

ASSOCIATION FOR PROTECTION OF DEMOCRATIC RIGHTS (APDR)

18 Madan Boral Lane, Kolkata 700 012

Phone 033/22376459 email : apdr.wb@gmail.com

PRESS RELEASE ISSUED ON WEDNESDAY 22 JULY 09 ON HUMAN RIGHTS SITUATION IN LALGARH

Released at a Press Conference held at Calcutta Press Club on 22 July 2007

Lalgarh operations enter 35th day

Normal life is continuing to be affected in large areas of three western districts of WB in the Lalgarh operations jointly undertaken by the combined forces of the central and state for the 35th day today. In a situation, when the area has been sealed off and no persons are allowed to enter the area except a few media persons, reports of gross human rights violations continue to be trickling in in media. From the media reports, statements of state government officials and other sources it has been learnt that almost all the villagers were forced to flee their homes for varying periods in the face of armed operation by combined forces, people, including women and children are being brutally assaulted, household articles and valuables are ransacked, looted and destroyed during search operations, daily necessities has become non available. A large number of people has been arrested for which there is no clear data, people arrested are almost invariably being charged with various sections under Chapter VI of the IPC relating to sedition, conspiracy against state etc. and for which the required statutory permission of the Governor is being made available indiscriminately.

Almost all educational institutions are kept closed to make room for the accommodation of the huge forces and students agitating peacefully for their classes to be held were repeatedly replied with brutal Tear gas and lathicharges. In addition the meager health services facilities available in the area were suspended as the health centres too were occupied by the combined forces.

APDR'S VIEWS AND DEMANDS ON THE LALGARH SITUATION

1. The basic problem in Lalgarh and other similar areas is that of nondevelopment and underdevelopment, of hunger, of deprivation, of denial of social justice. The socio-economic problem is compounded and aggravated by the State Government's policy and resolve to counter the Maoist politics with large scale arbitrary and indiscriminate police atrocities since 2002. The November 2008 outburst of the people's anger against police atrocities is only a consequence of state's insensitive and repressive handling of a socio-economic and political problem.

We hold, and all past experiences show that there can be no military solution of the Lalgarh or similar problems, the only way out is a political process and dialogue.

2. The state government was holding negotiations with the "Peoples' Committee against Police Atrocities (PCPA)" to end the seven month old agitations going on there. The last round of talks were held on 12 June, which decided to continue the dialogue and the next round of talks was scheduled to be held on 14 July. Without waiting for the dialogues and without announcing that the path of negotiation to solve the problem is being abandoned, the government initiated the campaign by the combined forces. This only worsened the situation and there is no indication (and even no claim from the state government) that a viable and lasting solution is in sight on this 35th day of campaign.

APDR welcomes the PCPA's persistent call even during this whole period of operations by the combined forces to resume negotiations and condemns the government's attitude of spurning the offer and resolve to seek a military solution of a problem which is essentially socio-economic and political in nature.

In this context, APDR calls upon the government to immediately open dialogue, start negotiations with all sides including the PCPA. To facilitate such dialogue, the operations of the combined forces be immediately suspended and the combined forces be withdrawn. This will facilitate resumption of educational and other normal activities in the area too.

3. The Government enforced ban on political organisations including CPI(Maoist). We do not consider banning a political organisation as a legitimate mechanism to combat any political ideology. Past experiences in this country and elsewhere clearly establish it as counterproductive. As a Human rights organisation, we do not hold any opinion about the validity of ideology of such banned political organisations or for that matter of any political party/organisation, but we do hold that according to our constitution and the Universal Declaration of Human Rights every person has the right to hold his political belief and organise themselves. We oppose this slapping of 'banned' tag and oppose the enactment of the UAPA which makes this banning 'legal'. We demand scrapping the UAPA and lifting ban on political organisations including CPI(Maoist).

4. APDR have been consistently opposing killing and repression of political opponents since its inception in 1972 and in fact one of the driving agenda of the founders of APDR was to uphold the right of every citizen to free expression and right to political activity of one's free choice. It is a fact that the culture of miming and crushing all political opposition by killing and violence of all sorts have been developed, nurtured and perfected by the CPI(M) in last 32 years' Left Front Rule in active collusion with the state police and administration. We deplore the killings of political activists and other individuals and other abuses of Human Rights by the Maoists in Lalgarh and call upon them to respect right to life, right to free expression and right to political activity of one's free choice of every person at all costs.

