement of

these strikes is that the workers are no longer terrified of the police and the goons of the owners. Moulder and Steel Workers Union of Ludhiana has supported the power loom workers in their strike. The workers have also distributed pamphlets among the civilian population explaining to them their wretched working and living conditions and the rationale behind their demands. They have also appealed to other factory workers of Ludhiana to support and join their strike. The workers have warned the officials of the labour department not to work as stooges of the factory owners and perform their constitutional duties otherwise their strike will become more vigorous.

On the third day of the strike i.e. on 18<sup>th</sup> September 2010, the henchmen of a factory owner attacked the KMU members who were distributing the leaflets in a market and also kidnapped two workers. Immediately hundreds of workers gathered outside the factory where the kidnapped workers were being held. The owner ran away and the workers were rescued. This was another psychological victory for the workers.

#### *Karkhana Mazdoor Union*

## PAKISTAN

### **Pakistan Workers Resist Government's Anti-Workers policy**

On July 14th, 2010 All Pakistan Trade Union Federation along with the other federation hundreds of workers including women workers held a protest rally against the Government's Anti-Worker Policies.

Hundreds of workers including women workers gathered in front of Lahore Press Club under the banner of Pakistan Workers Confederation, a conglomerate of over dozens of federations. Workers chanted slogans and held banners inscribed that government should make legislation for the formation of National Trade Union Federation (National Industrial Relation Commission) and abolish IRA 2010.

While speaking on the protest Khursheed Ahmed, Gulzar Chaudhary, Rubina Jamil said that the government of Pakistan has given the autonomy to provincial government under the recently passed 18th amendment to the Constitution of Pakistan. But unfortunately the Constitution Committee formed by the parliament does not cover all the authority of the provincial independence. The basic fault was in the 18th amendment that the committee does not mention about the federal labor legislation. The constitution committee has given the right to the provincial government to form labor laws by themselves, but the fault remains that the provincial government cannot make the legislation to cover the national industry's trade unions because the provincial government has no authority to form the labor laws for national level industries and commercial institutions.

Speakers narrated that one and half month ago, national level trade unions have no right to function and workers could not make their union in the national industries. APTUF and the other national trade union federations as the Pakistan Workers Confederation has written many letters to the Prime Minister, President of Pakistan, Secretary of labor and other concerned authorities, but nothing has been done till today. On 14\* July 2010 APTUF along with other federations held a large protest before the press club of Lahore against loophole and not making the law for the formation of national trade unions which are the fundamental right of the workers so the government has violated ILO conventions.

Workers demand the government to restore the fundamental rights of workers. It was demanded that the government has raised the

wages of public sector but there was nothing for the private sector employees.

The protesters also raised slogans against the assembly members and asked them to concentrate on the labor policy instead of the media war. They also appreciated the media role for highlighting the issue of public interest.

In the end workers chanted slogans enthusiastically against the rulers and dispersed.

#### **Workers demands to:**

- Federal government make legislations for the formation of National Trade Unions Federation
- No to Industrial Relations Act 2010

Source: <http://www.northstarcompass.org/nsc1008/pakistan.htm>

## **Kathmandu – Before and After The General Strike**

*Somat Ghimire*

Just before starting the general strike, UCPN Maoist organized all party gathering at a hotel Yak and Yeti. Writers, journalists, traders and businessmen and workers of civil society were present in the gathering.

These all expressed their opinion on the starting phase of the programme. Then, UCPN Maoist Chairman Prachanda gave a short cut speech on the basis of the expressed opinion. The opinion of all the participators was that the movement should be run in a peaceful manner. However, there was a suspicion that Maoist will not hold the movement peacefully; rather it will somehow be violent. This means that the essence of the opinion of the participators was that UCPN Maoist would not hold the peaceful movement. They thought that Maoist has not such type of efficiency, tactics and belief in some extent. The intellectuals were primarily broadcasting their assumptions from media that the movement will be violent. This scenario created by the propaganda showed that Maoist would enter into the valley with their violent activities from Thankot blockade. Likewise, some other groups of Maoists would enter into Kathmandu Valley through Banepa blockade with naked knives in their hands. And, some other had propagated that Maoist would enter Kathmandu by beating all the street walking people and porters through Nuwakot blockade. Extreme chaos would be created in Kathmandu. This was the traditional forecasting of the fortune tellers of Nepalese politics.

Frequent failure analysts, but fortunate still having licensed to analyze, became failure once again. Maoist with the people came to Kathmandu with small bags on their backs and slippers on their feet. They entered in a very common and usual dress of the country men whom the urban elites often dislike. They stayed in different places of Kathmandu peacefully. They sang songs, danced and claimed rights from the streets peacefully. Kathmandu then embarrassed. Kathmandu began to be perplexed. The elites waited one, two, three days for violent actions from Maoist side but in vain. Movement ran peacefully. The movement was gentle and ocean like. Then, different conspiracies were hatched.

First of all, the public media initiated an incident. The media started to take and broadcast the interviews of those who roast and burn corns on the open street. The media started talking with cart-drivers and porters. The lower class people who had never been in touch with the media began to appear in media. The media got a very important issue to show that even the poor worker is against the movement run by Maoists. This idea of divide and rule or poor against poor was clearly understood by most of the people; however the media showed it shamelessly. Neither there was happiness on the past nor in the present to those corn roasters. However, the expression of the media was such provocative that there was socialism for the corn roasters and the porters and their class before starting the movement. At this time, the intension of the media was quite different. It is crystal clear. The elites, intellectuals and wealthy class people were not only against the movement, but also came to the street with weapons for retaliation under the banner of peace.

Nevertheless, it is a different topic to be discussed whether Maoist postponed the indefinite general strike due to the forementioned reasons or any other causes. But Maoist chose a different way by postponing the long prepared general strike within six days. Maoist showed its public support without creating social conflict. Many analysts and intellectuals put forward their logic that 'Maoist went back', 'Maoist opened the way for argument' etc. These were the logics expressed according to their own convenience. This logic will get their verdict in coming days.

The demonstration was grand. Some criticized it as a grand demonstration for a little game., some other said that it was only organized for the change of Prime Minister. However, nobody yet has any answer why Madhav Nepal should remain for the post of Prime Minister. Nobody has its logical answer and even Madhav Nepal has only cowardice logics which are meaningless in themselves. The formation of national united government has no option. This has been justified by the 9 month Prachanada government and Madhav Nepal's government. It was misfortune to all go into majority system. This mistake should be realized all and there is no other alternative than to go into the system of consensus by amending the constitution again. The other way than that is encounter and war.

However, the present complexity is not only linked with the change of government. The background of the complexity is far deeper, the

contemporary day to day political events have provided no leisure time to dig out the deep. Power sharing in the government is not a main key rather it is the struggle of power. In the past, UCPN Maoist was exercising power that was advancing ahead. It had People's Liberation Army, People's court, contemporary reformatories and local government. Though they were not well managed. It was exercising as a bold alternative power. Singhadurbar was being compressed that time.

In this period, the local government was talking its own shape. In this process a different politics of 12-point understanding and peace process started. Now, Maoist has felt that the party has been kept excluded from all the bodies of the state power. On the other hand, the government side thinks that the Maoist is in the process of seizing central power. The essence of complexity lies in it. The question of when the constitution is made will remain unanswered until and unless the suspicion among them is not made clear because the constitution has not been built in the stipulated date. So far as UCPN Maoist does not agree to swim in the traditional pond and government alliance does not want to make a modern pond to swim in. The political outlet of the complexity is clearly too far.

The hope with the expectation of starting of a new or fresh debate or positive reaction, in political arena after the postponement of the general strike, has been changed into pessimism. The old dilapidated and random issues did not invite a fresh debate. Those issues were continued which were not taken to the conclusions and same style and processes went on. Negotiation and consensus were held in a big number formally and informally even for the wealthy and businessmen also held negotiation. After Prachanda's popular speech of Baneshwor; where no word was left to ridicule and satire the present government that day they held negotiation celebrating feasts. In fact, it was flexibility. However, no achievement was gained even after the wholesale negotiation. The negotiation has not been freed from the trifle debates. The subjects of the debates have become army integration and give the seized land in war period back to the owners.

There are so many limitations in the effort to address the above mentioned two questions. Maoist cannot give the seized land back to their owners. Maoist could not put the reality clearly at the time when 12-point understanding was made. The landless people who are inhabited there on the seized land in war period, cannot go anywhere from there without package programme or without any management. Whether Prachanda would give order or police would be mobilized to chase them away. Therefore, it is worthless to repeat the demand by coalition

government to Maoist because it cannot implement the demand practically though it is positive towards it. It needs an integrated plan for its solution. The ownership of the demand should be transformed to the government from Maoist. Otherwise, it will be only a trifle thing and obstacle for advancement. Maoist cannot go anywhere by avoiding and dishonouring the People's Liberation Army which UCPN-Maoist fought a war relying upon. So long as the question of the liberation of the army is considered to be the only concern to Maoist, the knot of the political problem does not untie. The ownership of solving the question should be transferred under the ownership of the government because the problem does not solve by blaming UCPN-Maoist to be the civilian party. To talk only about the number of PLA, without taking the decision on the process, procedures and the principles, is not to understand the seriousness of Nepalese politics. The task of the government and the political parties is to create a favorable situation for army integration even if Maoist does not want.

In the condition of not being prepared to make principal decision on national united government, PLA integration and the seized land back, a quite different aspect will be the way out of Nepalese politics. Madhav Kumar Nepal, a leader without stand, is taking his stand. Probably he might have preached in Thimpu, the capital of Bhutan. It would better to take the vote of trust to Madhav Nepal, if he does not want to resign from the post. But he is not so courageous person who is ready to take the vote of trust in CA. Many parties have withdrawn their vote for trust from 22 party coalition. Some of the constituent assembly members of the UML are demanding Madhav Nepal's resignation. If we do not concern all these things, we will go then. Logic can be put forward that it is not necessary to take the vote of trust, which is clearly in minority.

But misfortune! the talk about process and procedure in the contemporary political field of Nepal is being interpreted differently. People coming down to the street is being expressed as a crime even in the period of democratic republic. The peaceful struggles are being defined differently. Is democratic republic only a game to be played by the defeated and cowards to ban the civil demonstration in the street? In normal situation, all these activities could have been limited within CA. But in the period of drafting a new constitution and the necessity of building national united commitment, these activities could not be limited within the CA. However, the peaceful demonstration in the street has been considered to be illegal. But at the same time the essence of the democracy has been forgotten in the way that to come to the street peacefully for building a national commitment is to accept the democracy at all.

The reality has not hidden from our eyes that the demonstrators have gone back with their bare hands singing, dancing and reciting slogans in the streets though some of the analysts have presented them as the trained troops of knives, chains, sticks and spears. The team or gathering that demonstrates peacefully with bare hands has a different mentality though the rebellious heart cannot be cooled down with small efforts. To come to the street is hard work. However, one cannot go away from the street without being satisfied in his or her mission. Now Kathmandu seems to be peaceful and pleased and it has forgotten the demonstrators. But the demonstrators have probably not forgotten Kathmandu. It is still left to see what type of strategy will be made by the leadership of UCPN-Maoist in coming days under the pressure of grass root level cadres and the people. Maoist can not go flexibly ahead then we the flexibility of Maoist does not work till May 28, the stipulated date of writing construction. We can not even imagine how will be the obligatory steps of Maoist in the future. A clear scenario of revolt fusing rural and urban has been seen before our eyes if no agreement is made to open the way by the government till May 28.

Source; *The Red Star – Issue 15, June, 2010*

## PHILIPPINES

### **Manila Declaration From the Fifth Conference of Lawyers in the Asia Pacific**

The fifth Conference of Lawyers in the Asia Pacific (COLAP V) was held in Manila, Philippines on September 18 and 19, 2010 under the banner “Human Rights and Peace Amidst the Global Economic Crisis and Conflict.” It brought together over 250 lawyers from 23 countries, mainly from the Asia Pacific, along with guests from around the world, to address the common problems facing the region’s lawyers and to promote the cause of human rights and peace.

Sponsored by the International Association of Democratic Lawyers, COLAP is the largest gathering of human rights lawyers in Asia. This year, it was organized by the National Union of People’s Lawyers of the Philippines. Delegates developed strategies and recommendations for future work and collaboration over two days of workshops and plenaries.

The conference reaffirmed that human rights must be universal, indivisible and supreme.

It further reaffirmed that conflicts and war will necessarily continue to plague the region until basic human rights, both political and economic, are universally realized and enjoyed. The global economic crisis has undermined and reversed progress toward achieving that goal, impoverished untold millions more, causing widespread disease and starvation, increasing the likelihood of political strife and conflict. Delegates labored to develop strategies to promote full realization of human rights while reaffirming the illegality of wars of aggression and other acts which deny the rights of people to self determination.

## PEACE

The conference recalled the long history of colonialism and neo-colonialism in the region, the wars of aggression in Vietnam and Korea and the ongoing aggression in Iraq, Afghanistan and elsewhere. It demands the immediate withdrawal of foreign troops from the region. Peoples in the region must rise up in struggle for peaceful coexistence as a means to mutual prosperity. All people have the right to live in peace, which is enshrined in Article 9 of the Constitution of Japan, recognized in the non-written Constitution of Costa Rica and declared the United Nations

Charter. Only through the work of the people and their lawyers shall peace prevail.

The conference calls for the immediate removal of foreign military bases or presence in any form which amount to the crime of aggression and are inconsistent with the rule of law and the right to peace. It particularly notes that the US has stolen Okinawa's best land and subjected its population to victimization by, and servitude to, its military forces. It calls for the creation of a nuclear-free zone in the region as a step towards banning all nuclear weapons. Every nation must promote peace education throughout its population. We condemn the US and its allies for putting obstacles and schemes to either persecute perceived leaders of resistance movements or force them to capitulate while ignoring the root causes of these armed conflicts. Its so-called global "war on terror" has sabotaged the peace negotiations in the Philippines in particular through the terrorist listing. We call on the parties to such armed conflicts to resume their negotiations towards the effective resolution of their social and economic bases.

### **CIVIL AND POLITICAL RIGHTS**

The protections afforded by civil and political rights must apply equally to the victim and the violator. Any departure from that commitment is self-defeating, leading to greater abuse and the ultimate loss of those rights.

Too often, in the region, democratic rights are made dependent upon accepting free markets, free trade and globalization. Forcing people to accept these against their collective will constitutes a denial of fundamental democratic rights and too often results in their further impoverishment.

Security is not achieved by falsely criminalizing legitimate dissent and by classifying simple criminal acts, no matter how egregious, as acts of war or terror threatening the security of the state. The greater threat is allowing governments to target their political enemies under the guise of combating terrorism.

