

# Coordination of Democratic Rights Organizations

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## TRIBUTES TO RIGHTS LEGEND BALAGOPAL

**The sudden demise of Balagopal is a big shock to all democrats. It is difficult to fulfill his place in the Rights movement. In fact Balagopal's contribution is tremendous in getting recognition and trust to the rights movement not only in A.P., but all over the country. He gave a new orientation and vision to the Human Rights movement and dedicated his life to achieve the same. Balagopal had a unique character and his extraordinary personality was a combination of an intellectual, writer, leader and ordinary activist. Though he was the leader of the organization, he used to paste posters, distribute pamphlets and sell publications, like an ordinary activist. He became voice of the peoples' rights in A.P. and created his own space in the history of rights movement.**

**During 1970's, the government unleashed fascist repression on Srikakulam Tribal movement, specially by way of fake encounters. In order to oppose the above repression Civil Liberties Movement Started in Andhra Pradesh. Even after Emergency the Civil Liberties Movement gained importance and geared up**

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its fight against the State violence. Balagopal, took the inspiration from the democratic movements that were going on in the State, came closer to the APCLC in 1980 and actively participated in the activities of the organization. In a short span, 1983 he became the General Secretary of the organization and continued as such for 15 years in the position.

The first and foremost quality that a Civil Liberties activist should have possess is to withstand to State repression. In this regard one has to learnt a lot from Balagopal. When state repression became severe on APCLC and Gopi Rajanna, Japa Lakshma Reddy, Dr. Ramandham and Narra Prabhakar Reddy (Martyrs of APCLC) became victims of State violence, he showed his bravery in leading the organization. He never looked back, though he was kidnapped and threatened by the police. He expanded the Civil Rights perspective, by defining rights angle to every social problem. In Balgopal's own words "*Rights are just and necessary for each and every individual to lead respectable life in the society. Rights are an instrument to question the dominance, exploitation and inequalities*".

According to him rights are universal. He wished there should be a social and economic environment that should give opportunity to every one to enjoy the rights. He studied extensively on various issues to understand how the rights of the common people are being violating and the socio, political and economic circumstances that are leading to these violations. He critically analyzed the policies of the government and prepared reports. He would say that the fact findings are not just to collect the facts and issue press-statements, but the reports should be able to create rights conscious among the people and give courage to the people to fight for their rights independently. His method of work is role model to all the rights activists. He inspired hundreds of rights activists working in different organizations. He felt that it is the duty of the rights movement to understand the aspirations of the democratic movements in society and to support them from the rights angle.

Balagopal played a very important role in APCLC in expanding the understanding and perspective of the organization. In the light of "Karamchedu Massacre" on dalith's, he understood that 'Caste system' is on of the main reason for the violation of rights in the society and started to fight against the atrocities against Dalith's. He recognized that the 'Patriarchy' is one of the main reasons for domestic violence. He explained how the government is responsible for the famine and how the basic right to life is being violated due to famine. He strongly felt that one has to understand the violence of dominant institutions of the society apart from the State violence. 'One has to oppose the violence with the rights spirit and to work for democratization of the society', he argued. He was popular not only in A.P., but at every place, where peoples movements are going on. He visited several States and participated in several fact findings and raised his voice against the rights violations in Kasmir, Narth East, Gujarath, Orissa and West Bengal, Chhattisgarh etc.

Due to difference's of opinion in the perspective and understanding of certain issues, he left APCLC in 1998 and formed "Human Rights forum" (HRF), led the same till his death. But, he worked with APCLC on various issues of rights violation of common understanding. APCLC and HRF jointly organized several programmes. Though he criticised the violence by the movements, but he never compromised in criticizing of State violence. Just few days before his death, he gave a call to all the democrats to oppose Operation Green Hunt, since it would cause a lot of misery to the adivasis.

The demise of Balagopal is a huge loss to the rights movement. But any movement is collective. Without the co-operation of the activists, no movement would go further. S If the movements are structurally and collectively strong they with stand to the challenges. Rights movements are facing several challenges. Leaders and activists of the rights movements are facing severe repression. Government polices are deliberately denying the basic peoples rights. In this context in order to protect the rights of the people, there is a need to fight collectively. The only tribute that has to be given to Balagopal is that "*his sincerity and honesty has to be assimilated in us to fight for protection of rights.*"

Coordination of Democratic Rights Organizations

# 'Encounter Killings and the Question of Justice'

## *Two Days of Protests of CDRO in Delhi*

3-4 September

**On 3<sup>rd</sup> September** Justice JS Verma former Chief Justice of India and former Chairperson of the NHRC spoke on the topic 'Encounters and the Question of Justice' at the 24<sup>th</sup> Dr. Ramanadham Memorial Meeting organized by the Andhra Pradesh Civil Liberties Committee (APCLC) and Peoples Union for Democratic Rights (PUDR). Justice Verma focused primarily on the directives issued by NHRC in 1996 regarding investigation of encounter killings on the basis of a petition filed by APCLC based on 285 fake encounter deaths in AP. In February 2009 the AP High Court ruled that FIRs be registered in all cases of encounter killings and the plea of self- defense be proven before a court of law. Justice Verma emphasized that the AP High Court had only restated what was already there in law. Justice Verma expressed his amazement at the Supreme Court's giving an ex-parte stay on the AP High Court order in response to a petition filed by the AP Police Association seeking a stay on the HC ruling arguing that such an order was de-contextualised and would result in the demoralisation of the police force and growth of Maoists. He pointed out that Ranganath Mishra's order and the letter of Justice Venkatchaliah are clear on this matter, and that the interim ex-parte stay abrogates article 20,21 and 14

and goes against article 359 (emergency) which clearly lays down that article 20-21 are non-derogable).

He emphasized that therefore "difficult" circumstances such as terrorism or insurgency could not be an justification for encounters.

**On 4<sup>th</sup> September** the Coordination of Democratic Rights Organisations (CDRO), a federation of twenty Civil Liberties and Democratic Rights Groups from across the country organized a dharna at Jantar Mantar in New Delhi to protest against the increasing number of encounter killings across the country. The member organizations who came to Delhi and participated in the dharna were MASS (Assam), COHR (Manipur), NPMHR, APCLC (Andhra Pradesh), APDR (West Bengal), AFDR (Punjab), CPDR (Maharashtra), PCHR (Jammu and Kashmir), PUHR (Haryana), PUDR (Delhi), PUCL Jharkand & Rajasthan.

CDRO strongly condemned the Indian state's use of encounter killings as an extra-judicial instrument used to eliminate 'undesirables' ranging from criminals and petty offenders to political dissidents, Maoists, militants, sympathizers of people's movements, and members of 'suspect' communities like Kashmiris, Muslims, and the

peoples of the North-Eastern states. The Batla House encounter in Jamia in New Delhi in which two alleged Indian Mujahideen militants Atif and Sajid were killed in 2008, the cold-blooded killing of Chungkham Sanjit in Imphal in July 2009, the almost daily killings of Maoists in Andhra, Chhattisgarh, Lalgah, and militants in Kashmir are a few representative instances. CDRO members emphasized that the history of the use of encounters showed the maximum political use of encounter killings to be in areas where the Maoist movement is active like Andhra Pradesh, Chattisgarh, Jharkhand, and in militancy areas like Jammu and Kashmir, Manipur, Assam, Nagaland.