5. Rights activists and concerned citizen trying to have access to the area obeying notified restrictions are being stopped and arrested at places 50/60 Kms away from the area where prohibitory orders were enforced. We demand withdrawal of the orders under Sec 144 and demand that Civil Society members and Rights activists be allowed to visit the area to assess the nature of Human Rights violations and as a measure of confidence-building process in line with the UN "Declaration on the Rights of Human Rights Defenders" to which the Government of India is a signatory. It may further be mentioned that while seeking re-election to the UN Human Rights Council in 2007, India voluntarily pledged and committed to **"continue to encourage efforts by civil society seeking to protect and promote human rights."**

6. All occupation of premises of educational institutions and health facilities are illegal and immoral and should be terminated forthwith. In line with the Supreme Court's directives and NHRC recommendations a ban should be imposed on using school buildings and health centres for establishing police camp/ accommodating different types of forces. In exigencies, tents and other temporary structures should be used for accommodating such forces

7. The police action on school children in their school uniforms waiting for 33 days for their studies to be resumed only lays bare the fangs of a **Police State**. Persons responsible for perpetrating such criminal acts must be punished. We demand that all arrested persons be released immediately, security forces personnel responsible for assaulting people and students, ransacking and looting homes be booked and punished as per law, compensation be paid to all victims of atrocities by the Combined forces.

We are also requesting the Governor of the state to intervene to end the suffering of the people, for establishing rule of law and upholding principles of Human Rights and call upon the people and all political parties and civil society organisations to oppose repression of the people of Lalgarh

A Short Note on Lalgarh Operations, UAPA, Police reform and Human Rights

As war is not 'declared' against the Maoists in Lalgarh, human rights laws and obligations takes precedence over everything. Operation should not exceed what is minimally required to restore law & order. Govt. has to strictly follow the rule of law.

But, the rule of law collides with basic human rights when it is UAPA, 2008 based as is in the Lalgarh case. The 2008 amendments have not altered the provisions in the 2004 Act regarding immunity from prosecution for government officers and authorities and for members of the armed forces. Thus, an individual wrongly arrested, detained, tortured and/or imprisoned and other barbaric acts committed by the security forces has virtually no legal recourse to seek compensation or combat impunity. There is no safeguard against the executive misuse despite the existence of Section 45(2). Also, the state govt is evading Apex Court Order dated 22.09.2006 in Writ Petition (Civil) No. 310 of 1996 regarding police reforms, and it has yet to establish a Police Complaints Authority to ensure that police actions are within the law and to allow citizens to lodge complaints against police abuse of power such as arbitrary arrest and detention which the people are complaining of. On the contrary, Sec144 is clamped to debar human rights activists and other concerned public to visit Lalgarh and conduct fact-finding and subsequently verify this or that claim of the government side.

UAPA, 2008 abrogated presumption of innocence i.e. right to a fair trial along with forfeiting the right to silence for the people. But, the state reserves its right to be presumed innocent after resorting to all sorts of brutalities and enjoy right not to disclose what made it jump into such a big coin venture against the so-called Maoist terrorism. Even the WB govt partners are not so convinced about such a state-terrorist venture in Lalgarh except the CM & his party men.

The state has preferred to act mainly on the basis of suspicion which is inherently difficult to disprove. That's why it chose draconian UAPA, 2008. This is just an expression of a terrorist mindset of the govt. Lalgarh facts proved the urgency of a thorough police reform together with reforms of existing criminal justice system and eradication of the deep rooted corruption in administrative machinery of the state of West Bengal.

The Government side has waged a sub-conventional war against the people of Lalgarh organized under the banner of PCPA. Such actions are only valid under certain conditions under international law. The intensity of hostilities and the regularity and mode of armed clashes prior to 18th June, 2009 in Lalgarh does not support the Govt's decision to go for such a large-scale counter-insurgency operation as is undertaken in Lalgarh and adjacent areas.

In Lalgarh the opposing forces are the CPI(M) activists on the one hand and on the other, the victims of police brutalities organized under the banner of PCPA. The PCPA is neither declared a terrorist outfit, nor a rebellion group by the Govt. The 13-Point demand charter of the PCPA is not a call for a war against the state. Rather, it was an eye-opener to all about the virtual *Police Raj* in vogue in Lalgarh as is true for every Police Station area in West Bengal.

Utter failure of the state administration to developmental drives forcing the indigenous people of the state to live in a condition of abject poverty and the clandestine intention of the state government to hand over fields, mines and forests to the organized class of speculative traders and businessmen of dubious origin needs to immediately reversed. In realm of political administrative setup of West Bengal today the least respected things are the human rights.

The govt should explain why no stringent action was taken against the police personnel who tortured people in Lalgarh, who killed Rizwanur Rahman, who've made police stations hell for the people and why various reports of the police commissions were not paid heed to at all? Those who gritted their teeth for getting hold of the state police administration and finally got it, should explain it first before raising fingers at others and hoist unfounded allegations.

A healthy, well-functioning democracy, good governance, a secular and liberal mind-set, which makes no distinction between the majority and the minority and treats both as equal in the eyes of the law and the political leadership, an administration, which has attentive eyes and ears for the grievances and feelings of the people and the required sensitivity to redress the reasonable grievances instead of letting them fester are essential minimum prerequisites for a successful countering low-intensity conflicts throughout the state.