The preservation of these rights is dependent upon the ability of lawyers to protect them and the will of the judiciary to preserve them. We applaud the victorious struggle of our colleagues in Pakistan to deliver its judiciary from Musharraf's tyrannical attempt to subject the courts to his will. We express our solidarity with our colleagues in the Philippines and elsewhere who, in the face of imprisonment, assassination and other threats, defend the rule of law and the democratic rights of the people.

The conference stressed the need to end impunity for perpetrators of human rights violations and supports efforts to insure that those governments and individuals responsible are held accountable. As one tool to accomplish this and combat the rampant human rights violations in the Asia Pacific, it is committed to the creation of a regional human rights commission and court.

Unjust detention, torture and denial of due process, as is being suffered by the Morong 43, cannot be tolerated.

### **ECONOMIC SOCIAL AND CULTURAL RIGHTS**

The global financial crisis has taken its toll on the region's people. More and more live in poverty, with 660 million unemployed and 152 million living on less than one US dollar a day. It has forced millions more to leave their homes and suffer increased oppression and exploitation as migrants. There is a concomitant rise children dying before their fifth birthdays with social and economic indicators revealing great suffering. The crisis has been disastrous to the already most vulnerable sectors of society, including migrant workers, women, minority groups, children, and young workers.

Governments have failed to fulfill their obligations to protect people's welfare despite binding conventions. It is incumbent on all lawyers to know the obligations states have under these instruments and to fight for their fulfillment. Those we serve must know that governments are required to take affirmative steps to promote an adequate standard of living for all, including the rights to jobs at fair pay, housing, education and health care. The human rights framework is a powerful tool in the hands of people who know and understand it.

### **EDUCATION**

The conference identified the need for human rights education and training. Lawyers have a responsibility to engage in effective human rights advocacy and community education. They need to enhance their knowledge of international human rights and humanitarian law instruments, their domestic applications and the international mechanisms for enforcement. Lawyers have a duty to educate judges and inform the people.

Law schools must offer a broad curriculum which encourages students to think critically about the historical development of law and lawyers' moral responsibility for the protection of citizens' rights. They must therefore include education and training in the substance, purpose and application of human rights and humanitarian law and the duty of lawyers to work to promote social justice and oppose oppression. Lawyers

cannot, however, keep this knowledge to themselves. They are obligated to disseminate it among those most affected by the current crisis.

### **INTERNATIONAL MECHANISMS TO ENFORCE HUMAN RIGHTS**

Enforcement mechanisms are needed to ensure human rights and all available must be utilized. These include reporting to United Nations treaty bodies and assisting civil society to participate in the Human Rights' Council's Universal Periodic Reviews. The conference calls on the IADL to form a working group to study all the existing international mechanisms to enforce human rights, particularly including claims brought under Universal Jurisdiction. IADL should also specifically work with the NUPL to secure prosecutions of those responsible for human rights violations in the Philippines.

### **FIGHTING CORRUPTION**

Public corruption impacts all aspects of government and administration of justice and undermines democratic institutions. It is a crime against the people and corrupt public officials must be held accountable, along with those who offer bribes or fail to report corruption. The conference calls for international laws and courts that would address corruption by heads of state and multinational corporations.

### **PROTECTION OF THE ENVIRONMENT**

A healthy and ecologically balanced environment is essential to the enjoyment of all other human rights. We must therefore ensure that environmental destruction by governments, businesses and multinational companies is not permitted. Climate change threatens the world and has recently devastated Pakistan, must be addressed. Effective international instruments as well as domestic laws must be available to protect the environment. While the environment is an international concern, local participation is critical to ensure its protection while international conventions are being implemented. We must think globally but act locally. Environmental activists and defenders must be defended against unfair prosecutions and law suits aimed at silencing them must be condemned.

### **PEOPLE'S LAWYERING**

The conference committed delegates to the principles of "people's lawyering." People's lawyers derive their mandate from the people's struggle for justice not from the government, not from the law, and certainly not from any selfish material agenda. Their motivation comes from their

desire to end the injustices committed against the people because of an economic and social system that needs to be changed. Commitment to social change is therefore an essential component of people's lawyering. People's lawyers involve themselves in causes that fundamentally affect the lives of a sector of society or even the whole of society itself.

The battle is not confined to the courtroom. People's lawyers employ creative forms of action, mobilizing and utilizing the people's strength, unity and militancy, bringing the issues to the public and thereby organizing and raising social awareness of their clients and those who will support their cause.

People's lawyering is based upon an informed understanding of the root causes of social problems and a willingness to dedicate skills and efforts to serving and empowering the people.

### **CONCLUSION**

The notion that human rights are indivisible is not merely an abstract principle. It is impossible to secure some rights without securing all. Those who do not have enough to eat cannot exercise their political rights in a meaningful way. One cannot enjoy legal equality without the means to litigate one's case.

As lawyers, we must struggle to transform the profession and society. We choose to serve the people and we are determined to lead others to do the same. We echo the sentiments of our colleague, Judge Romeo Capulong that being a people's lawyer offers one "a treasured journey of self-fulfillment and rewarding achievement." No lawyer – and no human being – could ask for more from life.#

*September 19, 2010*

## **Demonstration And Suppression in Thailand**

*Jaran Ditapichai*

After rallying and campaigning against Abhisit Vejjajiva's government for one year, The United Front for Democracy Against Dictatorship (UDD) <sup>1</sup> or the "Red Shirt movement" organized the March–May 2010 demonstration for the dissolution of parliament. It adopted a peaceful assembly policy. While the government increased security measures, establishing a government/military "situation room" for monitoring the protest, officially called the Peace-keeping Operations Command. It was headquartered at the 11<sup>th</sup> Infantry Regiment.

On March 9<sup>th</sup>, Abhisit imposed the Internal Security Act from 11<sup>th</sup>–23<sup>rd</sup> March. A 50,000-strong security force was deployed on Bangkok. Then the government claimed to have received intelligence that there was a terrorist threat of sabotage taking place. Deputy Prime Minister Suthep pointed out that the UDD protesters planned to "besiege government offices and residences of important figures, such as Privy Council President Prem Tinsulanon. In spite of this, the grass roots Red Shirt movement mobilised from all over the country and began to flow into Bangkok on March 9<sup>th</sup>. Police and military checkpoints were set up along all main routes to inspect protesters' caravans entering Bangkok, especially protesters coming from UDD strongholds in the North and Northeast. The government issued orders to detain any protesters found with weapons. The police issued a warning that bus operators transporting people to Bangkok without official permission could have their concessions revoked.

The demonstration took place on March 14<sup>th</sup> along the Rajadamnen street. There were about 500,000 peaceful protesters, the largest political rally in Thai history. The UDD used several tactics, notably the collecting of 10 milliliters of blood from individual volunteer protesters and pouring the blood in a symbolic sacrifice at Government House and other sites in Bangkok. A large convoy of pickups, vans, and cars began flowing into Bangkok on March 20<sup>th</sup>. It was the first time that the red shirts were warmly welcomed by Bangkokians. On March 27<sup>th</sup> the Red Shirts peacefully marched to seven locations in Bangkok where Army troops had been stationed in preparation for a crackdown and convinced them to withdraw. At the same time there were dozens of bombings in Bangkok during the weeks of the protest, with nobody claiming responsibility and no arrests being made.

Televised Talks between the leaders of the UDD and Prime Minister Abhisit's coalition government were held between the 28<sup>th</sup> and 29<sup>th</sup> of March. These talks failed to result in a resolution of the situation. On April 3<sup>rd</sup> the UDD organized another rally at the Rajaprasong intersection (Bangkok's commercial center). Prime Minister Abhisit declared a state of emergency on the evening of April 8<sup>th</sup>. Government troops barricaded the uplink station of the Thaicom satellite to prevent it from airing People Channel, a popular TV station sympathetic to the UDD.

On the 10<sup>th</sup> of April, government troops tried to crackdown on the demonstration at Phan Fah Bridge. Twenty-one people were killed (almost all of them were shot by snipers), with more than 800 people injured. In that bloody event, the unknown "black shirts" fired at soldiers killing a commanding officer and soldiers. Other officers and soldiers were injured as well. Consequently, the government began to label the Red Shirts as "terrorists".

Tensions continued to grow, as pro-government rallies started to appear alongside the anti-government ones. In the mid of April the protesters created an encampment at Rajaprasong intersection, surrounding themselves with a barricade of tires and bamboo spears. On April 22<sup>nd</sup>, a series of explosions in Bangkok killed at least one person and injured more than 85 others, including four foreigners. At least some of the explosions were caused by grenades, which the government claimed were fired from the Red Shirt encampment. On April 28<sup>th</sup>, Thai security forces and anti-government protesters clashed on the outskirts of Bangkok, with troops firing both over and then directly into a crowd of Red Shirts to keep them from expanding their demonstrations. At least 16 protesters were wounded and one soldier was killed. As the protests dragged on, they used the fortified perimeter around the Red Shirts' main protest site in central Bangkok to shoot fireworks and other improvised explosives at security forces sent to contain the protesters.

The talks between the leaders of the UDD and representatives of the government went on, Prime Minister Abhisit offered new general elections on November 14<sup>th</sup>. The UDD accepted his national reconciliation plan. However, on May 13<sup>th</sup> government soldiers started to encircle the Rajaprasong demonstration site. They used sniper rifles to shoot the protesters who tried to obstruct their operations. There were 37 deaths and more than 200 injured. Finally, on March 19<sup>th</sup> during the mid-morning hours, hundreds of soldiers began massing on the approach roads to the heavily fortified Rajaprasong protest camp. Armored tanks rammed into barriers constructed from sharpened bamboo staves and kerosene-soaked tires. The soldiers stormed the redshirt encampment in a bloody crackdown

forcing anti-government leaders to surrender, but violent protests flared up across the city and country in response.

Below were some examples reports of the international medias such as Reuters, AP, AFP, journalists, independent reporters etc.....

- Using armoured vehicles the soldiers broke through make shift barricades in an operation that killed at least four people. Two journalists were among 50 people wounded and one western journalist, identified as an Italian is believed to be dead.
- Government spokesman Panitan Wattanayagorn declared the first stage of the army operation to secure the area around Lumpini Park successful and said that some protest leaders had fled. He asked the public to inform police if any of the leaders were spotted.
- The bodies of two men sprawled on the ground, one with a head wound and other apparently shot in the upper body. They were the first known casualties in the assault that began before dawn on a 1km square stretch of downtown Bangkok that protesters have occupied.
- An AP photographer saw three foreign journalists shot. One was an Italian photographer shot in the chest. His eyes were rolled back and he showed no signs of life. A Dutch journalist walked into the hospital with a bullet wound in his shoulder. The third journalist was a 53-year-old American documentary film-maker who was treated for a gunshot wound to the leg.
- Troops are moving into the redshirts central city protest camp firing indiscriminately, as they seek to take back control of the capital's streets.
- As armoured personnel carriers, backed by heavy fire from soldiers, pushed into the barricades, protesters set fire to them, sending huge plumes of black smoke into the sky.
- Many protesters turned and fled, but troops met fierce resistance from a hardcore element within the red shirts group.
- The army moved slowly and deliberately early, pausing after breaching the redshirts' fortifications to check for bombs and booby traps. Protesters offered determined early resistance, but many then retreated and troops were able to progress more quickly through the camp. Retreating redshirts' set fire to shelters and the hastily-constructed barricades behind them.
- People are being shot at in Victory Monument, which surrounded by troops according to an unverified report on a red shirt

Facebook group. It also links to footage of a fire at the city hall in Khon Kaen in north east Thailand.

- Confirmation that violence is not confined to Bangkok – Reuters reports that the overnight curfew has been extended to 21 provinces across Thailand.
- Meanwhile the press freedom campaign Reporters Without Borders has expressed dismay at the shooting of the photojournalist 'With two journalists killed and five wounded, the toll on the media has been heavy, while many others have only narrowly escaped death. We are stunned and outraged by the indiscriminate nature of this assault, which shows that the Thai authorities made little attempt to protect journalists in their desire to suppress the red shirt opposition. As in the case of Hiroyuki Muramoto, we call for an independent investigation into Fabio Polenghi's death, including an autopsy and a ballistic study carried out in a transparent manner and, if necessary, with the help of foreign experts.'
- Witnesses say at least six more bodies from the Bangkok unrest are lying in a Buddhist temple in the protest zone, according to Associated Press. If true the deaths would bring today's toll to at least 12. They say the temple, Wat Pathum Vanaram, was supposed to be a sanctuary for protesters from the street violence but troops have yet to secure the surrounding area. Hundreds of people fled there after the army launched a crackdown to end a two-month standoff in the Thai capital.
- Despite pleas from redshirt leaders for protesters to leave peacefully, many reds are angry and are looking to take out their frustration on anything they see as being representative of the ruling elite they have been protesting against."

In conclusion, even though the red shirts protest were brought under control, and peace was restored to Bangkok, serious questions remain about Thailand's political future. The protest was ended the sentiment for democratic reform. Until now the government still keeps the Emergency decree in place, arrested 400 red shirt leaders all over the country, closed the red shirts media outlets and have frozen the bank accounts of more than 100 people. The red shirts people see Abhisit political regime more aristocratic dictatorship. They will stand up to fight with every means.

To ease this confrontation which is no longer as simple as a conflict between those mostly poor, rural Thaksin supporters and the elite

and wealthier in Bangkok. It is the socio-political struggle between the democratic and aristocratic camp. The country needs an amnesty declaration for red and yellow, government leaders and protest leaders, a truth and reconciliation commission needs to be established, and new Constitution needs to be written.

*20 June 2010*

**Note:**

1. UDD is part of the Red Shirt movement and was formed after the coup d'état in September 19<sup>th</sup>, 2006. It developed directly from the struggle against the Military dictatorship and Abhisit government. The UDD has become the biggest peoples political movement in Thailand. Its ideology is for the true democracy. However, it is often seen as being pro-Thaksin and harboring anti-monarchist tendencies.

\* Jaran Ditapichai is a leader of the UDD and former National Human Rights Commissioner of Thailand. He survived the crackdown in May 2010 but has 2 arrest warrants.

## SRI LANKA

### **Fifth All Sri Lanka Congress of the New-Democratic Marxist-Leninist Party**

The Fifth All Sri Lanka Congress of the New Democratic Party took place in Colombo on the 25<sup>th</sup> and 26<sup>th</sup> of June 2010, under the presidium comprising S.K. Senthivel, E. Thambiah, K. Thanikasalam, S. Thevarajah and V. Mahendran.