CDRO pointed out the lack of comprehensive figures on encounter killings. No official figures are maintained by the Government of India making the actual extent of the phenomenon impossible to gauge. For example in a rare instance where any such attempt has been made, the NCRB report of 2007 lists a category of 'fake encounters' by police listing a ridiculously low figure of 10 in 2007. Even in these 10 cases though there were no convictions. In the NCRB report any real approximation of the actual number of police encounters is obfuscated under the loose

category of 'Police Firing' in 'Anti Dacoity Operations' and 'Anti-Extremists & Terrorists Operations' the figures for which are significantly much higher at 334 and 183 respectively for 2007. And this refers to just police operations.

CDRO argued that the distinction between real and false encounters has been reduced to a fake distinction used by the state to give legitimacy to encounter killings, which has widespread consent in civil society. *Any such distinction is untenable unless all cases of encounter killings are investigated.* Without this the term encounter implies the state's assuming of the absolute power to kill and the right to punish by death, sidestepping the normal judicial processes of investigation and trial, necessary for conviction and punishment. Encounter killings by definition violate rule of law, and principles of liberal jurisprudence, and constitutional rights.

CDRO unequivocally stated that the state's use of encounters and other forms of extra-judicial killings like disappearances cannot be condoned on the basis that as many of the groups that the state is fighting believe in armed resistance and reject the rule of law, the state too can do the same. The state cannot be treated at par with armed groups as it is responsible for upholding and guaranteeing rule of law and fundamental rights.

Taking place in situations

of increasing militarization, and under the operation of laws like the Armed Forces Special Powers Act in Jammu and Kashmir and the North East which give complete impunity to security forces to kill, there is complete lack of accountability of state forces. The trigger-happy situation this creates is illustrated by the Singaram encounter in Chattisgarh in which 19 people were killed by SPOs, and the killing of Sanjit by Manipur Police Commandos.

CDRO also criticized institutions like the NHRC and the judiciary for their failure to ensure justice in encounter cases. Thus despite questions raised by rights Groups and local residents about the encounter in Jamia Milia, the NHRC and Delhi High Court both upheld the police version of events, absolving the police of any wrong doing.

Despite its having been a vociferous demand of rights group all over the country that encounter killings be stopped, security forces be made accountable, and justice be ensured for the victims families, the state according to CDRO, has largely continued to remain unresponsive and unwilling. It is now 13 years since the NHRC had issued a directive in response to a petition filed by APCLC that all encounter deaths be registered as a cognizable offence and investigated. AP HC too had seconded the directives. But the situation today stands at a critical juncture where the

SC has granted a stay against the AP HC's ruling that FIRs be registered in all cases of encounter killings and self defense not be permissible as a reason to dismiss the case during investigation itself.

CDRO commented that it would be a highly ironic and a decisive comment on the nature of Indian democracy and justice if the highest court in the land were to uphold the AP police's petition thus giving judicial sanction to extra-judicial killings and violation of rule of law.

Finally, CDRO wants to draw attention to how CBI sabotaged the investigation in assassination of Parag Kumar Das and allowed state protected killers to escape justice, And wants a fresh investigation and trail.

### **CDRO demands that:**

1. The NHRC guidelines and Andhra Pradesh HC order of 2009 be upheld and implemented.
2. Criminal cases be registered in all encounter killings since 1996 i.e. the date of the NHRC directive to all Chief Ministers.
3. The escalating militarization which leads to trigger happy security forces be stopped.
4. Laws such as the AFSPA which give overriding powers to security forces be repealed.
5. Countrywide statistics of encounter killings be maintained.

# A call to oppose Operation 'Green Hunt' in Chhattisgarh

***Peace can come to Bastar only when the State stops treating the adivasi people at large as its enemy and lets them return to their villages.***

The Government of Chhattisgarh admits that since the start of Salwa Judum in the year 2005, 644 villages of district Dantewada, whose overwhelmingly adivasi population is about 3.5 lakhs, have been emptied out. Our common sense understanding that enmasse displacement on this scale could only have been made possible by extreme violence, is vindicated by the horrifying incidents of arson, loot, murder, rape, and widespread arrests by the SJ and security forces that have continuously been coming to light, and which can no longer be ignored.

In honest moments, the security experts of the Jungle Warfare School, Kanker admit, that this is the well known American counter insurgency strategy of draining the water to kill the fish? Though many of us, who are witness to widespread displacement all over Chhattisgarh for rich mineral resources, believe that there is also considerable evidence, that the motive for ground clearing is acquisition for mining companies. Whatever the motive, what is the situation in Dantewada today?

Recently the Home Minister admitted, that out of the 50,000 internally displaced persons who were being housed in the roadside SJ camps since 2005, now barely 8,000 remain, the rest of them have run away. The recent incidents of a trigger happy

CRPF jawan killing a woman and baby in the Cherpal camp, or of SPOs beating three persons to death in the Matwada camp, perhaps illustrate why. And yet - all schools, health centres, ration shops, (of course polling booths), which have been totally withdrawn from the 644 villages, (and even gram sabhas for determination of forest rights!) continue to be run from those camps.?

The administration openly declares that the people of all those villages who have refused to come to the camps, all those villagers who have not joined/ co-operated with the Salwa Judum, those who are still daring to sow their fields in the affected villages (only to flee when the security forces arrive leaving the vulnerable behind to be killed or arrested), and certainly those, who are living in the forests, are automatically Naxalites. All youth found in the abandoned villages, and all persons from these villages who come to markets are beaten black and blue and thrown into jail on mere suspicion. And there is always a stock of uniforms and rusty bharmars to show as seizures.

Even conceding that around 50,000 persons might have fled to Andhra Pradesh and maybe another 50,000 to Orissa or Maharashtra, this means that at least 2 lakh people, by virtue of being in the forests or Naxal stronghold areas, have now been declared

Naxalites by the State, and therefore it is considered legitimate that they can be starved of food, medical supplies and access even to village markets. No doubt anti-Naxal operations against them have, and would further result, in swelling the ranks of armed militants. For now, the ever present issues of land and livelihood have turned into the burning issue of the very survival of these lakhs of people. And history tells us, that in those circumstances, the adivasi people have always fought fiercely. Even 14 battalions of paramilitary forces, who, apart from occasional forays for searching within a small radius of their base, remain holed up in thanas, jails and schools with electrified barbed wire fencing, are feeling quite helpless against the swarm attacks of hundreds of Naxalite militia. In the past few months, at least 25 jawans have committed suicide after killing their officers and colleagues out of sheer stress.

That the Government of Chhattisgarh is hell bent on demolishing any middle ground is amply illustrated by its treatment of the Vanvasi Chetana Ashram, an NGO inspired by Gandhian ideology, which has been trying to implement the recommendations of the NHRC with regard to rehabilitation of the displaced villagers, and to provide legal aid for the filing of FIRs/ complaints in the

cases of disappearances and rapes. The Ashram was demolished recently; rice being taken to the villages of Lingagiri, Basaguda and Nendra, which have been resettled by the Ashram, was confiscated as being supplied to Naxalites; and a young volunteer of the Ashram Sukhnath - has been booked under the draconian Chhattisgarh Special Public Safety Act. The voice of civil liberties is still sought to be silenced: two more supplementary charge sheets, again not disclosing any legally admissible evidence, have recently been filed against Dr Binayak Sen, General Secretary of the Chhattisgarh PUCL, even after unconditional bail was granted to him by the Supreme Court. Apart from the cases filed against Salwa Judum in the Supreme Court, numerous cases filed against fake encounters in the High Court of Chhattisgarh, and private complaint cases in the lower courts drag on without providing substantial relief, despite the best efforts of the Petitioners. Strident demands

made in rallies of local adivasi organizations in Bastar, protesting the handing over of their lands to companies, meet with no response, either from the district administration or the Governor ? The constitutional authority of the Scheduled Areas.