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(APDR)

18, Madan Boral Lane, Kolkata -700 012, West Bengal, India

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Phone : (033) 22376459

From :

1 July 2009

Sachhidananda Banerjee, President, APDR.

To:

Mr. Justice S. Rajendra Babu.

Chair Person, National Human Rights Commission,

Fardkote House, Kopernicus Marg, New Delhi 110 001

Subject : Reports of gross Human Rights Violations in current counter-insurgency operations jointly undertaken by the combined forces of the central and state governments in Lalgarh and adjoining areas, West Bengal

Dear Sir,

Normal life is continuing to be affected in about 22 Police Station areas of West Bengal in the Lalgarh counter-insurgency operations jointly undertaken by the combined forces of the central and state. In view of the reports of gross human rights violations continue to be pouring in in media, reported non-adherence to operational parameters to be obeyed in such counter-insurgency operations, suspension of educational activities and vacating almost every educational institution for housing the troops, large scale exodus of people from the operational area for fear of police atrocities, non availability of daily necessities created by the blockade by security forces for the last three weeks, **we request you to send an investigating team to the area to assess the human rights situation in the area and to recommend remedial steps.**

2. In view of the situation prevailing in the area APDR decided to send a fact finding team on 4th July, 2009. **We also request you to prevail upon the State Government so that the team's fact-finding is not hindered** by the administration in line with the UN "Declaration on the Rights of Human Rights Defenders" to which the Government of India is a signatory. A letter addressed to the Chief Secretary, Govt. of WB is annexed herewith for your convenience.

After the fact-finding, we will be sending you its report(s) along with supporting material.

We hope that considering the exigency of the situation, you will please urgent steps and inform us accordingly.

Thanking you,

Sachhidananda Banerjee.

President, APDR

Encl. as above

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From :

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Sachhidananda Banerjee, President, APDR.

To:

Sri Asok M. Chakrabarti, IAS.

Chief Secretary, Government of West Bengal,

Writers' Buildings, Kolkata - 700 001. E-mail : chiefsec@wb.gov.in. 2214 4328 (Fax)

Subject : *Information regarding proposed Fact-finding of APDR in Lalgarh on the 4th July, 2009.*

Dear Sir,

APDR has decided to send a fact-finding team to Lalgarh on the day stated above in the subject in view of reported gross human rights violations in current counter-insurgency operations jointly undertaken by the combined forces of the central and state governments there and also, in view of the reported non-adherence to operational parameters to be obeyed in such counter-insurgency operations.

You know voices of reason and critique are often drowned in the sounds of gunfire and heavy artillery shelling. The civil society has accepted the natural fact that there will be *collateral damage*. The importance of independent reporting based on ground level fact-finding can not be overstated. It not only ensures transparency but also helps to dispel all the conspiracy theories, which only dwell due to lack of information, and which often hurt the cause itself. Right now the media is mainly reporting the official information as facts. So, we think, independent fact-finding is an concomitant necessity.

A five to ten member team of senior APDR activists from among the following will take part in the proposed fact finding :

1. Sachhidananda Banerjee (lawyer) President,
2. Amitadyuti Kumar, Vice President
3. Tapas Chakrabarty, Vice President
4. Jagabandhu Adhikari, , Vice President
5. Rangta Munshi (lawyer), Asst. Secretariy
6. Siddhartha Sengupta, Secretariate Member
7. Tapas Bhattacharya, Secretariate Member
8. Altaf Ahmed, Secretariate Member
9. Arup Dasgupta, Secretariate Member
10. Dhiraj Sen, Secretariate Member

This is for your information and necessary action. We hope that we will be able to conduct the fact finding and also seek an appointment when the team will meet you with the report.

Thanking you,
Sachhidananda Banerjee.
President, APDR

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Ref No. /2009

16 July 2009

From :

Sachhidananda Banerjee,
President, APDR

To:

Hon'ble Mr. Justice S. Rajendra Babu.
Chair Person, National Human Rights Commission,
Fardkote House, Kopernicus Marg, New Delhi 110 001

Subject : *Complaint on gross Human Rights Violations in current operations jointly undertaken by the combined forces of the central and state governments in Lalgarh and adjoining areas, West Bengal*

Dear Sir,

Normal life is continuing to be affected in about 22 Police Station areas of West Bengal in the Lalgarh operations jointly undertaken by the combined forces of the central and state for about a month. In a situation, when the area has been sealed off and no persons are allowed to enter the area except a few media persons, reports of gross human rights violations continue to be trickling in in media. Grave concerns have been expressed by the civil society, rights activists and political parties about what is happening actually there. From the media reports, statements of state government officials and other sources it has been learnt that :