The Congress resolved after thorough discussion that the New-Democratic Party be renamed as the New-Democratic Marxist-Leninist Party in consideration of the need for the name to reflect its Marxist Leninist ideological stand and the fact that capitalist parties exist in other countries with the name New Democratic Party – matters to which fraternal foreign Marxist Leninist parties have drawn attention, and in consideration of the fact that the Elections Commissioner has already recognised a party with a similar sounding name

The Fifth All Sri Lanka Congress of the New-Democratic Marxist-Leninist Party (hitherto New-Democratic Party) declared self determination for the nationalities within a united Sri Lanka, new democratic revolution led by the working class and a socialist future as its political aims.

The Congress elected a fifteen-member Central Committee, with S.K. Senthivel as General Secretary, V. Mahendran as National Organiser, E. Thambiah as International Organiser, and S. Thevarajah as Treasurer.

National and International Reports, Organisational and Financial Reports and amendments to the Constitution of the Party were submitted to the Congress and adopted unanimously after thorough discussion and debate. The following comprises summaries of the important resolutions adopted by the Congress:

1. The Sinhala Buddhist feudal conservative and big/comprador bourgeois forces comprise the ruling classes that protect and defend the present neo-colonial structure and dominate over workers, peasants, small traders, the middle classes, women, youth, the minority nationalities and the overwhelming majority of the toiling masses and deny the national democracy due unto them. Thus the need to win national democracy is an urgent task that requires the building of a broad united front comprising left, progressive and democratic parties, parties of the minority nationalities, anti-imperialist organisations, trade unions, peasant organisations, cultural organisations, and intellectuals. A broad programme of political work transcending parliamentary politics should be firmly implemented aiming

at giving the initiative to the people in deciding on political and economic issues so that power is transferred to the people. Democracy and human rights, and the equality, autonomy and the right to self determination of nationalities should be assured in order to ensure the independence, sovereignty and unity of Sri Lanka. The national economy and a multi-ethnic national culture should be developed to achieve national democracy.

2. As the next stage, since Sri Lanka is not a developed capitalist country, a New Democratic Revolution is a pre-requisite for socialist revolution. All exploited classes, patriotic anti-imperialist forces, national and petit bourgeois forces should be mobilised to defeat imperialism and big/comprador bourgeoisie and establish self determination according to the wishes of the respective nationalities, eliminate the residues of feudalism, and implement socialist structures.

3. Having accepted the UN, an imperialist agency, and its neo-colonial agenda and having signed a variety of agreements, Sri Lanka obtained the military support of India, China, Pakistan and the US to conduct its war. During and after the war, Sri Lanka acted in ways that allowed foreign countries to meddle in its affairs and paid scant regard for matters of national integrity, independence and sovereignty. But its expression of concern and anger about the UN Secretary General's nomination of a committee to investigate alleged war crimes and human rights violations sounds hollow and seeks to deceive the people. There can be no doubt that the imperialist agenda of bodies such as the UN, will carry out activities to suit their ulterior motives. The advisory committee of the UN Secretary General will not help the Tamil people in any way to secure justice or find a political solution; and the Tamil people have little to hope for from the UN. At the same time, Sri Lanka's rejection of the investigation of alleged war crimes and human rights violations is unacceptable. It is by finding a just political solution to the national question, and inquiring into war crimes and human rights violations and punishing offenders and compensating victims that Sri Lanka could prevent foreign intervention.

4. From moderate Tamil nationalists to militants, none took a progressive nationalist stand. They aligned with imperialism and India to uphold reactionary conservative nationalism. They thrust a secessionist agenda on the Tamils. Now the elite among the Tamil diaspora have set up a "Transnational Government of Tamil Eelam" and are thrusting it upon the Tamil people, claiming that the US and the West are supporting it. It was India that first banned the LTTE in 1998. That ban still continues. North America and the US followed suit. The elite can do little but grumble occasionally. It is known that the US which apparently assured that it will send rescue aircraft to save the LTTE leaders betrayed the trust. The

Tamils will not win any rights by a few, who once demanded a separate state, embracing a chauvinist government that will not even grant the powers that Provincial Governments are entitled to. It is only when national democracy is established in Sri Lanka that a just political solution to the national question will be found. It is under circumstances when New Democratic Revolution is victorious that the Tamil people will have self determination based on their own wishes. Thus the best option for the Tamil diaspora is to participate in the struggle for national democracy. A stand supportive of national liberation cannot be in the interest of imperialism, big/comprador capitalism, and feudalism. Thus without endorsing the right of Tamils to self determination the struggles of the toiling Sinhalese masses against imperialism, globalisation, and big/comprador capitalist and dominant feudal classes cannot secure the support of the Tamil people. Likewise, the struggle of the Tamils for the right to self determination – the struggle to resolve the main contradiction – cannot get the Sinhalese to join it or support it without Tamils supporting or joining the above struggles of the Sinhalese masses.

5. The Hill Country Tamils too are a distinct nationality and are subject to national oppression. They comprise one aspect of the Sri Lankan national question. At the same time, they are workers who are subjected to class exploitation. Thus the Hill Country Tamils who are oppressed on a national and class basis should be mobilize on the basis of class struggle for their liberation from oppression.

6. While the Muslims are also a nationality, they should not be confined to religion, and they should be subject to mobilization based on class.

7. Ethno-nationalism is a major obstacle to the unity of people. Lessons should be drawn from the experiences of the trade union and left movements of Sri Lanka to build a revolutionary movement that will unite workers of all nationalities based on class. Steps should be taken to unite workers divided socially, occupationally and by ethno-nationalism by undertaking activities of class cooperation. Activities should be carried out based on programmes to politically awaken workers through struggles to win their immediate demands, mobilize them organisationally, and develop them as the leading force of working class revolution. All the toiling masses should be brought under the common identity of workers and cooperation ensured in all their struggles to mobilize them along the path of mass struggle.

8. The peasantry is an important force of revolutionary social change. Hence broad unity between the workers and peasants should be built. They should be freed of neo-colonial clutches in the names of "sustainable development", "development", "alternative development"

and “depoliticisation”, delivered by NGOs acting as the agents of imperialism in the agricultural sector. The problems of the fisher folk should be separately studied and the fisher folk should be freed from the control of big capitalists and multi-national companies.

9. Although untouchability is now on the wane, castism cannot be dismissed merely as a problem of identity, and struggles against caste domination and narrow caste consciousness need to be carried forward since castism is a feudal ideology that wrecks the unity of the people. It should be noted that the struggle that was carried forward by revolutionary Marxist Leninist communists in 1968 – unlike struggles in India aimed at special allocations and other concessions for oppressed castes, which have served to sustain caste identity – was with the aim of eliminating castism and untouchability through struggle. While rejecting the stand of narrow caste consciousness – upheld by ‘dalitism’ – that struggles against castism will eliminate caste, the close link and collaboration between class struggle and opposition to caste should be upheld.

10. The struggle against private property is struggle for women’s liberation. It was Marxism that explained the historical truth of how initially women came to be treated as private property. Thus the struggle for women’s liberation should be treated not merely as question of identity and be seen as part of class struggle and both struggles should be carried out in parallel.

11. If the people do not unite against US imperialism and Indian hegemonic forces that seek to exercise hegemony over Sri Lanka, Sri Lanka faces the risk of forfeiting its independence, integrity, sovereignty and unity. While the US and Western imperialists and Japanese imperialism carry forward globalisation in Sri Lanka, India is a partner with imperialism. China, which remains within the programme of globalisation for its own economic benefit. Thus the Congress calls for the building of a strong and united broad people’s movement against imperialism, globalisation and hegemony.

Finally the Congress wishes to express its heartiest thanks to all supporters and friends of the Party for their encouragement and support for the Congress which concluded successfully and in particular to fraternal parties and organisations who sent congratulatory messages and statements of support.

S.K. Senthivel  
General Secretary,  
*New-Democratic Marxist-Leninist Party*  
27-06-2010

## **Statement Of The New Democratic Marxist-Leninist Party On The 18th Amendment To The Constitution Of Sri Lanka**

The future will be bleaker than the present for all working people and oppressed nationalities. The Eighteenth Amendment to the Constitution awaiting passage through Parliament seems a harbinger of that. Every aspect of the amendment seems designed to send to the grave the few freedoms and democratic rights that the people have enjoyed so far. At the same time, it paves the way for implementing a more fascist dictatorship than what we have today. The indifference of the people who do not seem to realise the inherent dangers of the amendment will exact heavy price. Those who are at the forefront to reinforce such a dictatorship by an individual and their collaborators are knowingly betraying the country, the working people and oppressed nationalities. Hence the New-Democratic Marxist-Leninist Party urges that the people should understand the ulterior motives of the Eighteenth Amendment to the Constitution awaiting passage through Parliament, and oppose and reject it.

The General Secretary of the Party who expressed the above view on behalf of the Central Committee on behalf of the Politburo of the Party further added in his statement that all the constitutions that have been introduced during the colonial period and after have failed to reflect the aspirations of the people. They had as their basis the interests and needs of the affluent and wealthy classes and the forces of imperialism that sided with them. The present constitution allowing the practice of personal one-party dictatorship was introduced in the same manner by JR Jayawardane. During the past thirty-two years this country and its people have undergone continued suffering under it. The Eighteenth Amendment is being introduced in defiance of the expressed wish of the people that such a constitution should be rejected outright and with the ulterior motive of further reinforcing personal one-party dictatorship as well as prolonging the rule by a family.

Therefore everyone who cares for the working people and oppressed nationalities of the country should oppose the Amendment. The New-Democratic Marxist-Leninist Party in its statement also urged the genuine left, democratic and progressive forces to come forward to work in unity to secure and defend democracy and the welfare of the people along the path of totally transforming the present constitution.

**NDMLP.**

## Oppose Piecemeal Changes to AFSPA!!

21 August 2010, Jantar Mantar, New Delhi

Armed Forces Special Powers Act (AFSPA) continues to be used rampantly to crush democratic rights. With many years of the Act being used to arbitrarily detain, search, disappear and even kill people has given rise to a culture of impunity that has pervaded even the state police forces. Despite years of evidence that repression let loose by the central security forces has led to rampant violation of human rights, the government of India has not heeded the demand for repeal of AFSPA.

AFSPA has its genesis in a colonial ordinance promulgated to suppress the Quit India Movement in 1942. The law in the present form was enacted by the Parliament as the Armed Forces (Special Powers) Act in 1958. The same in a different name was extended to Jammu and Kashmir as the The Armed Forces (Jammu and Kashmir) Special Powers Act in July 1990.

Section 4 (a) of the Act empowers even a Non-Commissioned Officer (NCO) of the Armed forces to fire or otherwise use force *to the extent of causing death* of any person who contravenes an order prohibiting the assembly of five or more persons or is carrying a weapon or *a thing capable of being used as a weapon* or fire-arm. This power represents a drastic departure from the general law. Under ordinary law, the violation of an order under Section 144 CrPC prohibiting the assembly of five or more persons is punishable with one months' imprisonment, while under the AFSPA a person can be killed for the same violation. It essentially criminalises any assembly, even a peaceful one.

Section 6 of the Act says: 'No prosecution, suit or other legal proceedings shall be instituted, except with the previous sanction of the Central Government against any person in respect of anything done or purported to be done in exercise of powers conferred by this Act.' The Central Government invariably does not give sanction even in grave cases of rape and murder. This culture of impunity is reflected in the barbaric way protestors in Kashmir have been killed by the security forces. More than 50 persons, many of them under 20, have been killed since June this year.

In a 1997 judgment, the Supreme Court upheld the Act as constitutional but said complaints of human rights violations should be investigated and sanctions should be given by the central government. However this has never happened. The Jeevan Reddy Committee constituted by the government of India recommended repeal of the Act.

In Kashmir a working group on confidence building measure set up by the Prime Minister also recommended repeal of the Act in J&K. Similarly the Second Administrative Reforms Commission also recommended repeal of the Act. Last year the UN Commissioner for Human Rights asked India to repeal AFSPA. She described it as a 'dated and colonial-era law that breaches contemporary international human rights standards.'

Following these reports and the recommendations by the UN agencies government of India's ministers have been giving statements to media regarding amendments to the Act. It is not clear what amendments are these and in what ways any amendment will change the ground situation in AFSPA areas.

We the student groups, civil liberty and democratic rights groups, women's groups and trade unions are clear that no amount of amendments to this Act would ease the tensions in the affected areas. Therefore we demand that:

- The Act must go lock, stock and barrel.
- No part of this law be put into any other law
- The central government must give sanctions in all cases where the security personnel have been accused by a court of law, judicial commissions and magisterial inquiries. A thorough investigation must be launched into all pending complaints against central security personnel as well as police personnel.
- The government must withdraw central security forces if it is serious about resolving the outstanding issues in the AFSPA-imposed areas and restore peace.

**Repeal AFSPA  
Withdraw Central Forces  
Punish Guilty Security Personnel  
Long Live Democracy**

**Endorsed by:** All India Students' Association (AISA), Asha Parivar, Campaign for Peace & Democracy (Manipur), Delhi Tamil Students Union, INSAF, Intercultural Resources (Delhi), Jamia Teachers & Solidarity Association, Janpaksh, Krantikari Yuva Sangathan, Lok Raj Sangathan, Manipur Students' Association Delhi, National Alliance of People's Movement, NPMHR, NTUI, PDFI (Delhi), Peoples Union for Democratic Rights, Progressive Democratic Students' Union, PUCL, Repeal AFSPA Alliance, Revolutionary Democracy, Saheli, The Other Media, Anand Chakravarti, Anuradha Chenoy, Bipin Kumar, Dr Walter Fernandes Gowhar Fazili, Kamal Chenoy, Pushkar, Rita Manchanda, Tapan Bose, Uma Chakravarti, Vasanthi Raman & several other individuals

## All India Convention against The Unlawful Activities (Prevention) Act

### RESOLUTION

In the wake of the widespread use of the Unlawful Activities (Prevention) Act [UAPA], the Coordination of Democratic Rights Organizations (CDRO) organized a day-long convention on 24 July 2010 at Delhi. Representatives of civil liberties and democratic rights organizations from Rajasthan, West Bengal, Gujarat, Maharashtra, Delhi, Haryana, Andhra Pradesh, Chhattisgarh, Manipur and Jharkhand shared the facts about the implementation of the Unlawful Activities (Prevention) Act (UAPA) in their respective states.

#### **The convention ended with the adoption of the following resolution:**

The UAPA is a piece of legislation whose purpose is far removed from any notion of justice. This law is designed to give the state limitless power to choose the group, the section, the political opinion that it wishes to describe as criminal and to attack it with legislated violence. Hence the UAPA is merely a weapon in the hands of governments masquerading as a statute of the judicial system. Through this law governments have obtained the power to label whatever organisation they find uncomfortable as unlawful and terrorist.