It is in this context that the implications of clearing out the Naxalites by military operation have to be understood. Today, this can only mean an indiscriminate genocide of adivasis, a full scale war against lakhs of people, against the people at large. How can civilians and combatants possibly be distinguished under such a dispensation? Have not our experiences in the North East and Kashmir told us that there is no quick end to such a war? We are already witness to the recent incidents of Singhavaram, Kokawada, Vechapal, cases where people came out on the streets in Bastar to protest that the so-called militants killed by the security forces and SJ SPOs were actually only simple villagers.

That is why, it is with a sense of great urgency, and in defiance of the fascist attitude of the Government of Chhattisgarh, that we appeal to all democratic minded people of this country to demand that -

First and foremost, the lakhs of displaced adivasis of Dantewada be allowed to return to their villages and rebuild their ravaged agrarian and forest based economies. Thus their rights to food, to basic health, to land and livelihood, and above all to life, must be assured.

It is only this, that can ensure a de-escalation of the polarization between security forces on the one hand and the adivasi people at large on the other, and can avoid genocide in the name of counterinsurgency.

If you agree with us, please raise and support this demand.

Co-ordinators (CDRO)  
Asish Gupta (PUDR), Ningreichon  
(NPMHR), Kranti(APCLC)

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## Police does not have faith in the Indian Judiciary

On 10 November, 2009, Shriram and Jairam Chowdhary were sitting in a hospital in Robertsganj since morning. One could see the terror and apprehension on their faces rather than sadness, which would have been the feeling on their father's (Kamlesh Chowdhary) demise under normal circumstance. 22 years old undergraduate student of Kashi Vidyapeeth, Shriram

was informed about his father's encounter by a journalist friend in the evening of 9<sup>th</sup> November. Since then the whole family is terrorized. The younger brother Jairam who is doing an IT course from Dadadhi. He was brought to the Robertsganj PS surrounded by policemen. He was harassed and humiliated by the police in the name of questioning. Now he is sitting in the hospital since morning

to have a glimpse of his father's dead body. His father was picked up by the UP police from Rohtas on 9<sup>th</sup> November and was killed in the Chopan forests of Sonbhadra district. The DGP announced rewards and out of turn promotion for the policemen involved in this fake encounter.

Shriram and Jairam could finally have glimpse of their fathers face in the evening.

Shriram says that they were not allowed to see where all their father was hit by the bullets. The police pressurized them to do the cremation of their father right there. But the Sarpanch of their village and the other villagers who had come along with the brothers wanted that Kamlesh Chowdhary be cremated in the village. The two brothers were assured by the police that the body of the father would be given to them, but then were taken to an unknown destination. This was Hinduwari cremation ground, where the police had already

made all arrangements for the cremation. The body was cremated despite protests by the two brothers.

When the policemen were celebrating their out of turn promotions, Shriram Chowdhary was narrating the story of the fake encounter of his father and subsequent police terror to the PUCL members. They were so terrorized even a day before that when the secretary of PUCL's Sonbhadra unit contacted them, they refused to say anything. Later when the media and the human rights sue motto raised issue

of fake encounter of their father, they gathered the courage to fight. Now Shriram says that he has written to the NHRC and the governments of UP and Bihar for an investigation into this fake encounter. He says if their father was an accused why did the police not present him in court after catching him? Why was he not tried and punished? Government says that the Naxalites are ruining the law and order, but what is the explanation of this act of the police. Does the government and the police do not have any faith in the Judiciary.

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## Justice denied in the case of Parag Kumar Das Assassination

Thirteen years have elapsed since the brutal assassination of Parag Kumar Das – economist, journalist and human rights defender. A professional in the financial sector, he left his successful career as the manager of the Guwahati Stock Exchange to pioneer the human rights movement in Assam, and was pivotal in weaving together a network of human rights defenders across the Northeast. With a strong conviction in creating an informed society, he also started and edited two of the most prominent newspapers in Assam. His articulate vision and analytical writing came to be considered a threat to the corrupt establishment and the various stakeholders perpetuating a rapid slide of societal norms and values in Assam. This prominent public intellectual was

gunned down in broad daylight on May 17, 1996 at Rajgarh Road in Guwahati. His assassins picked the time when he routinely collected his son Rohan from school. When he was shot, Rohan was holding his hands on their way to the bus stop.

A respected figure all across the region, his killing evoked massive protests all over Assam. Declared a martyr by the masses, people in Assam demanded a speedy delivery of justice and an immediate halt to attack on journalists and human rights activists. These pleas for justice, however, have consistently fallen to deaf ears - that of the then AGP government and to the present Congress (I) led one. Thirteen years have passed. Till date the government, the administration or the judiciary have been unable to uncover the chilling facts that

led to the cruel murder of this champion of social justice.

Following the protests of May 1996, the AGP government responded by categorically promising immediate arrest of the killers, although the time varied from 24 hours to a month from the Chief Minister to other members of the ruling party. All promises, however, turned out to be eyewash and delaying tactics to subdue the anger and emotional response of the public. Meanwhile, the people of Assam were kept at a confused state about the identity and capture of the assassins.

The government stated after a month of the killing that Profulla Bora @ Dhekial Phukan, a surrendered member of the United Liberation Front of Assam

(ULFA), was the prime culprit. When the government handed over the investigation to the Central Bureau of Investigation (CBI), the agency submitted a charge sheet where any association of Profulla Bora with the heinous crime was denied. Such incidents only added to the confusion and of an already misinformed public.

It is now public knowledge that Parag Das was a victim of the specially organised “secret killing” enterprise in accordance with decisions and planning of the organs of the State. While the protests managed to temporarily bring the ‘secret killings’ and attempts to eliminate human rights activists to a halt, it picked up again within a year and none of the culprits were ever booked or punished. Many lives were hence lost including that of 7 human rights activists.

Moreover, despite its promise exclude the surrendered ULFA members in any of its anti-rebel operations, many of them have lead such offensives various districts and continued their harassment, intimidation and threats against innocent citizens and human rights activists throughout the state. These activities could not continue unabated without active government sponsorship.

On July 28, 2009, the court conducting the trial of Das’s assassination gave its

verdict. While the masses of Assam waited with bated breath in anticipation of justice, Mridul Phukan, the prime accused in the case walked out a free man. None involved in the case including the State, the investigating agency and the prosecution made any effort to even touch the larger conspiracy behind the assassination of Parag Das. That question too remained unanswered. It was a moment when the people of Assam began to rethink the organs of the State responsible for bringing criminals to justice. Few chronological details and pointers would help in understanding the case better.