1. A few thousand villagers were forced to leave their homes in the face of armed operation by combined forces.
2. Almost all educational institutions are closed to make room for the accommodation of the huge forces and students agitating peacefully for their classes to be held were lathicharged.
4. The meagre health services facilities available in the area were suspended as the health centres were occupied by the combined forces.
5. People, including women and children are being brutally assaulted, household articles are ransacked and destroyed during search operations.
6. Daily necessities has become non available.
7. Rights activists and concerned citizen trying to have access to the area obeying notified restrictions are being stopped and arrested 50/60 Kms away from the area where prohibitory orders were enforced. This is in gross violation of the UN "Declaration on the Rights of Human Rights Defenders" to which the Government of India is a signatory and India's voluntary pledge and commitment to **"continue to encourage efforts by civil society seeking to protect and promote human rights" while seeking election to the UN Human Rights Council in 2007**
8. At least twelve people were reportedly killed in the area, where the combined forces are operating during the continuance of their operations.
9. There is no clear data about the people arrested.
10. People arrested are almost invariably being charged with various sections under Chapter VI of the IPC relating to sedition, conspiracy against state etc. and for which the required statutory permission of the Governor is being made available indiscriminately.
11. The area is predominantly inhabited by Scheduled Tribe and Scheduled Caste people and the atrocities fall under the Scheduled Caste and Scheduled Tribes (prevention of atrocities) Act.

In these circumstances, we urge upon the NHRC to take cognizance of this complaint and send an appropriate investigating team to assess the Human Rights situation in the area of operation of the combined forces and to take appropriate action on all allegations of violations and to prevail upon the state government so that Civil Society members and Human Rights NGOs are not prevented from visiting the area to assess the nature of Human Rights violations and as a measure of confidence-building process.

A bunch of Newspaper Clippings is annexed herewith for your perusal.

We hope that considering the exigency of the situation, you will please take urgent steps and inform us accordingly. Thanking you,

Yours faithfully,

(Sachhidananda Banerjee.)

President, APDR

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16 July 2009

From :
Sachhidananda Banerjee,
President, APDR

To,
Hon'ble Mr. Gopal Krishna Gandhi
Governor
West Bengal..

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The state government was holding negotiations with the "Peoples' Committee against Police Atrocities (PCPA)" to end the seven month old agitations going on there. The last round of talks were held on 12 June, which decided to continue the dialogue and the next round of talks was scheduled to be held on 14 July. Without waiting for the dialogues and without announcing that the path of negotiation to solve the problem is being abandoned, the government initiated the campaign by the combined forces.

The Government enforced ban on political organisations including CPI(Maoist). We do not consider banning a political organisation as an legitimate mechanism to combat any political ideology. Past experiences in this country and elsewhere clearly establish it as counterproductive. As a Human rights organisation, we have no opinion about the validity of ideology of such banned political organisations, but we do hold that according to our constitution and Universal declaration of Human Rights every person has the right to hold his political belief and organise themselves.

In these circumstances, we demand :

- A. Dialogue to end the impasse involving all sides connected with the problem should be started forthwith.
- B. To facilitate such dialogue, the operations of the combined forces be immediately suspended and the combined forces be withdrawn. This will facilitate resumption of educational and other normal activities in the area.
- C. Civil Society members and NGOs be allowed to visit the area to assess the nature of Human Rights violations and as a measure of confidence-building process in line with the UN "Declaration on the Rights of Human Rights Defenders" to which the Government of India is a signatory. It may further be mentioned that while seeking re-election to the UN Human Rights Council in 2007, India voluntarily pledged and committed to **"continue to encourage efforts by civil society seeking to protect and promote human rights."**

In this connection, we also demand :

- D.** The practice of giving blanket permission for slapping sections relating to sedition , conspiracy against state etc (sections of Chapter VI of the IPC) be stopped forthwith. As such permissions are given on behalf of the Governor, we urge upon you to review all such permissions given in the preceding years and stop misuse of the authority on behalf of the Governor.
- E.** In line with the Supreme Court directives and NHRC recommendations a ban should be imposed on using school buildings and health centres for establishing police camp/accommodating different types of forces. In exigencies, tents and other temporary structures should be for accommodating extra forces.
- F.** Provisions of various international conventions and standards, that are applicable to the situation created by the campaign of combined forces and principles of minimum application of forces by law enforcing agencies should be strictly adhered.

While we urge upon you to consider this memorandum and apply your constitutional authority for fulfillment of the demands, we also request you to give an appointment according to your convenience, when an APDR team will meet you and explain our viewpoint.

We hope that considering the exigency of the situation, you will please take urgent steps and inform us accordingly. Thanking you,

Yours faithfully,

(Sachhidananda Banerjee.)

President, APDR