The UAPA overturns every tenet of a democracy, violates the fundamental rights enshrined in the Constitution, violates every provision in the criminal justice system meant to safeguard the innocent, and every international covenant and declaration concerning rights of the individual.

It is an especially miserable juncture of our history that such legislation finds no opposition from parliamentary political parties. The support of the Left Front government to the UAPA amendment marks this consensus. That such an undemocratic and hated legislation finds total support in legislatures, speaks volumes about the state of our political establishment.

The continued operation of the UAPA and its predecessors like the TADA, POTA and similar state laws over the last 25 years has slowly and silently eroded legal procedures and constrained democratic spaces through provisions which curb the formation of associations, collective expression of dissent, and finally attack the life and liberty of the individual and their right to free expression. Its logical outcome is to silence people at large when government policies threaten their land, resources, and livelihood.

The UAPA defines “Unlawful Activities” and “Terrorist acts” in such vague manner as to make its application wholly dependent on the discretion of the government. A glaring example of this is the recent omnibus FIR by the Gujarat police. The FIR does not describe the commission of any offence. Its vague language has already led to arrests of unconnected persons from different states and this threatens to clamp down on all kinds of peoples movements throughout the state.

The impact of the UAPA thus extends to every part of the country. The non-existence of an armed opposition in a state does not prevent its use. There are numerous instances of the use of the UAPA and arrest of people under the Act from regions that have no violent activity. These include many cases being filed and arrests made under this Act in Punjab, Uttarakhand, Gujarat and Haryana.

The provision of banning organizations and provisions that criminalize all forms of association with a banned organization cast the net so wide that every form of political opposition to the government can be proscribed and such persons prosecuted under the Act. Once banned, an organization is denied the right to engage in legitimate mass organization activities, leaving it no option but to carry on its struggles through violent and armed means. Activities of organisations such as the PCAPA were limited to mass protests against police atrocities. Police claims that PCAPA is associated with a banned organization has today forced its activists to be on the run. The Vanvasi Chetna Ashram, and Mathangini Mahila Samiti and many civil rights organizations are being targeted in this manner. Thus UAPA defeats its own stated purpose – it encourages the expression of dissent in the same form that it ostensibly set out to contain.

The impact of UAPA goes well beyond the text of the law. Propaganda machinery of the governments project those charged under this Act as an especially dangerous category of criminals, based on halftruths and outright lies. The public misinformation then feeds the judicial mind and vice versa. So that independent of the UAPA provisions and the untenable charges, bail can be routinely refused and torture and illegal detention of the accused by the police can be conveniently overlooked. The BKU President in Punjab faced brutal torture while on police remand. Glaring wounds on his head and doctor’s reports could not get the court to take action against the errant police officials. This kind of brazen behavior of the police and the apathy of the courts is an outcome of the UAPA. Most dangerously, in West Bengal the prosecution has begun demanding that trials in such cases be held within the jail.

Such illegal behaviour by the law enforcing agencies extends to frustrating the will of the court. In the rare instance that the court decides

to set an accused free, the police re-arrests by fabricating another case. And this continues repeatedly, till the sheer number of such fake charges prevents the judge from setting the accused free. UAPA, in this manner, not only ensures the admissibility of lies, but forces the court to uphold them.

Long periods of police remand are routinely provided to people charged under the UAPA. Police remand being a euphemism for torture, threats and confessions under duress, policemen are interested in increasing this period to bolster the fake charges. The courts have been a willing ally and such examples abound. Repeated registration of the same FIR in different districts in Punjab leading to repeated police remand, and the police remand to Seema Azad beyond the legally permitted period are cases in point.

Denial of medical help to those arrested under the UAPA is becoming a norm. Police use the specious argument claiming inability to reach the accused to the hospital, while the courts stand by watching their orders being flouted. The death of Swapan Dasgupta, editor of the Bengali People's March, is directly the result of the callous approach of the executive and the courts towards those accused under this Act.

The arbitrariness built into the UAPA permits the governments to use the law to suit their vested interests. This leads to a targeting of those sections which are most vulnerable. Banning of Muslim organizations that have no recorded history of violent activity is a case in point. Similarly, the overwhelming majority of the arrested in Haryana are dalits protesting against upper caste oppression and forcible denial of access to community resources. In many instances the use of UAPA is directly related to pushing through anti people development policies by the government and to quell people's opposition to it. In this fashion, the UAPA has become a weapon in the hands of the elite to forcibly dispossess the weak.

The CDRO resolves to intensify the struggle for the repeal of the UAPA and to decriminalize legitimate democratic activity. It resolves to organize protests against the law throughout the country. The CDRO shall also collect and disseminate the truth about the operations of UAPA.

Sd/-

Asish Gupta (PU DR) and Kranti Chaitanya (APCLC)  
Coordinators of CDRO

## Independent People's Tribunal On Operation Greenhunt In Jharkhand

Organised by : Jharkhand Alternative Development Forum with the support of Operation Green Hunt Virodhi Nagrik Manch, Jharkhand Indigenous People's Forum, Jharkhand Initiatives Desk, Jharkhand Jungle Bachao Andolan, Jharkhand Mines Area Coordination Committee and many other groups.

### Observations of the Jury

The jury heard the testimonies of a number of social Activists working the Tribals in Jharkhand as well as a number of Tribals themselves who have been directly affected by Operation Greenhunt over the two days. The picture which emerges from these testimonies presents a dismal and indeed alarming picture of Human Rights violations of the adivasi population of the State which has driven them to unprecedented levels of desperation where their very survival is being threatened.

Over the last 60 years, more than 20 lakh acres of land has been acquired directly by the State in the name of various "development" projects displacing more than 15 lakh Adivasis from their homelands. This drive for acquisition of their land has become particularly acute during the last decade when 102 MOUs have been signed with a number of large private corporations, some of which are for thousands of acres of land involving the displacement of thousands of tribals in each case. Most of these MOUs are for mining or for setting up other polluting industries. These have however met with enormous resistance from the adivasis who have organized themselves and have so far successfully resisted the accusations of their land as a result of which virtually none of these MOUs have so far been operationalised.

All this land acquisition of Adivasi land has however been done without the consent or even consultation with the Adivasis. The MOUs were in fact signed in great haste and secrecy with no information at all to the people who were to be affected. All this is in complete violation of the PESA Act which provides that all development in the Scheduled areas would be in consultation (which should mean consent) of the Gram Sabhas. This has led to a widespread feeling among the Adivasis that not only is their right of self-rule being flagrantly violated, but their very identity and existence is being threatened. Many of them consequently taken up the Gun and joined the Maoists who have organized them to fight the state.

The government's response to this has been Operation Greenhunt which uses large sections of Paramilitary forces what they perceive as the single security threat to the State. Interestingly, Operation Greenhunt is largely concentrated in the areas where the MOUs have been signed. The testimonies before us revealed that this Operation has led to and is causing enormous violations of Human Rights of the Adivasis in terms of all kinds of excesses by the security forces. A large number of testimonies before the Tribunal provided a sampling of the kinds of Human Rights abuses taking place: Arbitrary picking up of Adivasis and their torture; Arbitrary arrests of Adivasis as well as of those who to highlight the abuses by the security forces on false and trumped up charges; people even being killed in fake encounters or in custody. These abuses are only serving drive more Adivasis to pick up Guns and join the Maoists.

The Jury noted that the security forces involved in the abuses are hardly ever brought to justice and enjoy almost complete impunity. Unfortunately Jharkhand has not set up a State Human Rights Commissions or even Police Complaints Authority as directed by the Supreme Court in their judgment on Police Reforms. The Courts too which are supposed to examine allegations of torture, fake encounters and malafide arrests on false charges, have abdicated their responsibility with the result that innocents continue to rot in jails for years altogether and the guilty police officers are not punished, even when it is found that they have tortured people, killed them in fake encounters or arrested them on fabricated evidence. The Supreme Court's judgement on Arrests, torture and the NHRC's guidelines on encounter killings are being wantonly flouted and no one is being held accountable.

The Jury therefore recommends that:

1. The Government must address the underlying causes of Tribal alienation by ensuring that PESA Act is strictly complied with and that there is no involuntary acquisition of Tribal land without the consent of the Gram sabhas. The Adivasis must be given the effective right to decide the kind of development which should take place in their areas.
2. All MOUs entered into by the government which involve the acquisition of Tribal land must immediately be made public and put on hold.
3. Operation Greenhunt be withdrawn in a phase but rapid withdrawal of Para Military forces from Jharkhand.

4. The government must make a full and complete disclosure of those killed by the security forces in Operation Greenhunt and those who have killed detained and arrested under the UAPA.
5. The police and the Security forces must be made effectively accountable for their human rights abuses by:
  - a) Setting up a State Human Rights Commission in a transparent and credible manner which should be armed with adequate powers;
  - b) Setting up Police Complaints authorities as directed by the Supreme Court;
  - c) The NHRCs guidelines regarding encounters, especially an investigation by an independent police agency and a Magisterial Enquiry must be strictly followed and the District SSP and DGP of the State be made jointly liable for non compliance;
  - d) The courts get each complaint of torture and arrest on false and fabricated charges seriously examined.
6. The SC & ST (Prevention of atrocities) Act 1989 be diligently applied against security officers committing such abuses on Tribals. The State Human Rights Commission be charged with monitoring it.
7. A High Level Commission be set up to investigate some of the most egregious cases of Encounter killings, torture and killing in police custody and also of arrests on false and fabricated charges.
8. Government of India should ratify UN convention on Torture and enact a law in tune with the spirit of convention
9. UN code of conduct for law Enforcement Officials, including prosecutors, Lawyers and Judges should be compulsorily observed.
10. UN Basic Principles on the Use of Force and Firearms should be adopted and enforced
11. UN Standards and Norms in Crime Prevention and Criminal Justice should be adopted and enforced.
12. The international convention on Civil and Political Rights ratified by Government of India includes prohibition of torture, and obligates the state to hold detainees in officially recognized places of detention with names in registers accessible to all concerned
13. Government of India should issue a standing invitation to Precial Procedures of the UN Human Rights Council, including:
  - a) Working group on Arbitrary Detention

- b) Working group on Enforced & Involuntary Disappearances
  - c) Special Rapporteur on Extrajudicial, summary or arbitrary executers
  - d) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
  - e) Most importantly special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.
14. Compensation and other things for killing or torture or illegal arrest must be paid as committed by the Govt.
  15. The Government should come with a white paper as to the expenditure made in police vis-à-vis result thereof.

Signed by:

1. Justice Vikramaditya Prasad (Retd. Judge, Jharkhand High Court)
2. Mr. K.S. Subramanian (IPS and former DGP, Tripura)
3. Mr. C.S. Jha (former CMD, ECIL)
4. Mr. Prashant Bhushan (Lawyer and Covenor, Campaign for Judicial Accountability)

**Note:** The tribunal was held on 25 and 26 Sept 2010, at Ranchi, in India

## Joint India-Pakistan Trade Unions' Statement On Terrorism In South Asia: A Challenge For Democracy

6 July 2009

India and Pakistan have witnessed many attacks of terrorism and have taken them all in their stride. The most recent attack in Mumbai on 26th November 2008 and in Lahore on 3rd March, 2009 has shaken the subcontinent and the world.

### **We condemn terrorism in all its manifestations.**

It is understandable that people become furious and outraged in face of such acts. They have the right to be so when such attacks terrorise and kill innocent citizens who are not accountable for the acts of the state. There is a growing expressing of anger and horror by people over such incidents in many different ways. But, it is to the credit of the people of India and Pakistan, that they have not been provoked and drawn into sectarianism, national chauvinism or war mongering. We welcome this spirit of the people of India and Pakistan. We also believe that time is right for democratic debate on the nature of terrorism and the context of its emergence, in the region, which all progressive forces should engage in, with a sense of historical responsibility.

We believe that this context of rising terrorism is being used by the ruling elite to shift public opinion towards an internal security doctrine that is undemocratic, chauvinistic and anti-people. They are redefining internal governing structures to suit the new internal security doctrine and integrating it into U.S. sponsored '*global war against terror*'.

### **Working people of India and Pakistan must unite to fight terrorism.**

We express our indignation on the growing dependence on US agencies to exchange information and intelligence, and for backhand diplomacy, between the two countries. This undermines sovereignty of each country and allows the US to influence, prevail and intervene in our mutual relationship.

We believe that both governments are reluctantly coming to realise that the best policy to deal with cross-border terrorism, is cooperation. These are positive approaches in these difficult times. Any mature response to the situation has to respect the sovereignty of the states of India and Pakistan and develop credible and cooperative

mechanisms to deal with non-state actors. But, there are strong forces in each of our countries that are opposed to this policy.

We call upon the governments of India and Pakistan to overcome mutual suspicions and build mutual trust by:

1. Exchange of information and intelligence without any misgivings and reservation
2. Providing access for interrogation of arrested persons
3. Ensure legal rights and assistance to the arrested persons in accordance with international human right standards

### **South Asia out of the U.S. Area of Influence**

The partition of the Indian sub-continent had never really settled down to mutual co-existence, let alone to cooperation and a peaceful relationship. The unresolved Kashmir dispute has remained a festering wound in preventing any peace initiatives. The U.S. intervention in the subcontinent, particularly its support for military regimes and use of extremist groups as per political exigencies has weakened the democratisation of societies and peaceful coexistence and development in the region.

The emergence of terrorism in the sub-continent has to be viewed in the context of international politics, wherein U.S. imperialism has been both using religious extremism for its military policy, and now, demonising the people of Islamic faith into a global enemy, in order to oppress and control Muslim nations and their oil wealth. Imperialism can opt for such policy because of the still surviving domestic ground of landlordism, and in general medievalism. This has led to formation of non-state actors fighting a global war of terrorism against U.S. imperialism and its allies. As in all war, it has resulted in major collateral damages and immense killing of innocent people who are not accountable for the acts of their States.

Both, terrorism and the response of the state have always led to undermining of democracy. Historical experience has shown that the cycle of terrorism and state terrorism never eliminates terrorism. In fact, it is the people's movement that can cut this nexus through a struggle for democratisation, equality and equity for all. In building this movement, the working class across borders have to play a crucial role. The millions strong Trade Unions in both countries have to coordinate and converge to fulfil this historic responsibility.

### **No war between India and Pakistan**

The people of India and Pakistan are witnessing the militarisation of state and society. The dominance of militarist thinking in the two governments: the doctrine of preventive intervention and terrorism as a State policy has prevented the strengthening of the fraternity of the people, consolidation of the political constituency for peaceful resolution of conflict and build a common identity for South Asian people.

The reduction of tensions between India and Pakistan means the reduction of defence budgets in both countries. This will have a major and meaningful impact on the well being of each country's citizens. We demand:

1. Reduce the influence and control of the military and make it accountable and subordinate to the elected governments.
2. Stop militarising society by developing the doctrine of internal security, as extensions of war concepts into society, and creating armed forces for internal war.