#### **Chronology of events:**

**May 17, 1996** – Parag Kumar Das is brutally shot dead in broad daylight at 2.45 p.m. in front of the Asom Jatiya Vidyalaya while picking up his son from school. Felled by a hail of bullets, Das dies on the spot while his son receives a bullet in his hand. 3 days of spontaneous general strike in Assam follows the incident with protests at every street corner and numerous memorial services.

**May 18, 1996** – Then Chief Minister Prafulla Kumar Mahanta orders police to produce the assailants within 24 hours. He also publicly promises to catch the culprits in 48 hours.

**May 19, 1996** – Manab Adhikar Sangram Samiti (MASS), the human rights organisation founded by Das,

calls for a general strike on May 21. Thirty other organisations supports the strike.

The Assam Police announces a reward of Rs. 1,00,000.00 (One lakh) for information on the killers.

**May 22, 1996** – Over 50 organisation holds a protest meeting in Guwahati demanding justice.

**May 28th 1996** – The *Ardhya Shradha* (ritual for the deceased) of Parag Das is observed at Rajgarh Road near the site of his assassination. Activists begins a tour throughout Assam carrying Parag’s ashes. They are greeted by memorial services and protest meets all across the state.

**June 17, 1996** – Over 10,000 people converge at the Janata Bhavan in Dispur in protest against the inability of the government in apprehending the assassins. Police tries to break the protest by using tear gas, *lathi charge* and firing gunshots. Over a thousand people are injured in the melee and one is injured in the firing. As a stopgap measure, the police announce Prafulla Bora @ Sarbajit Dhekial Phukan as the prime accused in the killing of Parag Das. It added that Bora/Phukan was absconding and again announced a reward of Rs. 1,00,000.00 (One lakh) for any information leading to his arrest.

**June 24, 1996** – Amnesty International demands a

thorough investigation into the Parag Das killing of the Assam government. MASS brings out a special publication on the killing.

**July 1, 1996** – Prafulla Bora @ Sarbajit Dhekial Phukan declares from hiding that he is not involved in the killing of Parag Das.

**November 22, 1996** – MASS intimates the National Human Rights Commission (NHRC) on the case. The NHRC questions the Government of India, which responds by promising a CBI inquiry. Subsequently, the Government of Assam handed over the case to the CBI.

**June 21, 2000** – Due to the inordinate and unexplained delay in the investigation of the killing, four prominent personalities of Assam – namely Dr. Hiren Gohain, Jahnu Barua, Mahendra Barthakur and Dilip Chandan – file a Public Interest Litigation (PIL) in the Gauhati High Court seeking an explanation on the delay of the investigation. The High Court gives the CBI till July 26 to submit the case diary and charge sheet.

**July 30, 2000** – CBI requests the Gauhati High Court 3 months time to submit the case diary and charge sheet in the Parag Das case.

**November 24, 2000** – CBI submits an interim report naming 4 accused, all surrendered ULFA members, as the prime accused in the killing of Parag Das. The accused are Tapan Dutta

(deceased), Diganta Barua (deceased), Mridul Phukan of Sivasagar and Nayan Das of Dibrugarh. The CBI claims that the two accused who are alive are in hiding.

**December 1, 2000** – Appeals are filed at the Gauhati High Court questioning the CBI's statement that mentions the accused to be hiding when they are moving about freely in public with police officials, going to meetings and conducting business as usual.

**December 5, 2000** – The Gauhati High Court seeks an explanation from the CBI investigating officer and also the CBI head on their statement that the accused are absconding.

**December 19, 2000** – Defying all aspects of the rule of law, two surviving accused in the case are granted anticipatory bail. This was done irrespective of the fact that the charge sheet in a murder case was filed a month ago and that the matter was still sub-judice.

**January 8, 2001** – The CBI submits charge sheet to the Honourable Gauhati High Court. The High Court forwards it for trial at the District and Sessions Judge's Court in Guwahati.

**September 1, 2006** – Given the slow pace of the case and the gaping holes in the prosecution process, Parag Das's family petitioned the CBI to change the prosecution lawyer questioning the role of the public prosecutor and the

investigating team. But the agency did not entertain the plea.

**July 28, 2009** – More than eight years after the charge sheet was filed, the District and Sessions Judge's Court acquits Mridul Phukan, the only surviving accused in the case, citing lack of adequate evidence. While doing so, the Court criticises the CBI for a shoddy investigation. It also points out many procedural flaws on the part of CBI in the investigation.

From the perspective of the people of Assam, it was an open and shut case. There was the assassination of one of the best public intellectuals that Assam had produced. Witnesses present at the location of the murder had identified the accused and the investigating agency had charged the same person/s with the crime and took the case to trial. Defying all sensibilities, the accused was let off. As an august institution, the judiciary cannot pass verdicts on human emotions and pleas of the masses. The justice that it delivers is contingent upon evidence and legal procedures that ideally should be sorted and ironed out before being placed for examination at the court. In the judgement, the District and Sessions Judge observes:

**“...graver the crime greater should be the standard of proof. Where the murder is cruel and revolting, it is necessary to examine the evidence with more than ordinary care, least the**

**shocking nature of crime induce a reaction against a dispassionate judicial scrutiny of the facts and law.”**

The onus for meticulous scrutiny and submission of credible evidence are on the investigating agency and the prosecution. Clearly, this did not happen in this case.

A few pointers would reveal how these legalities, procedures and basic necessities in the case were not fulfilled. That the State was implicit in the assault against journalists and human rights defenders was something well evident in the way the murder of Parag Das was handled. Attempts of the government in delaying justice in this case were indicators that it did not want to let the cat out of the bag. The declaration of the Assam Police that Sarbajit Dhekial Phukan was the killer was an attempt in misleading the masses.

While the CBI took up the case in July 28, 1997, nothing moved for over a year. There was some stir in the investigation only after the case was taken to the United Nations where the Government of India had to answer queries on the delay. As the investigation was underway, two surviving accused in the case were not arrested and could even manage anticipatory bail after the charge sheet against them had been filed. To add to the inordinate delay, the trial itself moved very slowly,

prompting the Gauhati High Court to intervene. It instruct the concerned court to speed up the trial, and if necessary, to carry it out on a day-to-day basis. The pace however remained largely the same. In between, there were no judges in that particular court for almost two years.

Finally, twelve years after the CBI took up the case, the court fixed July 16, 2009, as the day for judgement. For reasons unknown, the judgement was delayed to a later date of July 28, 2009, when the prime accused in the case was acquitted due to lack of adequate evidence.

That the investigation was flawed from the very beginning was something evident even if someone takes a cursory look at it.

- While the investigating officers of CBI mentioned that there were 29 bullet wounds on Das, not a single bullet sample was submitted before the court.
- Minutes after his acquittal on July 28, Mridul Phukan stated in the television channel Newslive that the CBI interrogated him five times. But none of this was related to the Parag Das murder. The only time the investigating officers mentioned Parag Das was when they asked Phukan if Das was the same person as Mithinga Daimari, ULFA's publicity secretary.
- Although the prime accused in the case, Mridul Phukan was not arrested at any point in the last 13

years. In accordance with legal procedures, anyone accused of murder in a charge sheet has to be arrested.

- As the CBI submitted the charge sheet to a bench of the Gauhati High Court, Mridul Phukan almost simultaneously managed to procure an anticipatory bail from another bench. The CBI lawyer did not object to the procurement of bail.
- After interrogating Mridul Phukan for five times, the investigating officers submitted the charge sheet where they mentioned him an absconder.
- Eyewitnesses present at the scene of murder identified photos of Mridul Phukan. However the investigating officers did not take the normal and logical next step or a personal physical identification or Test Identification Parade (TIP). Hence the court did not entertain evidence based on the photo identification.
- In the same charge sheet, the investigating agency provided contradictory statements regarding the vehicle used in the murder. While the charge sheet initially mentioned that the car was not traceable, it is stated in a later submission of the same document that the car was found abandoned near the scene of crime. This prompted the judge to ask the prosecution on the whereabouts of the vehicle.

- Three important witnesses gave crucial evidence before the investigation team and given the sensitive nature of the case, they wanted protection to testify in court. But the investigating team of CBI did not heed to this appeal. Consequently the witnesses retracted some of their statements. The court then naturally declared them hostile. But no action was taken against the hostile witnesses or the reasons thereof investigated.
- The CBI team completed the investigation towards the end of 1999 and announced that it would submit the charge sheet within three months. When this did not happen, four prominent persons from Guwahati filed a PIL at the High Court. The PIL was filed on June 21, 2000. On July 26, the High Court instructed the investigating team to file charge sheet. However, the team sought another three months and finally submitted the charge sheet on November 28, 2000.
- As the charge sheet mentioned the accused as absconders, an appeal was again filed on December 1, 2000, at the Gauhati High Court to look at the contradictions between the facts and claims by the CBI team. While the CBI team declared the accused as

absconders, it was that very team that had carried out the interrogations. Based on the PIL, the High Court issues a show cause notice to the team. In its reply, the prosecution and the investigating team mentioned that the accused were in hiding and could not be traced.

- Serious doubts about the credibility of the investigating team and the prosecution lawyer were cast during the course of the investigation. But the petition of Parag Das' family to change the whole investigation and prosecution team fell to deaf ears.

The chronology of events and the course that the investigation took leaves no room for doubt about the nature of probe into the case – that it was a lackadaisical approach with a pre-determined intent in eyewash. With the involvement of the State, the case was practically the State trying the State. Given these conditions, the investigation leading to the denial of justice does not come as a surprise. What is appalling is the extent to which the State can go to violate the Constitution in committing crimes against citizens and then indulge in acts that profoundly deceive them. It has been an enormous process of waste in time, energy and resources of the government and the people

of Assam – a process exactly opposite to the spirit in the quest for justice.

With the State and its organs being the primary parties against the accused, there is legally no room for other parties except for the Parag Das's family and the CBI to file an appeal. The latter filing an appeal at a higher court is a matter of speculation. It will take major political will, commitment to justice and accountability to the citizens on the part of the State and the political class to get the CBI to file an appeal with a complete revision of the investigation and prosecution teams. Without this commitment and revision, no number of appeals would work, be it from Das's family or at the event of the judiciary itself reopening the case.

This trial has been a grand betrayal of not only the Das's immediate family, but to the people of Assam and the larger region. It is a dark event in the quest for and delivery of justice. If at all the State and its organs are interested in reviving the faith of people in justice, they must reopen the case and punish those guilty in the barbaric murder of Parag Das. A failure to do this would bring about an era where the criminal would rule the roost and the Constitution, the august institutions of justice and a vocal citizenry would become irrelevant.

# 'CDRO's letter to the Prime Minister for fresh probe in Parag Das murder case

To

Date: September 7, 2009

The Prime Minister of India

Prime Minister's Office

South Block, Raisina Hill

New Delhi

India - 110 011

Fax: 91-11-23019545 / 91-11-23016857

**Subject:** Request for a fresh investigation and trial of the Parag Kumar Das murder case

Honourable Mr. Prime Minister,

We, the undersigned, wish to bring to your attention the following case for your kind consideration.

On May 17, 1996, Assam lost one of its finest public intellectuals and human rights defender – journalist Parag Kumar Das. He was gunned down in broad daylight in Guwahati while picking up his child from school. The incident came as a shock to the people of Assam and all sections of the society including the civil society organisations took to the streets demanding justice and investigation from a credible agency like the Central Bureau of Investigation (CBI). However, people had to wait for a year before the CBI took up the case.

The CBI subsequently filed the charge-sheet at the court of the District and Sessions Judge, Guwahati, in 2001. It would be noteworthy that this charge-sheet was filed not in accordance with proper procedures and with a time bound structure. It was only when some prominent citizens of Assam filed a Public Interest Litigation (PIL) at the Gauhati High Court that the CBI was compelled to submit the charge-sheet.

Based on this, the court passed a judgement on July 28, 2009, acquitting the only surviving accused in the case. The acquittal was based on lack of adequate evidence. One must mention that CBI had named four accused in its charge-sheet presented to the court. However, three of them met with untimely deaths. While ruling for the acquittal, the court also criticised the CBI team for shoddy investigation, failure to provide adequate evidence and not following procedural norms in preparing the charge-sheet

The acquittal triggered off widespread protests in Assam and other parts of the country and the civil society at large is voicing demands for a fresh trial of the case. Keeping in view the aspirations of the people of Assam, we urge that:

a) The CBI should appeal before the Honourable High Court of Assam for a fresh investigation with the appointment of a new lawyer and investigating officers. The lawyer and investigating officers involved in the case so far should be questioned for an incomplete investigation. It must be mentioned here that Das's family had made a request to change the CBI lawyer involved in the prosecution. The request, however, was not entertained.

b) Keeping in view the larger implications on the justice delivery system and to restore the faith of people on our investigating agencies, an independent inquiry should be conducted on the role of investigating team of CBI in this case.

**Sincerely**  
**(CDRO)**

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**Protest demonstration against arrests under UAPA by UAPA  
Birodhi Mancha (Prastatuti)**



# Memorandum submitted by UAPA Birodhi Mancha (Prastatuti) to the Government of West Bengal

To  
The Chief Minister &  
The Home Minister  
Government of West Bengal,  
Writers' Building  
Kolkata

Date: 04.12.2009

Sub : On UAPA

Dear Sir,

As you know that the UPA government had amended the unlawful Activities (prevention) Act, 1967 (UAPA) in 2004 and then again in 2008 in December 17, 2008. Not only that, the UPA government had also legislated a new law, National Investigations Agency (NIA). These two legislations have freely borrowed from erstwhile TADA and POTA, which were the successor of the infamous Rowlatt Bill, prepared by the British in India to curb the nationalist movement.

We do hold along with other democratic minded people of India that these anti terror are reflection of the violence and brutality of the law and which will be used instruments of the State to suppress all kinds of democratic and patriotic struggle against loot and plunder by corporate capital in connivance the central and various state governments, of natural resources of our motherland, India.

These amended laws are inherently draconian; all the rights of the accused, available in India Criminal justice system are taken away-right to get bail, to cross-examination witnesses in open trial court, to be presumed innocence till found guilty (which completely reverses the civilisationally accepted norm of jurisprudence) and host of others. The pre-charge detention period without bail is extended to 180 days. It is pertinent to mention that in all anti-terror laws of other countries permit only 48 hours to 7 days as Also Most importantly, the provision 43(F) stipulates that the failure to furnish or deliberately furnishing false information, to an investigation officer is liable for punishment with a 3 year imprisonment. There is no scope for judicial review or periodical review of these laws by parliament. In all aspects these laws are anti people. Hence we demand immediate repeal of these laws.