### **Terrorism Weakens the Unity of the People of the Sub-Continent and the Struggle against Imperialism.**

We therefore call upon the people of India, Pakistan and South Asia to deepen the process of democracy, contend ideologically and politically with all forms of regressive and chauvinistic viewpoints and ideologies, and build a secular framework for peaceful co-existence.

1. We believe that terrorism finds fertile ground when society and state demonises, deprives and oppresses a large section of people and can be addressed by:
2. Creating a democratic ground where even extreme ideologies are compelled to defend their views, policies, and action in open public space and thereby limiting the politics of terrorism;

Isolating extremism within society by defeating their views through an ideological and political battle within a democratic framework of nation building process.

We understand that the present situation demands a protracted, flexible and sensitive approach to deal with terrorism, which finds its justification in primordial loyalties and ideologies, like religion which has a wider social resonance. We respect and appreciate that, in the last decade, in India, Pakistan and abroad, many theologians, institutions and ordinary religious people have campaigned against terrorism and joined forces to build a tolerant and peaceful society

**Fight against terrorism! Defend and deepen a tolerant, secular and democratic society in India and Pakistan!**

**Statement endorsed and signed by:**

Agricultural Workers Alliance; All Jammu & Kashmir Trade Union Centre; All Pakistan Trade Union Federation, Pakistan; All West Bengal Sales Representatives Union; Allied Bank Staff Union of Pakistan; Blue Star Workers Union; Chemical Mazdoor Panchayat; Cochin Shipyard Employees Union; CTU Punjab & Chandigarh General Workers Union; ECL & ICML Shramik Union; Federation of Union Territory Chandigarh Employees and Workers; Gramin Mazdoor Sabha; Jammu & Kashmir Trade Union Council; Jharkhand Krantikaari Mazdoor Union; Jyoti Karamchari Mazdoor Union; Kachra Vahatuk Shramik Sangathan; Kamani Employees Union, India; Kerala Samsthana Kasuandi Thozhilai Union; Maharashtra Anganwadi Karamchari Sangh; Muttahida Labour Federation Pakistan; Muttahida Labour Federation, Balochistan; National Forum of Forest People and Forest Workers, India; New Trade Union Initiative; Pakistan Workers' Federation Balochistan; Paschim Banga Khet Mazdoor Samiti, India; Penn Thozilalargal Sangam; Plantation Working Class Union; Railway and Workers' Union Collective Bargaining Authority Workshops' Pakistan; Railway Workers' Union Open Line, Pakistan; Tamil Maanila Kattida Thozilalar Sangham; Vidharbha Heavy Vehicle & Truck Chalak Sangathan; Working People Trade Union Council, India and; Working Women Organisation, Pakistan.

**Hiralal Mahato's letter**

I was at my home that day. I was informed around 6 pm that there will be a meeting at Indraboni school. I went to the meeting that day. It was discussed that we will protest against the atrocities of the Joint Forces particularly over the women and school children. We decided to fell trees and dig the road. Joydeb and Sanjay were speaking in this meeting. Suddenly from Muraboni we could see a pick up van coming. Some people mistook it for police car. Some people suddenly said that look our car has come. I don't know these people. After the van came Bapi came down from the pick up and said those who have come from Muraboni on foot get up on the van. You are after all informed of everything. We were not told about the accident. I did not get into the vehicle. No one from our village got into that car. I cant identify at least one person who was present in the car. His name is Sunil Mahato. He works as a labourer in rail. His house is in Bonkati. He was in the car. I do not know anybody else. After the car left, Bapi told us that the joint Forces are coming. The people present in the meeting were asked to disperse. All of us went out of the school premises. Many of us sat on the road that goes towards Indraboni and Barobigha. Bapi, along with Montu, Sanjay and Joydeb had lied down there. We advised Bapi to go home as the police was coming. When we were going home by road, we could see the police coming. So we took the road through the fields. On the way Gokul called Bapi and warned him about the police. I asked my mother that the police has come, open the door. I slept off in my home. I woke up in the morning, saw the TV and came to know of the railway accident. Everyone in the village said that police is coming. Everyone fled. I called my father and told him that there are nobody in the village, so where should I go? My father advised me to go to my uncle's place or to my aunt's place. My father had gone to Odisha to work. In the evening when he came back he was arrested by the police. My cousin called me up to inform that my father has been arrested. He asked me to call Sudhir uncle and tell him that my father has been arrested. I called Sudhir uncle's home and his wife informed me that he has been picked up by the police. I told her that I would meet her next morning since I cannot go out at night. The police had beaten up my father and sad that "you were involved in the incident. My father told them that "I was working in Odisha when the incident took place and I do not know anything about it." He also showed evidences. the police then asked my father how many sons did you have. My father told them that he has three sons, the eldest one being 17 years, the rest two being younger. They asked my father, where is your eldest son? They informed them that I was staying in

my aunt's place. At one o'clock in the morning, the police took my father along and came to my aunt's place. They came and kicked on the door. My uncle came out. They asked whether Hiralal Rasua was staying there. My uncle confirmed and I came out. They flashed their torchlight on my face. They asked are you Hiralal Mahato? I said yes. They asked me whether we are three brothers; whether my father is called Utpal Mahato; whether my native village is Rasua etc. I confirmed everything. They asked me to get dressed and come with them to manikpara. They wanted to interrogate me. They made me sit in the car. My father was already sitting there. My father asked me to speak only the truth and I agreed. We were taken to Manikpara police station. The police asked me why did you do it. I asked "do what?" The police said "saala you killed 150 people, and now you are wondering *what?*" Then they started beating me up. I told them I don't know anything about it. I am a school student. I just went and attended the meeting which took place at Indraboni school. Nothing about the rail incident was spoken there. People only talked about protesting against the atrocities of the Joint forces on women and children, by digging up roads and felling trees. Nothing about the rail incident was mentioned. The police said that Samir had informed that you had got up in the pick up. I denied the charge. Then they started beating me up hanging me upside down and beat me for half an hour. I told them that you can kill me but I don't know anything about the incident. The police said we will call Samir. When they called Samir and put the phone on loud speaker and asked him that did Hiralal get into the pick up van? He said yes. The police started to beat me up again but I kept denying and told them that Samir is lying. But they kept beating me. I insisted that I don't know anything and asked them why they were beating me up. Then they brought my father in front of me started beating both of us. My father's hands and legs broke but still they continued beating him. The police said, we will continue beating you up till you say yes. I could not tolerate anymore. By beating up my father in front of me, they forced me to accept. They stopped beating us for some time. They gave my father a gun and asked him to shoot me. They told him that ask your son to name everybody involved in the incident otherwise he will be taken to the forest and shot dead. I told them again that I do not know who is involved so I cannot take any name. They forced me to accept and told my father that we will take your son to the forest and shoot him down. They took me to a red police car. The police asked me do you know the woman sitting in the car? I told them, no I don't. The police told me she is one of the key Maoist leaders who lives in our neighbouring village. Her name is Shoma. I told them, I do not stay in my village Manikpara usually. I stay in my uncle's place, so how can I

know her? They asked Shoma, do you know Heera? She said yes, probably by face. I have never seen the girl. I have no idea how she identified me. The police told me that this girl is working for us now and she will shoot you down. This is how they threatened me.

Then they took me to Jhargram police station and kept me there over-night. Next morning again the police asked me were you involved in the rail incident? I told them no, I was not. I am a school student and I have been picked up from my aunt's house. I am innocent. They kicked me thrice and said, you have killed 150 people and you are claiming innocence? I told them again that I don't know anything about this incident. The police asked me which party do you work for? I told them I don't know about any party. I am a student of Manikpara High School and I have not done any party ever. They asked me which party do your father work for? I told them he is in TMC. My uncle's son is a member of a Panchayat led by TMC. Then they beat me up even more and asked me again whether I was a part of it which I denied. They took me to Kharagpur after that. From the local police station they took me to the RPF Training Center. The CBI and CID people threatened me and beat me up. But till then I was not handed over to the CBI. I was still with the police. The CBI and CID beat me up and forced me to confess. Then CBI took over my case. But they did not do any investigation. CBI was simply going by the versions of the state police and the CID. I had identified Sunil Mahato in the pick up van. But he was not being arrested by the CBI because he is a CPM member. I asked them why are you people beating me up so much? I do not know anybody involved. They lied, intimidated, and forced me to become a convict although I was not involved in this act at all. Then they took me near the spot of the accident and said your father will be given a job by Mamata. She will also build houses for all of you in Kolkata. The CBI then asked me to do whatever they instruct. Near the spot I repeated that I do not know anything but they slapped me hard. So I was forced and threatened to say whatever they were asking me to say. CBI told me that if you tell lies in front of our camera you will be spared and let go. Otherwise, we will pierce hot needles around your nails. Threatened, I agreed to speak whatever they wanted me to say in front of the camera. The CBI told me to say that the pick up by which you were coming came halfway by unmetalled road and rest by metalled road. They asked me to say there were trees and big ponds. They further wanted me to say, that I have not done anything on my own but Samir had beat me up and made me do it. They asked me to say that I have not removed the iron plates and I don't know anything. The CBI and CID kept threatening me as well as allured me to say all these things. I was made to say all these things which they video-

taped. Then they took me to Kolkata and told me you will only live if you lie, otherwise you will be killed. We will take you to the court where you will have to lie and we can produce you as a state witness. I asked them what a state witness is? They said, you will become a man of the state. I could understand that the CBI was trying to trap me. I told them, once you have produced me in the court, now even if you kill me I will not appear in the Kolkata court. CBI people got angry and said even after explaining things to you, if this is what you have to say, then you have no hope for life. We have recorded your statements, we have made evidences against you in the case. The CBI said there is no need for you to become a state witness now. They started beating me up again. Sanjay Mukherji from the CBI had badly beaten me up. They don't give us proper food, they don't let us take bath. Whenever I tried to tell the truth, they laughed it out and said nobody will listen to you now. Even if you claim that you had not gone for the incident, nobody will believe because we have video-taped your confessions. Since then, CBI people do not talk to me anymore. Then they took me back to Jhargram.

I am not with any party. I was a part of PCPA. Respected Mahashweta Devi, Mamatadidi, Manik Mondol kaku and people of Bengal you please save me. I am really scared. They will probably hang me to death. I am like your son.

Heeralal Mahato.

P.S.: Heeralal Mahato

2/7/2010

Medinipur Central Jail.

I am 18 year old, I am a student of class 9. I want to study further.

**Note:** The above letter is a translated version of the original version, and it has been widely circulated on the internet.

## Selected CSO Papers Addressing The Issue Of The Killing Of Azad And Hemchandra Pandey By The police

### I

#### A Report On The Public Meeting In Delhi On 3 August Demanding Judicial Inquiry Into The Killing Of Azad, The Spokesperson And Polit Bureau Member Of The CPI(Maoist) Along With Journalist Hem Chandra Pandey

2 PM, 3<sup>RD</sup> AUGUST 2010, RAJENDRA BHAVAN, DEEN DAYAL  
UPADHYAY MARG, NEW DELHI

The Public Meeting to demand the judicial enquiry into the killings of Azad, the spokesperson and Polit Bureau member of the CPI (Maoist) along with journalist Hem Chandra Pandey at Rajendra Bhavan, New Delhi was addressed by a large number of prominent citizens in the presence of packed auditorium. **Dr. B D Sharma**, former National Commissioner for Scheduled Castes and Tribes of Government of India chaired the public meeting and started the proceedings of the meeting by calling upon the audience to observe one minute's silence in commemoration of Azad and Hem Chandra Pandey. Dr Anup Saraya a well-known doctor and democratic rights activist convened the meeting to start its proceedings.

**G N Saibaba**, conducting the meeting for the Chair told the audience that when he was killed, Azad was in the process of preparing the ground for talks on behalf of his party with the Government of India through Swami Agnivesh. In the manner and at the juncture in which he along with Hem Pandey has been killed has triggered a public uproar, and there is a strong demand to institute a judicial investigation into the circumstances of the killing of Azad and Hem Pandey.

**Prof. Haragopal**, Professor Emeritus, University of Hyderabad condoling the killings stated that a leading revolutionary of the country has been killed when Azad was carrying a message to the leadership about the final details of the proposed talks. Azad's letter in response to the proposal for a dialogue clearly states that his party was more than willing to come to the discussion table, a party which is fighting to make our society a more humane one. The Indian government is asked by the people of India why Azad was killed when he was carrying a message of peace. The paradox of our times is that those who are talking of peace are pursuing

war and those who are purported to be at war with the Indian state are more committed to peace. He then shared the experiences of talks between the government of Andhra Pradesh and CPI(ML) (People War) and Janashakti, stating that he felt the same guilt that Swami Agnivesh is now feeling for the killing of many Naxalites involved in the process of a dialogue which failed ultimately in 2004. Prof Haragopal further stated that the government has repeatedly betrayed the hopes generated by the peace loving masses of the country by repeatedly betraying the process of talks.

Releasing the memorial booklet on Azad by the 'Friends of Azad' **Sumit Chakravartty**, editor of *Mainstream Weekly*, observed that the cold blooded manner in which Azad was killed by the state has shocked the country, and the people responsible for it must be held accountable for it. **Rajkishore**, General Secretary of Revolutionary Democratic Front said that the brutal killing of Azad and Hem Chandra Pandey by the government has not only betrayed the trust of Swami Agnivesh but all the peace loving and democratic people of the country. He said that this killing is a part of the Indian state's war on people in the name of Operation Green Hunt to facilitate imperialist loot of people's resources. Through this war, the Indian state wants to crush the alternative model of development by the Maoist movement, and the establishment of new people's power through Jantana Sarkar (People's Government) which has taken the shape of a truly democratic power in the forests of Dandakaranya.

**Meher Engineer**, a civil rights activist from Kolkata, while reiterating the demand for a judicial investigation into the murder of comrade Azad and Hem Pandey free from the influence of the government. He threw fresh light on the ongoing Lalgah movement under the PCPA. **Sujato Bhadra**, the secretary of the APDR, stated that we are living under the reign of the pathological liars in West Bengal, where fake encounters are being carried out by the armed forces of the state with impunity. The right to a normal life for the people of Lalgah has been taken away by the state. Thousands of activists, people's leaders, and villagers have been incarcerated, rapes are committed, molestation and state terror has become a daily occurrence.

**Pushkar Raj** of PUCL stated that we have been taught that the state is the protector of the people. However in India that phase seemed to have come to an end in 1970s. He drew notice to the human rights violations and disrespect to the constitution, the abdication of all responsibility by the NHRC, which has become nothing but a white elephant, and the shocking reaction of our Home Minister in out-rightly rejecting the demand for a judicial Inquiry into the killings of Azad and Hem Chandra Pandey.