We also like to point out that the State Government has applied these laws without compliance of the require provisions regarding notification in the newspaper; we hold that this a blatant violation of the stated provision of even the draconian law, UAPA. Hence all the arrests made under this laws are illegal. In fact, all those who were booked under UAPA, are either leaders or activists of democratic movements.

**We demand immediate stop of use of UAPA in West Bengal and other states and release of persons like Chhatrdhar Mahato, Prasun Chatterjee, Raja Sarkhel, Swapan Dasgupta, Sukhsanti Buskey and others.**

We hope, your government will consider these points and take appropriate steps to restore democracy in West Bengal.

For  
UAPA Birodhi Manch  
18 Madan Baral Lane, Kolkata-12

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## Investigation of Atit Ekka's Murder

Atit Ekka was killed on 5.11.2009. A seven member team of PUCL was constituted to investigate the reasons behind the murder. The team left for Shanti Nagar in Gumla where this murder had taken place under the leadership of PUCL secretary Sh. Shashi Bhusan. Following were the other members in the team: Vikash, Santosh Tiwari, Aloak, Joram Jarold Kujur, Human Rights Activist Seerat Kachap, Lix Rose and Cameraman Tirthraj Viruli. The team reached at the site of the incident at around 4 pm and talked to the people there. They also talked to Atit Ekka's family members and neighbors. Beside the team also interacted with the police in charge, hospital staff, magistrate and other related officials and people to find about the incident. It also collected some documents and reports related to the incident.

Atit's wife Anupama Nootan Bada told the team that on 5.11.2009 at around 8pm while she was collecting some wood in her home to light up the fire, two people passed from in front of her house on a motor bike. Nearly two minutes latter she heard gun shots. She said that she got scared after hearing the gun shot and after sometime she called on Atit's mobile. The mobile kept ringing but Atit did not respond. Latter when she called again some one picked up the phone but it was not Atit's voice. She just gave the mobile from which she was calling to Atit's elder brother.

Aiti's elder brother, Alo Ekka said that they were

asked by the police to come to the police station. When he went to the police station Alo Ekka was told by the police that Atit Ekka was an extremist. The police further told that Atit was shot by two unidentified people in Shanti Nagar, near a divider. The police also told that a police van had gone to the site and had seen the dead body of Atit. Thereafter the police told Alo Ekka that they want to search their house and also told him to deposit the arms that are there in their house. Atit's family member started apprehending that police was planning to plant arms in their house in course of searching their home in order to fix up that Atit was an extremist. The family members decided that they will accompany and keep watch on the police during the entire search operation. The police came to search Atit's house at 1 am in the night. There were four policemen in one van along with another six who were on patrolling duty who came for searching Atit's house. There were no women police. CRPF personnel were in the van. The police searched each and ever corner of the house and all the belongings therein but did not find any thing.

City corporator Atul said that when they went to the site of the fatal incident they saw many drops of blood in the way. There was also a tree leave lying there which had been used to wipe the blood stained hand. They said that the police had reached the site of the accident just five to six minutes after the incident of

firing. Police did not inform any one who lived in the surrounding area and took away the corpse. When the fact finding team asked the station in charge of the police station as in how did they come to know about the murder. The station in charge tried to evade the issue and said some on informed them.

A social worker from Gumla, Sunil Kerketta informed the fact finding team that a group has been formed in the Special Task Force of the area by the name of 'Tiger Mobile'. This group roams about in the villages. He said that it is strange that the police reached at such quick pace in the village after the murder. Not only this but also the news of the murder of Atit Ekka was flashed on the regional e. t.v. at a very short during after he was murdered. Kerketta expressed doubt over the unfolding of the whole incident and the working of the police machinery in it. He said that Atit's dead body was put in the post mortem room at 11 p.m. Atit's post mortem was done only the next day that is 6.11.2009. The question then arises that who informed the news channels about the death of Atit Ekka.

Jeevan Mukut Tirki, a friend of Atit also gave his narration about the incident to the fact finding team. He said that he heard the gun sho at around 8.15 p.m. When he saw through his window he heard the sound of the fall of a vehicle. Thereafter two bullets were fired and the people who shot escaped on a vehicle. He said the dress of

the people who fired resembled the police uniform. Five to seven minutes thereafter the police men came again and searched his home. They pushed Tirki around and searched his home quizzed him and left from the back door of his house.

Sehoun Minj who works in the State Bank also lives around the site of the incident. He said that the police came and took away the corps but did not made any enquiry on them. Saroj Kumar Toppo who is a teacher in Luthran High School also lives at the site of the incident. He said that he heard the gun shot at around 8.15. He came out of his house but not towards the road. The police did not call any body out of their home.

The journalist of e. t.v. said that some one informed him over phone that a person has been murdered in Shanti Nagar. He called the police station to confirm at around 11 p.m. Sandhya Devi whose house is also in the area where the incident had taken place confirmed she heard the gun shot at around 8.15 p.m.

The fact finding team asked Alo Ekka if they were further enquired upon by the police after the day when Atit was killed. Alo Ekka said that a police officer named Rama Shankar Singh had come to their home one day. He asked to send the people whose names were listed in FIR on the day of strike.

The Assistant Executive Engineer of the Power grid Chandradeep Prasad under whom Atit

worked said that the he was well behaved, polite and sincere towards his duty. He also said that there was no complain against Atit and that he can in no circumstance believe that Atit was an extremist.

#### **The Fact Finding Team Went to Thana**

The police officer in the Thana, Manoj Kumar said that the police was on the patrolling duty when they got the news about the firing in Shanti Nagar. They got this information from Sahdeo Uraon's house. A police constable named Pushan Pahan is living on the rented accommodation in his house. As soon as the police got this information, it reached at the site to conduct enquiry. The police team tried to call the people from the neighborhood. They also attempted the use of search light to call the people from nearby colony but no one turned up. Thereby the police took Atit's body straight to the hospital. This incident took place on 5.11.2009 in between 8 to 8.30 pm. The police was asked whether there was any criminal record against Atit. The police replied that there was no such record against him. The police was informed that some people stopped Atit on the road and started asking him about weapons. In the consequent dispute he was shot. When the police was asked if the informers have also revealed any identity of the killers? The police said that they only got information about what transpired between Atit and the killers. How did the police

manage to contact Atit's family? The police said that Atit's wife has called on the mobile which Atit was carrying. Why did they not register a FIR? The police said that since nobody came out from the neighborhood they were in hurry to take Atit's body to the hospital.

#### **Information from the District Hospital**

The duty superintendent of the district hospital Dr. J.P. Sanga told that he received a call from the civil surgeon on 6<sup>th</sup> morning at around 7 a.m. He was told that a dead body has come the hospital which was to be urgently disposed. He said that normally in these kinds of incidents the body is first taken to the OPD. Only after the death is confirmed, the body is sent for the postmortem. In case there is an unidentified or unknown corpse then a FIR is registered and the body is sent for the postmortem. However these norms were not followed in this case. A three member team of doctors conduct the post mortem in presence of the magistrate and it was video recorded.

The sanitation staff of the postmortem department Sujit Kumar said that on 5.11.2009 at 11'o clock the police came to his home and asked for the keys of the postmortem room. When he asked for the documents the police said that they will give it to him in the morning and left from his house with the key.

The team met Sahdeo Uraon just near the postmortem department. He

said that though he heard the sound of firing that they but he did not inform about it to any one. Two days after the incident the police man, Pushan Pahan vacated Sahdeo Uraon's house where he lived on rent. When Sahdeo Uraon asked him the reasons for the same he said that every one was suspecting that the police had killed Atit Ekka. Pushan Pahan apprehended that people might assault him, therefore he was vacating the house and going to the police lines.

After wide consultation from all sides, inspection of the site of the incident and context in which these events unfolded the team reached at the following conclusions:

1. Atit Ekka, Age about 30 years; father's name Sh. Vijay Ekka, lived at Shanti Nagar, Gumla, Ward No.4. He worked at grid 132/133 k.m. grid substation in Gumla. He was murdered on 5.11.2009 at around 8.30
2. Late Atit Ekka was noble man with no criminal record. Everyone who knew him said that he was a well behaved person. He had no qualms with any body nor had he any link to the extremists.
3. The manner in which the police started to attribute his linkages with the extremists and tried to plant weapons at his house shows its mala fide intentions.
4. The non registration of FIR and swift actions of the police to get away with hasty postmortem and dispose the body further reinforces the belief about its mala fide intentions.
5. According to the eyewitnesses Atit was murdered by people in uniform who were the members of STF's tiger mobile force.
6. The police did not conduct any investigation to ensure that the bullets were not fired from STF weapons.
7. The story of reporting of the incident to the police by its informers is apparently fictional. It seems it is deliberately trying to protect the guilty.
8. The behaviour of the police following the murder of Atit Ekka is racist.
9. The police have changed its statements several times. It therefore appears that there was no planned conspiracy to kill Atit. Yet now the police are attempting to cover up the whole issue.
10. People's narrative about the tiger mobile force reveals that they are extortionist and are under intoxication during night petrol duty.
11. The police are not serious in conducting an enquiry into Atit's murder. It is rather focused on harassing those who are protesting against his murder. The raise doubt on the role of police in his murder and shows that they are complicit in it.

## **Report by Campaign for Peace and Democracy in Manipur on 23 July 2009 Fake Encounter in Manipur**

### **Condemn 23 July 2009 Fake Encounter in Manipur**

#### **The Fake Encounter of 23 July 2009**

Manipur witnessed bloodshed in July 2009. It was an open bloodshed as fallout of strategic war on people perpetrated by the Indian state orchestrated Manipuri mercenaries under the command of the Chief Minister O Ibobi Singh. On

23 July 2009 the Manipur Police Commandos (MPC) indiscriminately fired upon the crowd at the heart of the Imphal city at about 10.30 a.m. barely 30 minutes before the commencement of the Manipur State Assembly session. The incident led to the killing of a pregnant woman Mayanglambam ningol Thokchom ongbi Rabina (23) wife of

Chinglensana of Lamdeng Khunou and bullet injury of Wangkheirakpam Gitarani (40) w/o late Nongyaijao of Tendonyang (injuries on chest and left leg), Mr. Golmei Mangal (59) s/o Lemba of Maha Kabui Namching, New Keithelmanbi (injury on left arm, later on amputated), Mrs Ningthoujam Keshorani (43) w/o Raghumani of Naral

Konjil (injury on left leg), Mr. Kangabam Subashchandra (40) s/o Shamungou of Kha-Potshangbam (injury on right ear) and Pangambam Lukhoi (30) s/o Pakchao of Heingang (injury on chest). In order to cover up the crime the MPC dragged a medical attendant Chungkham Sanjit of Khurai Sajor Leikai into a nearby Maimu Pharmacy, murdered him in a cold blooded manner, placed a 9 mm caliber pistol near him, charged him responsible for the crime and reported that he was killed in an encounter.

Few hours after the firing incident the Chief Minister Okram Ibobi presented to the Manipur Assembly a version of the incident with the caption "brief note on the incident of indiscriminate firing by unknown armed person at BT Road." According to the version of the CM a suspicious looking youth was being asked to stop by a team of Imphal West police commandos near the Bhagyachandra statue. The youth pulled out a gun and fired towards the frisking party and fled along the BT Road. On being retaliated and chased upon, the fleeing youth in a bid to escape fired towards the public indiscriminately. The youth was finally cornered inside the Maimu Pharmacy on BT Road and asked to surrender. Instead of surrendering the youth opened fire and he was killed in retaliatory firing. One 9 mm pistol (Mauser), loaded with three

live rounds and one round in the chamber, was recovered from him. Due to the indiscriminate firing by the armed youth Rabina was killed and five persons were injured.

The CM's version was rejected by eyewitnesses who charged the MPCs responsible for the crime. The women vendors called a 24 hours bandh on the same day in protest against the incident. In the meanwhile two separate Joint Action Committees against the killing of Rabina and Sanjit, supported by civil societies, were instituted to protest the incident and to demand for justice. The JACs held that Rabina was killed by the bullet fired by the Commandos and that Sanjit was killed in cold blooded manner after being arrested. Series of parallel protests were began to raise in several parts of Manipur. The JACs appealed to the government for a judicial enquiry of the incident. On 25 August the JAC Against the Brutal Killing of Thokchom (o) Rabina Devi held a meeting with the CM to press upon him to begin a judicial inquiry. The meeting was proved to be a deadlock as the CM turned down the demand for instituting a judicial inquiry but insisted on carrying out a departmental enquiry. But no sensible person could expect a fruitful justice through a departmental enquiry to be carried out by the same department that had formally

or informally upheld series of fake encounters. As a result people continued with protest. On 27 August several women activists who were demanding for a judicial inquiry attempted to storm the state. They were repulsed by the police.

The arrogance and adamant on the parts of the CM in the outright rejection of instituting a judicial enquiry, denial of permission to families of the victims to observe the projectiles recovered from the bodies of the victims, and repression upon peaceful protestors lead to resentment among the public. The suspicion of fake encounter was more deep rooted. On 1 August, adding new twist to the controversy surrounding the incident, Delhi-based *Tehelka Weekly* displayed photographs that contradicted official version of the incident. The weekly displayed that moment before the actual killing of Sanjit, the unarmed medical attendant was cornered and frisked by police commandos. Fake encounter was proven. The public became outrageous and immediately responded with more rigorous forms of widespread protest. The protest demand was by then no longer confined to the punishment of the guilty MPCs. There was an intensified demand for the immediate resignation of the CM on moral ground for cheating the public with a fabricated report of the incident and his arrogance

towards the demand for justice. Subsequently, Manipur was engulfed with protest for several months. The forms of protest in the months long agitation ranges from peaceful legal approach to submission of memorandum and petitioning, release of press statement, signature campaign, sit-in-demonstration, public meeting, torch rallies at nights, effigy burning, storming of official institutions, defying of curfews, mass court arrest, road blockade, social boycotting of political leaders & MLAs, engagement in slingshots and pitch-battle with the police, rallies, ban on public entertainment and closure of educational institutions, burning down of institutional buildings and so on. Although the immediate demands were not achieved as late as 18 December, the legitimacy of the SPF Government under the leadership of Ibobi was comparatively shaken.