He said, Maoists are also people like us, who are fighting against poverty, hunger and deprivation. We must be more and more resolute in protesting the extra-judicial killings.

**SAR Geelani** presented the resolution which was adopted by the meeting after suggestions and modifications. The final form of the resolution is attached here.

**Swami Agnivesh**, the mediator to the proposed talks between the CPI(Maoist) and the government expressed his condolence to the death or killing of Azad and Hem Chandra Pandey. He said that even though we know that the system of enquiries in our country is long and winding, yet we are demanding a judicial enquiry to get at the truth of their killings. He informed that the Home Minister declined his request for a judicial enquiry, instead asking him go to the Home Minister of Andhra Pradesh. The Home Minister who himself said his letter to Swami Agnivesh was confidential made it public on programme in TV channel CNN IBN, while his own hands were tied to confidentiality. Swami Agnivesh told that he was suprised to find that the Maoists said that they were ready for ceasefire and talks.. He said, "The Maoists asked me to fix the dates for the dialogue, and I gave three dates in consultation with the government. But instead of the news of peace talks I got the news of the killing of Azad. I felt guilty knowing that he was with my letter to conduct the final round of consultations. I have seen both the versions of the government and the police. I might not have believed the Maoist version, if Hem Chandra Pandey was also not killed along with Azad in order to eliminate the evidence. Babita Pandey, his wife saw him off to Nagpur on 30<sup>th</sup> June. On 1<sup>st</sup> July there is the news of his killing. We have therefore reasons to believe that this is the worst kind of fake encounter, whereby the government has not only killed two persons extra-judicially but also betrayed the peace process." He further appealed to intensify the struggle for upholding democracy, and for the rights of the poor people of the country. By remembering Azad, he said that we must carry forward the legacy of Bhagat Singh, and raise the banner of *inquilab*, so that no one is forced to take up arms to fight for justice.

**Varavara Rao**, revolutionary poet told that the simple fact that the state is the perpetrator of violence seems to be difficult for the civil society to comprehend. He said that we may meet and negotiate with Manmohan Singh and Chidambaram's government, but we must know their true character, that they are the agents of the imperialists. While in the last meeting on 25<sup>th</sup> May we were talking about peace talks, today we are talking about judicial Inquiry. In the last two days we are demanding

that the encircling of comrade Saroj, a Central Committee Member of CPI(Maoist) by the intelligence agencies in the country's capital, who is carrying Swami Agnivesh's letter to Ganapathy, the General Secretary of CPI (Maoist) must be withdrawn. Comrade Saroj who is making efforts for the talks, and who is unarmed, has now been encircled and hounded. This is the true character of the Indian state. To make the government and the civil society convinced about their commitment to peace, the Maoists are making so many sacrifices. Even so, for the concern of the people the Maoists are coming out repeatedly for talks. He asked, whether the government is ready for it? Varavara Rao concluded by saying that today's rulers of India, whether Manmohan, Chidambaram, Modi or Buddhadeb, are on one side and the people on the other. Rao appealed to the civil society to make all efforts for talks, and assured that the Maoists will support this effort in their quest for justice.

**Prashant Bhushan**, senior lawyer of the Supreme Court stated that the unbridled exploitation and plunder of people's resources by the corporations with the active aid of the government is taking the people to the fold of the Maoists. **Arundhati Roy**, writer, speaking in the public meeting, asserted that Azad foretold his death so many times in his writings and interviews, reminiscent of Gabriel Garcia Marquez's poem 'A Death Foretold'. She said that the time for revolution has come, since all the institutions of the state have failed the people of the country. **EM Abdur Rehman**, chairperson of the Popular Front of India (PFI), addressing the meeting reiterated the demand for a judicial enquiry and asserted that all forms of atrocities and repression of adivasis, dalits and minorities need to be resisted, while protesting against framed up charges, abductions extra-judicial killings by the state's armed police and armed forces. **Radhika Menon** of CPI(ML) (Liberation) told the audience that we don't demand Judicial Inquiry to be constituted into the killings of Azad and Hem Pandey only for the state to see its face in the mirror. For us, the people's organisations it is crystal clear how the state killed them. **Satnam** the author of Jangalnama, a book recently published by Penguin on the revolutionary people's movement of Dandakaranya narrated the story of the people's resistance. **Dr B D Sharma** the chair concluded the meeting by telling the invincible nature the struggles of adivasi people in India and called upon the people of the country to stand by them.

#### **RESOLUTION ADOPTED IN THE PUBLIC MEETING**

We strongly condemn the killing of Azad (Cherukuri Rajkumar), a Polit Bureau member of the Communist Party of India (Maoist) and the

spokesperson of its Central Committee along with the Delhi-based journalist Hem Chandra Pandey by the Andhra Pradesh police in Adilabad district on 1<sup>st</sup> of July, 2010. While the Indian government and the AP police was quick to claim that both were killed after a four-hour long exchange of fire, the circumstantial evidence points towards an alleged fake encounter after the APSIB took the two in illegal custody on 1<sup>st</sup> July 2010 in or on their way to Nagpur, abducted and later assassinated them in cold blood.

Azad has been associated with the Maoist movement for nearly four decades, starting his political activism in the radical students' movement in Andhra Pradesh in 1970s, and was at the forefront of the anti-Emergency struggle in that state. He fought and died for what he believed to be a new society free from all forms of exploitation and oppression. Azad was familiar as the spokesperson of his party, regularly articulating position on various issues through numerous statements, articles and interviews. At the time of his murder, Azad was representing the CPI(Maoist) in exploring the possibilities of talks with the Indian government, which was at a crucial stage. It has been learnt that Azad was in the process of finalizing the dates for mutual ceasefire and possible dates for the commencement of the much-anticipated talks in consultation with his party leadership, when he was killed in the fake-encounter. In all probability this murder had the sanction of the highest authorities in the Indian government, resulting in a setback to the efforts made towards the talks. This puts the commitment and seriousness of the Indian government towards negotiations in grave doubt, and reflects its desire to further escalate the ongoing armed conflict and Operation Green Hunt.

Hem Chandra Pandey, a Delhi-based journalist who contributed regularly to *Nai Duniya*, *Rashtriya Sahara*, *Chetana* and other Hindi newspapers and magazines, was with Azad at the time of his killing by the AP police. It is suspected that he has been eliminated in the fake encounter in order to do away with an eye-witness of this extra-judicial detention, abduction and murder. Hem has been part of various democratic and progressive movements in Uttarakhand from his student days, and has been highlighting people's issues and problems through his journalistic writings. Hem's friends remember him as an inspiring figure who has been an outspoken critique of the anti-people policies of the government. Silencing of a journalist in this manner is a strong reminder to the presence of an undeclared emergency imposed by the Indian rulers that has suspended the democratic and civil rights of the citizens, particularly in the areas of people's struggles.

While condemning in the strongest possible words the killings of Azad and Hem Chandra Pandey, we demand that the government constitute an immediate judicial enquiry to probe into the incident. We also demand an immediate stop to all extra-judicial execution of revolutionaries as well as activists and leaders of people's movements. The government must respect the constitutionally guaranteed fundamental rights of the people to life and dignity. The gagging of the media and stifling of media freedom must be stopped by the government. We demand an end to the Indian government's war on people in the name of Operation Green Hunt, and the immediate withdrawal of its armed forces from the areas of conflict. The government must scrap all the MoUs signed with the multinational and Indian corporations for the exploitation of mineral resources at the expense of people's lives and livelihood. The Indian government must also politically address the demands of the struggling people of Kashmir and the North East through dialogue, and must stop the brutal repression of their voices through state repression.

***Concerned Citizens & Forum Against War on People***

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**II**

**Submission By The Human Rights Forum**

6-9-2010

To,

The District Collector,  
Adilabad

Sub: Submission by Human Rights Forum to Magisterial Enquiry into alleged encounter deaths of Maoist functionary C Rajkumar alias Azad and journalist Hemchandra Pandey

Sir,

We have gathered from media reports that a magisterial enquiry under Section 176 of CrPC is being conducted into the deaths of C Rajkumar alias Azad, a member of the Maoist party and a journalist Hemchandra Pandey, in an alleged encounter with the police in the Sarkepally forest

region of Wankhedi mandal in Adilabad district on the intervening night of July 1-2, 2010.

The Human Rights Forum (HRF) is a citizens' forum established with the objective of working for the protection of Constitutionally guaranteed/internationally recognised rights of the people. We are concerned with ensuring, among other things, that the agencies of the State, like the police, adhere to the law in the discharge of their duties. We believe that citizens must be tried and punished, if found guilty, only in accordance with a procedure laid down by the law of the land and no one can be subjected to extra-judicial execution by the State. That would be contrary to Articles 14 and 21 of the Indian Constitution. We therefore place before you the following:

A five-member fact-finding team of the HRF enquired into the alleged encounter in the Sarkepally forest. The team visited the area on July six and apart from examining the exact place where the two bodies were found, we also spoke with local residents. We are of the firm belief that there was no exchange of fire as is being stated by the police on that occasion. Rather, it was a cold-blooded deliberate liquidation of two persons by the police.

That the police version of a nearly four-hour encounter in the dead of night in the course of which over 300 rounds were exchanged following which 'two top Maoists' died is an utter falsehood is proven by a perusal of the hillock where the alleged encounter took place. The hillock is about a km from Kensuguda village amidst fairly thick forest. Apart from a few bullet holes in the tree trunks below which the bodies of Rajkumar and Hemachandra were found, there are no other details of bullets lodged elsewhere or ricocheting off the rocks in the area, something that surely would have happened if there was a fierce gun-battle as the police claim.

According to the police, there were about 25 armed Maoists who took part in the encounter. It raises the question why not a single policeman was even injured. If indeed there was an exchange of fire, the police could not have come out unscathed as the Maoists clearly had the advantage of terrain with the police below the hillock and clearly at a disadvantage. Moreover, adivasi residents in the area did not hear any prolonged exchange of fire which they would have if it was really a fiery four-hour gun-battle as the police claim.

We believe that Rajkumar and Hemchandra Pandey, the latter who, contrary to police claims, was not a 'dreaded Maoist', but a journalist, were both apprehended by the police, brought to the Sarkepally forest region and shot dead on the said hillock. Instead of abiding by the law and producing the two in a court of law, the police killed them and subsequently

put out the story of an encounter. We have no hesitation in stating that this was an incident of deliberate and intentional killing of two persons by the police.

As you are aware, an encounter by definition means an exchange of fire. Every killing in an encounter, is therefore a killing in self defence. At the conclusion of every alleged encounter, the police officer in charge of the police party that has participated in the alleged encounter gives a complaint in the local police station, which is registered as a crime under Section 307 of the IPC (read with other appropriate sections). This means that the crime is registered as one of attempt to murder by the now deceased as a consequence of which the police, according to the complaint, had to resort to firing in self-defence causing death.

It is the HRF's considered view that such an incident must be registered as two crimes, that is under Section 307 and 302 respectively. The first is a crime of Attempt to Murder by the now deceased and the other a crime of Culpable Homicide Amounting to Murder by the police purportedly in self-defence. The burden of establishing a preponderance of probabilities in favour of the exception relating to self-defence to a competent court rests upon the police personnel who have fired causing death.

**Thus every alleged encounter, as the one on the intervening night of July 1-2, has to be registered as a crime under Section 302 IPC (read with other appropriate statutes) against the police, and the concerned police personnel have to be arrested and put on trail for Culpable Homicide Amounting to Murder. The burden of raising sufficient presumption in favour of the plea of self-defence then rests with the accused police officer/personnel. Importantly, the case must be investigated by an agency completely independent of the State police. This lawful procedure has not been followed by the law enforcing authorities in the present case. We reiterate that this must be done without further delay in the present case.**

We also urge you to issue a public statement assuring those who wish to depose before you that no harm will befall them. We say this because in most cases relating to police lawlessness intimidation is resorted to by the police so as to prevent people from deposing.

Sds/-

VS Krishna (HRF State general secretary), Md Anwar (HRF State secretary), A Bhujanga Rao (HRF Adilabad dist. general secretary), K Bakkaiah (HRF Adilabad dist. president)

### III Faking An Encounter: Killing Khe Peace Process

#### Report Of The All India Fact Finding Team On The Killing of Azad and H. C Pandey

8 October 2010

Coordination of Democratic Rights Organisations (CDRO) put together a team of concerned citizens consisting of Prof. Emeritus Amit Bahaduri, J.N.U., Delhi, Senior Counsel of Supreme Court Mr. Prashant Bhushan, Kavita Srivatsava, Human Rights worker from Rajasthan, Gautam Navlakha writer & from PUDR, Delhi, Kranthi Chaitanya, Advocate and General Secretary of APCLC, D. Suresh Kumar, Advocate, APCLC, Ch. Sudhakar Rao, President of OPDR, D. Venkateswarlu, OPDR. The team visited Wankadi Mandal, Adilabad District on 20<sup>th</sup> & 21<sup>st</sup> of August, 2010 where the alleged encounter of Mr. Azad @ Cherukuri Rajkumar who was spokesperson of CPI Maoist Central Committee Member and Journalist Hemachandra Pandey took place on the intervening night of 1<sup>st</sup> and 2<sup>nd</sup> July, 2010. Three fact findings had earlier already carried out spot investigations. The team met the local villagers, local police, and local media personal and perused FIR, inquest and postmortem reports. The FIR No.(Crime ) 40/2010 registered at the Wankadi P.S. of Adilabad District by the Station House Officer, Mr. Mansoor Ahmed at 9.30 am of 2<sup>nd</sup> July, 2010 in the English Language mentions the deceased as **unidentified Maoists** and gives the following account:-

*“This is to inform you that on the Information provided by Special Intelligence Police that a squad of CPI ( Maoist) terrorists numbering about 20-25 had crossed into the forest of Wankedi area of Adilabad Distrcit from the neighbouring Maharastra and moving into the forest as per the information of the SP Adilabad. I along with Sub Inspector of (SI), Thandur PS, RSI ( Reserve Sub Inspector) Mohan. Civil an AR ( Armed Reserve) special party men came ot the forest area located near Velgi and Sarkepally villages on 1-7-10 at about 9 pm. While we were conducting a search of the area on the hill at about 11 pm we noticed some commotion in the area close to us. Then we observed the place through night vision device and noticed a group of 20 persons in the forest. Immediately, we questioned their identity, they opened fire with Arms on us. Then we took Safety position and warned them to stop firing at us and to reveal their identity. However, they didnot stop firing at us*

*and we noticed them advancing towards us by firing indiscriminately with a view to kill us. Then with a view to save myself, I opened fire towards them in self defence.*

*Likewise, our party members also opened fire in self defense. The exchange of fire continued for 30 minutes. When the firing stopped from the other side, we advanced towards the hill top side and halted. Early in the morning we searched the area and found two persons dead with bullet injuries at the place of exchange of fire”*

This story raises several questions.

- a) How were the police able to pin point the location of the Maoists in a forest several hundred square kms along with the boarder of A.P. and Maharastra? This is all the more surprising, as the villagers repeatedly told us that there has been no Maoist activity in that region in recent years.
- b) Despite 30 minutes of firing from 11 pm to 11.30 pm, not a single police personal suffered any injury, whereas only Azad and Hemachandra Pandey were killed.
- c) If there were twenty Maoists as stated in the FIR, why did the police find only 2 kit bags and two weapons? In any escapade there would be more belongings left behind.
- d) If Azad was traveling with a dhalam of 20 Maoists then surely he too would have been in Olive Green dress rather than in civilian dress?
- e) If the police were unaware of the identities of the two deceased upto 9.30am at the time of filing the FIR, then how did the inquest report claim that at 6.00am on 2<sup>nd</sup> July Azad was the person who had been killed in the encounter. The inquest report says: “*On 02-07-2010 at about 06-00 A.M at Sarkepally Village Forest area above the hills, the Azad dead body found with Bullet injuries mentioned in Column No.1(B) with witness No.1 and his Police Party Identified the deceased.*”. Several electronic media channels had also announced his death. This shows clearly that the police knew who they had killed.
- f) Overwhelming doubt about the police version is raised by the postmortem reports of Azad and Hem Chandra Pandey. The Post Mortem report of Azad says that the fatal bullet entry wound from the chest “at the left 2<sup>nd</sup> intercostal space” had “darkening burnt edges”. The burnt mark at the entry wound are a clear indication of the flame from the gun which indicates that the

bullet was fired from a very close range (no more than a foot). The corresponding exit wound is at the 9<sup>th</sup> & 10<sup>th</sup> inter vertebral space and depth is 9 inches. That means the bullet entered from upper chest and traveled downwards. This questions the police version that Maoist were on the top of the hill and they were below.

- g) The Post Mortem report of Hem Pandey shows that all the 3 bullet wounds had blackening present around the entry wounds, which is also a clear sign of shooting from very close range. The clear sharp round or oval shaped entry wounds in the cases of both Azad and Pandey, and the route of travel of the bullets indicates that the bullets were fired at almost 90 degrees to the body, indicating firing at close range.

It was widely known and reported that the Union Ministry of Home Affairs, through Swami Agnivesh was engaged in exploring the possibility of a dialogue with C.P.I. Maoist and the person with whom Swami Agnivesh was talking with CPI Maoists was Cherukuri Rajkumar @ Azad.

The alleged encounter in these circumstances and such a time raises several important questions.

- a) How could the Spl. Branch of A.P. Police dedicated to combating Maoists, murder Azad in this manner without the knowledge of the Union Home Minister as well as the State Government, particularly when the Union Home Ministry is said to be leading the joint offensive against the Maoists.
- b) Why has the Union Home Ministry not shown any interest in seeking an independent investigation/enquiry into the encounter, despite so many demands for it from different quarters, the disruption it caused to the peace process initiated by the Home Minister himself?
- c) If the Union Government was sincere in seeking a peace dialogue, it would have been natural for the Home Minister Mr. Chidambaram to express concern about the execution of the key actor from the Maoist side with whom he was supposed to be exploring the peace dialogue. His explanation on the floor of the Parliament was that the enquiry is a State subject. This is untenable because the A.P. State Government is run by Congress Party and had the Union Home Minister requested an enquiry they could not have refused. And if they did, at least the position of the Home Minister

would have been more understandable. This is particularly important because the Central Government is empowered in any case to constitute an enquiry under the Commission of Enquiries Act, 1952.

#### DEMANDS:

1. In the light of the significance of the assassination, which has scuttled the peace process, it is imperative that the Government institute a high level independent enquiry headed by a Sitting/Retired Judge of the Supreme Court of India, nominated by the Chief Justice of India.
2. Register an FIR against the police personnel who killed Mr. Azad and Hem Chandra Pandey and the case needs to be investigated independently in accordance with the NHRC guidelines.

Sds/-

1. Amit Bahaduri, Prof. Emeritus, JNU
2. Mr. Prashant Bhushan, Advocate, Campaign for Judicial Accountability.
3. Kavita Srivatsava, General Secretary of PUCL Rajasthan,
4. Gautam Navlakha, writer & PUDR, Delhi,
5. Kranthi Chaitanya, Advocate, General Secretary of APCLC,
6. Ch. Sudhakar Rao, President of OPDR,
7. D. Venkateswarlu, OPDR
8. D. Suresh Kumar, Advocate, APCLC,

## 'Civil Liability for Nuclear Damage Bill 2010' Trading Indian People's Life for Multinationals' Profit

Janpaksh

Once again showing its loyalty to the multinationals and imperialist masters the Congress led UPA government is all set to bring the 'Civil Liability for Nuclear Damage Bill 2010' in the coming monsoon session of the parliament. The Civil Liability for Nuclear Damage Bill, 2010 was introduced in the Lok Sabha on May 7, 2010 which also happened to be the last working day of the Budget session. But due to vociferous opposition it was referred to the parliamentary Standing Committee on Science and Technology for recommendation.

Though the avowed purpose of this bill is to "... define the "liability", arising out of any nuclear accident, of an individual "operator" – independent of (and unaffiliated with) the Government of India." But even a cursory reading reveals it's brazenly pro-capitalist anti people bias.

The main features of the Bill are:

It defines nuclear incidents and nuclear damage, nuclear fuel, material and nuclear installations, and also operators of nuclear installations.

It lays down who will be liable for nuclear damage, and the financial limit of the liability for a nuclear incident.

It creates authorities who will assess claims and distribute compensation in cases of nuclear damage. It also specifies who can claim compensation for nuclear damage, and how compensation can be claimed and distributed.

It specifies penalties for not complying with the provisions of the Bill, or any directions issued under it.

[Source: PRS Legislative Research (PRS) website]

This government has been propagating that the Nuclear Liability bill would kick-start the process of construction of nuclear reactors thus solving the much needed energy requirement of the "growing India". The protagonist of Nuclear energy needs to be asked one question, *if nuclear energy is so efficient then why the USA for more than three decades has not installed new nuclear power reactors!*

Is the nuclear energy the panacea for India's power problem? The statistics reveals a different picture. As of now, the electricity production from nuclear energy stands at 4,120 MW, which is a little less than 3% of the total installed capacity of power plants. Even if we are to add a 100,000 MW in the next 10 years, as the Ministry of Power assumes, what would be the share of nuclear power? According a study conducted by the Planning Commission's entitled *Integrated Energy Policy, 2006*, it assumes that taking the most optimistic scenario, the electricity production from nuclear plants would be 15,000 MW by 2015 and 29,000 MW by 2021. This would be about 7% of total energy produced. *That too when this highly optimistic figure is met!*

What would be the cost of this? A green field nuclear plant costs about \$4 billion. The technologies would have to be imported from US that too with several strings attached and a typical plant takes somewhere between 5 to 6 years, so claiming that the nuclear energy is the only viable and alternative left for Indian, sounds hollow.

The bill real intention is giving a free hand to the private companies and the international nuclear cartel to play with the life of the masses while reaping millions of dollars as mega-profits without any sting attached as demanded by the capitalist pressure group FICCI in its June 2009 Report .

The only *raison d'être* of private players pushing for this bill is their lust for profit maximization while being free from all liabilities. The American nuclear cartel led by GE and Westinghouse, with open support of the US government has been forcing India to adopt a legislation that would absolve them of all legal and financial liability in case of event arising out of a nuclear accident. This is a clear pointer to the kind of safety measures and standards these companies would adopt while constructing and maintaining the nuclear power plants in this country.

Deliberately, the liability to be paid by the nuclear operators (the private capitalist both multinational and Indian) has been kept abysmally low, to placate the interest of the 'operators'.

In fact, the Clause 6 (2), states: *The liability of an operator for each nuclear incident shall be rupees five hundred crores.* The total liability for a nuclear incident has been kept as 300 million Special Drawing Rights (Approximately Rs 2100 crore at current exchange rates) of this the total liability of the operator would be a paltry sum Rs 500 crore or about \$110 million. With the further rider, to lower it down to, even paltrier Rs. 100 crore.

If the liability exceeds Rs 500 crore, the central government shall be liable for the amount exceeding Rs 500 crore (up to SDR 300 million). If damage is caused in a nuclear installation owned by the central government, the government will be solely liable.

This means that in case of any mishap the real culprits would be only liable to damage in tune of Rs. 500 crore while the Indian people would be paying the rest of the compensation to the overall limit of 300 million SDR.

First, \$110 million cap for the operator, or even higher \$450 million total cap, would not cover even one-tenth of one paisa per rupee of damage in a worst case accident.

Further this bill violates the 'Polluter Pays' principle and the 'Precautionary Principle'. In words of the former Attorney General of India, Soli Sorabjee, *'the Right to Life as enshrined in Article 21 of the Constitution of India'*. *The bill also goes against significant Supreme Court judgments which have ruled that hazardous and dangerous industries owe an 'absolute and non-delegable' duty to the community to ensure safety.*

A comparative analysis of similar laws in US and Canada reveals the callous attitude of the multinationals and imperialist powers toward the life and property of Indians.

In the US any indemnity to be given in case of nuclear accident is governed by The Price-Anderson Nuclear Industries Indemnity Act (commonly called the Price-Anderson Act), in the event of an accident, the first \$375 million is paid by the insurer(s) of the plant. It is mandatory to insure the plant. Beyond that, up to US \$10 billion is paid out of a fund jointly contributed by the "operators" as mandated by the Price-Anderson Nuclear Industries Indemnity Act. Beyond that, the Federal Government pays.

The Canadian government has introduced a draft legislation on April 16th 2010 known as Bill C-15 which proposes to increase a nuclear plant operator's liability to Rs 3,000 crores at current conversion rate (which is not only six times the cap of Rs 500 crores contained in the Civil Liability for nuclear damage bill 2010, but it also exceeds the "maximum amount of liability" of about Rs 2,300 crores set out in the bill). The draft legislation further proposes to increase the civil nuclear liability cap from the existing \$75 million to \$650 million. The bill further proposes to increase the operator's financial security of at least \$650 million that they have to maintain.

Contrast this with the Civil Liability bills that Indian Government has prepared and the imperialist view of “*Indians being an expendable commodity*” appears to be true.

There must not be any overall “cap” on the quantum of compensation to potential victims. That is too unjust and inhumane. It has to relate to the actual damages caused. The overall “cap” of 300 million SDR, which works out to about 460 million US\$, is even lower than the compensation amount of US\$ 470 million ratified by the Indian Supreme Court to the victims of Bhopal Gas Disaster way back in 1989.

This reveals the extent that the Indian ruling class has mortgaged the interest of the common people to the international bourgeoisies and its Indian counterpart the comprador bourgeoisies, turning the country to a neo-colony of the imperialism.

The government of India has to answer the pertinent question: What was the need for this government that it is in such a rush to pass a bill that only favours the international capitalists and imperialists while gratuitously burdening the people of a country. A country where 836 millions (77 per cent of total population) live on Rs. 20 a day or less.

The bill in its current form is an open invitation to disaster giving a free hand to the multinational companies at the expense of the life of common masses, so they reap in maximum profit without any concern for the safety of the people. Another Bhopal is in offing.

This bill has to be opposed, it is high time that the progressive and Communist Revolutionary forces of the country unite and chalk out a clear cut agenda of action to defeat this bill and also the vicious interest of the capitalists and their lackeys. Only a united front of all the radical forces of this country in consonance with the international progressive movement can thwart this nefarious act of the international capital.

**Note:**

1 crore = ten million (10,000,000)

## Declaration Of Asian People’s Solidarity For Palestine

**We the Asian Peoples and Nations** extend our solidarity to the courageous people of Palestine in their struggle, resistance, and intifada against the Zionist Israeli occupation and affirm our commitment to:

- Palestinian Self-Determination
- Ending the Occupation
- Equal Rights for All within historic Palestine
- The full Right of Return for Palestinian refugees

We endorse the Cairo Declaration of 2010; the United Palestinian call of July 2005 for Boycott, Divestment and Sanctions (BDS) to compel Israel to comply with international law; the Palestinian Campaign for Academic and Cultural Boycott of Israel (PACBI); and all other initiatives to end the occupation of Palestine.

To that end, we call for, and commit to, build and participate in a global democratic people’s movement to work in alliance with the people of Palestine for the freedom of Palestine and resolve to constitute **Asian People’s Solidarity for Palestine**, an alliance of peoples’ organisations, social movements and civil society institutions of peoples of Asia.

**In view of:**

- Israel’s ongoing collective punishment of Palestinians through the illegal occupation and siege of Gaza;
- the illegal occupation of the West Bank, including East Jerusalem, and the continued construction of the illegal Apartheid Wall and settlements;
- the contempt for Palestinian democracy shown by Israel, the US, Canada, the EU and others after the Palestinian elections of 2006;
- the war crimes committed by Israel;
- the continuing discrimination and repression faced by Palestinians within Israel;
- and the continuing exile of millions of Palestinian refugees;
- the Zionist ideology which underpins Israel and a source of legitimization for all oppressive acts;

**We commit to:**

- Build solidarity of Asian people for the freedom of Palestine.

- Provide materials, resources, and volunteers to support the struggle of the people of Palestine.
- Support and reinforce the boycott of Israeli products and financial divestment from companies directly implicated in the Occupation and/or the Israeli military industries.
- Campaign for non-cooperation with academic, cultural and sport events of Israeli institutions.
- Oppose our own governments' decisions and actions that give economic, financial, military and diplomatic support to Israel and allow it to behave with impunity.
- Building a campaign for the prosecution of Israeli government for war crimes.
- Restoration of UN Resolution 3379 that equates Zionism with Racism, and endorsement by the international community.

**We demand that the Israeli government immediately:**

- End the Siege of Gaza
- Dismantle the Israeli Settlements, demolish the Apartheid Wall and remove all the checkpoints that have turned Palestine into the largest open air prison-cum-concentration camp for its 2.5 million inhabitants.
- Stop targeted assassinations of the Palestinian leadership and the indiscriminate brutalization, torture, and killing of civilians
- Release the more than 11,000 Palestinian men, women and children languishing in Israeli prisons

**We unite with all peoples' movements and national resistances, peace loving citizens and democratic states of the world for the establishment of a Sovereign, Independent and Democratic State of Palestine with Jerusalem as the capital.**

## **Decisions of All India Coordination Committee Meeting of Peoples' Democratic Front of India (PDFI)**

Delhi / 10 Oct. 2010

Attended by Swapan Goswami (WB), Arjun Pd. Singh (Delhi), Dr.B.D.Sharma (Delhi), S.N.Prabhat (Jharkhand), Ram Chandre Singh (Bihar), Ashok Prakash (UP), Dr.Santosh Kr.Singh (UP), Ram Chandre Singh (UP), Shashikant (Rajasthan), Uday Kumar (Delhi), Malem & Manishwar (Delhi), Thomas Mathew (Delhi) and Harish K. Tomar (UP).

**Decision: 1. Review:**

- We decided to organize programmes in different states raising the issues related with Agrarian Crisis, such as Separate Budget for Agriculture, Equitable Entitlement for Agriculture Community, Increment in the MSPs of Grains and its Full Implementation in all States, Cancellation of all Types of Agriculture Loans and Displacement of Agriculture Community through SEZ and other Mega Projects. But, we were not able to implement the decision satisfactorily. Although some impressive programmes were taken under the banners of our constituent Peasant / Farmer organizations in Punjab, Jharkhand and Bihar, where some of these issues were raised prominently. Our AP and UP constituents also raised the issue of Displacement.
- We decided to organize programmes against the attack by Israeli Army on the Relief Ships to Gaza, Fresh Economic Sanctions on Iran and the Court Verdict on Bhopal Gas Massacre. We were able to issue leaflets against Economic Sanctions on Iran and the Court verdict on Bhopal Gas Massacre. But these two leaflets were published in Jharkhand only. Some photocopies were distributed in other states. We could not succeed in organising programmes on these important political issues. In some states our constituent organisations took part in joint actions on these issues.
- No independent programme was taken up against ongoing state repression on peoples' movements, but PDFI and its constituent organizations took part in different joint activities on this issue in Delhi, Punjab, Bihar AP and other states.
- We decided to form and revive our state committees, but could not succeed. However, we were able to make contact with some organisations in Bihar and Jharkhand, so that to build state units in near future.

- PDFI Bulletin was not published in time mainly due to fund problem. Owing to the same problem we could not publish the Working Class Booklet.

**Decision: 2.Future Tasks: It is decided:**

- To organize programmes in different states on the 4 common demands, such as Equitable Entitlement for Agriculture Community, Recognizing Kheti-Kisani as Skilled Work, No to Compound Interest and No to Civil Jail for Farmers. Dr. B.D. Sharma will draft the central leaflet for this programme, which is to be published locally according to their needs.
- To issue a central leaflet against state repression on Kashmir and Manipur peoples' movements. The leaflet will be drafted by Arjun Pd. Singh, to be published locally in different states.

**Decision: 3. Organisational Tasks:**

- Proposal came to organise the Central Conference of PDFI in near future. After discussion it was decided to organise the Central Conference in July 2011. Before that State Conferences / General Body Meetings will be held in different states wherever possible.

**Decision: 4. Publication:**

- Next Bulletin of PDFI and a Booklet, containing the Papers of Workers' Convention will be published before the next meeting of the AICC of PDFI. All the members of AICC are hereby requested to send reports, articles and sale proceeds of the Bulletins, so soon as possible.

**Decision: 5. Accounts:**

- Accounts of the last 5 months were submitted. There is a deficit of Rs.16, 000 altogether. It is decided to collect the amount from AP, Punjab, UP and other state units.

**Decision: 6.**

- The next meeting of the AICC will be held in Delhi on 30<sup>th</sup> January 2010.

*Arjun Pd. Singh,*

On behalf of the AICC of PDFI  
12.10.2010

COMMEMORATION

**1891 Remembered  
Retrospection To The History Of Resistance In  
Manipur**

In Manipur, 13 August 2010 is a gazetted Patriot's Day to commemorate the martyrdom of the then prince Koireng and general Thangal, who, on this day in 1891, as fallout of leading an unsuccessful armed resistance against the British invasion, were hanged to death by the British. The Government of Manipur had fixed Patriot's Day for this date either in response to or to create the dominant perception that Koireng and Thangal had sacrificed for the cause of freedom and that their defeat had paved the way to the colonial rule. Their role in the anti-colonial war was significant and we commemorate their martyrdom. However, if institutionalised Patriot's Day rituals would stress primarily on eulogising their martyrdom, the Day becomes a descriptive reductionism that keeps other martyrs of 1891 out of the attention. We need to be cautious that while conjuring up a past elitist valour of the princes and general or the rulers, several martyred patriots at the lower ranks and the grass root are not left out. To make the Patriot's Day more representative of the collective conscience of the people who are obliged to it, it should be inclusive of all the martyrs who had fought for democratic cause over different historical periods of time.

To us, we remember 1891 since it was a symbolically significant historical past that teaches us that disunity among co-existing communities, power struggle among rulers, sectarianism among institutionalised groupings, and absence of common objectives had caused impediment to successful unified resistance against colonial invasion. Resistances in the formats of battles and ambushes that were carried out in 1891 were characteristically partisans without tactical reinforcement to one another under a strategically conducive unified command structure. The weakness had led to the defeat of the princes and the aftermath of the colonial rule was oppression and exploitation of the peasants and tribals under the exploitative tax regime and monopoly market arrangement of the British and their local agents (including the colonial monarchy that was based in Imphal). The defeat, which was largely caused by the disunity and sectarianism among the co-existing communities or power mongers or categories of population, i.e., a condition that we experience today in our political existence, was a blunder and a big shame. But the spirit of

resistance exhibited in the physical confrontation against the British, whether it was populist or partisan in nature, must not go without any credit. We, therefore, resolved to commemorate the martyrdom and the spirit of resistance that was exhibited by various sections of the population in 1891.

But the architects of the present day Patriot's Day must be fully aware of the functional aspects of the crafted artefact, if not articulation of, symbolic patriotic visual or cultural ritual based on selected narrative or notion of patriots. If these visuals, symbols and rituals would remain exclusivist in what it apparently represent, even if the architect had never intended to make it sectarian or hegemonic or chauvinistic or autocratic overarching, it could have varying meanings to different communities of interpreters; thereby, deliberately mixing up with the existing counterproductive sectarian politics, and delay us from marching ahead towards collective peace and progress. Against this backdrop, it is very clear to our position that while commemorating martyrdom and the spirit of resistance of 1891, we at the same time would expand our focus of commemoration on the time period after 1891. We consider that the timeline after 1891 following the British invasion has been a chequered history composed of eventual episodes of resistances and counter-resistances. The dialectics between invasion and resistance or colonial *pogrom* and rebellious martyrdom or martial law and democratic movement or governance and defiance or rulers and ruled would reveal that these are concurrent and yet counteracting in every structurally ordered society where subjugation or oppression is the means of governance adopted by the rulers. Despite dynamicity in the visible camouflaged appearance of the rulers over different historical times and places, the tenet of resistance for freedom, however, remains unchanged. We choose to continuously uphold the spirit of resistance carried out by the victims of subjugation & exploitation against the exploitative regimes.

CPDM, therefore, takes the opportunity of 13 August to express solidarity to the commemorative programme on **1891 Remembered: Retrospection to The History Of Resistance** that is being organised by the Manipur Students' Association Delhi on 13 August 2010 at the University of Delhi. We would like to appeal to the MSAD that while paying tribute to the martyrdom of prince Koireng and general Thangal, history being the witness to the several other martyrs and activists, the methodology of listing patriots may include the following others who had played crucial role in keeping the spirit of resistance continuously alive till today:

- Niranjan Subedar (8 June 1891), Kajao Singh, Jamandar (25 May 1891) and Chirai Naga of Mayangkhang (13 October 1891) who were hanged by the British;
- the prisoners of war who were either deported for live or forced exiled by the British; the regular army and militias who had fought against the British in 1891;
- subsequent partisan rebels of Kuki War 1917-19; Zelianrong movement of 1920s and early 1930s; activists of Nupi Lan of 1904 and 1939, activists of Bazaar Boycott of 1920; political activists of the movement for responsible government in 1940s
- Comrade Irabot and his revolutionary work and several others from 1947 onwards who had laid down their lives either for the cause of democratic rights or the emancipation of the political community inhabiting the present day Manipur territory.

**We are hopeful that the commemoration programme would be one of the occasions, where opinions are shared and consensus is built to carry forward our collective endeavour towards a society free from subjugation, oppression and exploitation.**

**We wish the programme a grand success.**

**Long live the martyrs**  
**Long live democracy**

**Irabot Day**  
**How Do We Carry Forward The Democratic**  
**Movement In Manipur Towards Development,**  
**Peace And Unity!**

Dear friends,

30 September has been widely recognised and observed as **IRABOT DAY** in Manipur to commemorate the birthday of comrade Hijam Irabot (30 September 1896- 26 September 1951).

Comrade Irabot, who had a humble origin as a destitute orphan, was a leading figure of the social reform movement and political agitations in Manipur in the 1930s and 1940s. He was not lured by the prospect of royal prerogatives and official facilities including the prestigious post of

membership to the Sadar Panchayat Court that were being offered to him for having married a princess. He resigned from a government job and fought against the various forms of oppression under feudalism and British colonial rule. He endeavoured towards the promotion of cultural identity, sports, literature and journalism, and he was instrumental in the formation of reform organizations, students' federation, peasant union, women's organization and progressive party. By 1943 he was a confirmed communist and during his six years political exile till late 1946 he was politically active in parts of Assam. He was elected to the Manipur Assembly in 1948. Because of the extensive popular support for him, he was considered a threat to the ruling class who subsequently declared him a terrorist on 21 September 1948 before the formal inauguration of the Assembly. He went underground, carried out an armed struggle and died in the jungle in 1951.

Comrade Irabot spearheaded the movement to establish a Manipur that would be free from subjugation, oppression and exploitation. In the decades after 1951, Irabot's revolutionary line has not been encouraged nor his ideology adequately studied or promoted; although his works in the reform movement, anti-colonial struggle and democratic movement had been widely honoured and commemorated. There has been a lull, if not complete discontinuation, of the revolutionary initiatives that Irabot had taken up. The discontinuation is not an indication of the absence of the material premise for the revolutionary movement to carry on in Manipur. The discontinuation is largely the combined result of the deliberate refraining from adopting the ideological framework of historical materialism to comprehensively address the conditions of Manipur, widespread ideological disillusionment generated by the left wing revisionists and the extensive counter-revolutionary works carried out by the right-wing opportunists.

The subsequent emergence of several liberation organisations would fully explain that since the time of Irabot until today the colonial oppression remains. However, most of the militant organisations remained ideologically inclined towards right-wing nationalism; they have adopted a racial approach to construing nationhood that has been gradually perverted into chauvinism and the perpetuation of communalism, largely uncritical of the political economy, and indifferent to the scientific interpretation on the national question in the colonial and semi-colonial conditions. To add further complication to the situation, several militant organisations using the cloak of revolution have been carrying out forced extortion from the common people, human rights violations and individual terrorism, thereby making the people confused between what is revolutionary and reactionary activity. In the overall scenario, as a result

of the absence of a uniting progressive ideology and common political line among the oppressed peoples, the ruling class could play without restraint on the sensational issues of communalism, territorial questions, various forms of repressive and terror tactics, and other divisive tactics to promote sectarianism among the population and to divert attention away from the genuine democratic questions. The political process, therefore, remains anarchical and confusing to many and the revolution is delayed.

Against this backdrop, we are organising a programme on 30 September not only to commemorate the achievement of comrade Irabot and his political works, but also to have discussion focusing on the prevailing conditions in Manipur. We expect to have a discussion based on the scientific perspective to carry forward the movement towards development, peace and unity in Manipur and beyond. We, therefore, invite you to kindly attend the programme and share your perspective. Your kind presence is highly solicited.

*Irabot Day Observation Committee, Delhi*

## **Irabot Day Observed In Delhi** **Press Release, New Delhi**

Irabot Day was observed today, Thursday, 30 September 2010, in Delhi, under the aegis of the Irabot Day Observation Committee, Delhi. The observation include; two minutes silence in honour of Comrade Irabot, recitation of poems written by Irabot, singing of songs focusing on the contemporary democratic questions, presentation of speech by the delegates of various organization and discussion on the issues arise out of the speeches. The programme that was presided by Malem Ningthouja (CPDM); with Comrade Vijay Singh (RD), Comrade Ritupan (DSU), Md. Hefajuddin (MSAD) and Comrade Hari Prashad (AINUF) sharing the dais, was attended by 85 persons, including the representatives of the All India Nepalese United Front, All India Students' Association, Campaign for Peace & Democracy (Manipur), Democratic Students' Union, Janpaksh, Manipur Students' Association Delhi, Revolutionary Democracy, and Revolutionary Democratic Front.

The programme began with an opening song entitled "Malem Imabu Wahan-ganu" sung by Altaf Hussain. It was followed by presentation of the "Brief Profile of Comrade Irabot" by Mr. Damudor Arambam, a student of Law in the University of Delhi. Main spokesperson

of the observation, Comrade Vijay Singh, said, “Comrade Irabot, apart from being a revolutionary man, was a complete cultured man...he was bigger than Manipur, spilled beyond the Manipur boundary.” Comrade Hari Prashad of AINUF appraised the historic sacrifice made by Irabot and at the same time shared his perspective about the character of the ongoing democratic movement in Nepal and parts of India. He expressed that the peoples of Nepal and Manipur must collectively struggle for common cause against common enemy. Md. Hefajuddin expressed that the progressive politics launched by Irabot must be continued without a rupture so that there could be development and peace in Manipur. Comrade Ritupan argued for a continuity of colonial character inherited by the Indian rulers since the time of the British rule till date and as such the political struggle carried out by Irabot had relevance in the present day. Seram Rojesh, former advisor of MSAD, noted that Irabot was compelled by the ruling government to take up arms. The historic shift from the over-ground politics to underground live would fully explain that the government since the long time had left no room for peaceful political solution to democratic questions. Praem Hidam, advisor of MSAD, said that rather than historicizing Irabot as a historical figure one needs to clearly understand the historical context of the emergence of Irabot into the political limelight. In doing so one should relate oneself with the prevailing context, and come up with the solution that would carry forward the movement towards progress. Malem Ningthouja called upon the subjugated, oppressed and exploited peoples to clearly make a distinction between what is reactionary and revolutionary activity. He called upon the people to openly fight against reactionary politics and individual terrorism. In between the speeches, Irabot’s poems Karkhana (Industry) and Mng Ama (A Dream) were recited by Miss Maria Laishram (student of English) and Miss Kshetrimayum Dayabati respectively. A souvenir focusing on the profile and works of Irabot was also released and widely circulated. The programme was concluded with a vote of thanks followed by a tea party.

***Irabot Day Observation Committee Delhi***

30 September 2010