### **The repressive machinery**

Repression has been used an instrument of government in a situation where the rulers have lost the moral legitimacy to win over the psychology of the governed through normal peaceful means of enforced deceptions and administrative manoeuvrings. During the course of the months long public outrages directed against the terror

regime of the Manipur government, the primary concern of Ibobi was to articulate the official jargon of 'security' and his investment was in repression that had to be carried out in varied forms. Use of threat intimidation against civil society activists demanding for justice, attack on the media that were covering the democratic voice of the people, instigation of sectarianism and conservative localism, use of puppet MLAs to bribe local civil leaders to withdraw from protest, imposition of curfews, deployment of military or paramilitary forces on the streets, institutionalization of flag march to discourage street protest, infliction of brutality upon protesters, arrest and torture of protesters, and etc, were the conventional forms of repression not new to his regime. To cite few examples, on 6 August suspected police commandos fired a shot at the Sega Road Office of the vernacular newspaper *Paojel*. The same day a security meeting was held in the presence of the Governor Gurbachan Jagat and instruction was issued to the lower officials to take up necessary steps to prevent the situation from going out of control. From 8 August onwards BSF troops were deployed in the capital areas. On 11 August the police commandoes hounded upon and restricted the movement of the scribes who tried to cover a tussle between a

crowd of women activists and police at the gate of the Raj Bhavan. Instead of addressing the democratic concern of the people the CM on 17 August suggested to ban prepaid mobile phones in Manipur and proposed the Central Government to install CCTVs at vital points and to set up additional police outposts in the name of counter insurgency. On 27 August the Police confiscated copies of *Tehelka Weekly* from a courier centre besides detaining manager of the courier centre and the driver of the vehicle that carried the copies. On 25 September a large group of 200 /300 people from Thoubal Leishangthem and Thoudam in Thoubal Assembly constituency, who were brought under the protection of the police and in violation of Secion 144 CrPC, stormed into the offices of the daily newspaper offices of Sangai Express, Poknapham and Naharolgi Thoudang and created scenes of intimidation inside the offices. All Manipur Working Journalists Union felt that it was a direct attack on the media by a few people who support the Chief Minister, misusing the police. On 11 October MPCs detained two scribes at gun point and harassed them. On 29 November the CM came up with a statement that emphasised education as more important than right to life.

## **Arrest as instrument of repression**

On 23 July four protestors at the Khurai Sajor Leikai were nabbed by the police. The same day Mrs. Laishram Mema and Jano Begum by Imphal were detained by the Imphal West Additional SP Jhaljit on the charge of building up a mob in the aftermath of the shoot-out. On 4 August women leaders Mrs. Phanjaobam Sakhi, Mrs. Lourembam Ngangbi and Mrs. Yumlembam Mema who came to submit a petition to the Governor in connection with the killing of Sanjit were arrested by the police before they could meet the Governor. They were further remanded to judicial custody on 7 August. On 12 August Mrs. L Ngangbi of Bishnupur was detained under NSA after being produced before the court of JMIC, Imphal while the other two were remanded to further judicial custody.

On 5 August leaders of the conglomeration of the civil society group Apunba Lup Mr. Sunil Kumar, Mr. Phurailatpam Deban Sharma, Mr. Th Naobi @ Surjit and Mr. Dayananda Chingtham, and their host Mr. Leimapokpam Kumar (55) and his wife Mrs. Nganbi (40) were arrested. Deban, Naobi and Dayananda were charged with IPC section 188/121/121-A/147/148/149/427/34, 7 Criminal Act and 18/39 UA(P) Act. Sunil was charged with IPC Section 124-A/435/34, 7 Criminal

Act and 39 UA (P) Act. On 6 August the Additional CJM Imphal granted them five days remand under police custody. On 10 August all four of them other than Mrs. Nganbi were detained under NSA in addition to the judicial remand. On 21 September the media reported that the NSA Advisory Board under the chairmanship of Justice Raj Khowa examining the ground of detention orders had confirmed the detention orders of the four leaders along with 18 other people who had been detained under NSA by the district magistrates during the hearing from September 17 to 19 last.

On 8 August Mr. Bogeshwor of Khongman, Mr. Nongmaithem Arunkanta of Ayangpali Soibam Leikai and Mr. Naobi of Laipham Khunou who were working as volunteers of the Help Line Unit that extended help to the injured people in the agitation treating at JN Hospital, Porompat were arrested by a team of Imphal east police with the instruction from the Imphal east district police SP. On 10 August, in an attempt to foil mass rally at Khurai Kongpal Sajor Leikai, five protestors were detained by the police. On 13 August Sanjits's elder sister Ms. Anandi, JAC secretary Ms. Ch. Anita, six secretaries of local clubs and six activists of the Apunba Lup (including Ms. L. Landhoni) were arrested by the police in their attempt to stage a protest at the venue

where the CM was supposed to take part at the unveiling ceremony of a newly constructed statue of the war hero of Anglo-Manipur War 1891 Thangal General. They were released in the evening on the following day.

On 16 August, responding to the call of the Apunba Lup, a large number of people courted mass arrest at different police stations. At Lamalai, two girls were taken into police custody at their own insistence. On 17 August at least nineteen women who were among hundreds of women vendors of Ema Keithel (Women market) marching towards the Imphal City Police Station were picked up by the police and detained at the Imphal police station till late afternoon. On 19 August, at the Khonghampat area protestors fought pitch battle with the Sekmai Police. The police overpowered the crowd, carried out raids and arrested two activists Mr. Pechimayum Ishingjaoba (17) s/o Ibotombi and Mr. Thoudam Ajay (17) s/o Kesho.

On 20 August police arrested four women activists Mrs. Chanambam Dashu, Mrs. Loutakpam Nganbi, Mrs. Sorojini and Mrs. Tombi on charge of leading a crowd of about 100 *meira paibe*s in storming at the residential gates of FCS Minister Y Erabot and MLA W Brajabidhu of Lamsang A/C. On 25 August the president of the women civil society

Poirei Leimarol Meira Paibi Apunba Manipur Mrs. L. Memchoubi and two other activists Mrs. Takhellambam Ibeyaima and Mrs. Hamom Borkeinya were arrested. While Memchoubi was held back the rest were released. On 26 August, although the Court gave permission to seek for release on bail, Memchoubi insisted on unconditional release and was remanded to judicial custody for 15 days. On 27 August, police seized copies of Tehelka Magazine that contained poster with July 23 fake encounter and detained driver Mr. Khumbongmayum Peto (30) of Nongada Thongkhong who transported the copies and manager of the Super Zet Courier Service Mr. Laishram Seityam (42) of Kwakeithel Laishram Leikai.

On 1 September grandmother of the late Th Rabina, Mrs. Mayanglambam ongbi Radhesana Devi of Thangmeiband Lourung Pural Leikai, Mrs. Oinam Amuthoi of Oinam Mamang Leikai, Mr. Yengkokpam Dhiren of Moirangkampu Mamang Leikai, Mr. Oinam Bikramjit of Oinam Mamang Leikai and Mr. Mutum Ongbi Ibemhal Devi of Uripok Sorbol Thingel Leikai were arrested by the police. The rest of the detainee other than Bikramjit and Ibemhal were released on the following day. The two, charged under section 124-A/435/34 of IPC read along with 39 UA(P) A Act and 7 CLA, were remanded till 4 September.

On 4 September Bikramjit was re-arrested under IPC Section 447/436/427/34 in connection with an FIR registered at Nambol police station. Both Bikramjit and Ibemhal were further remanded to judicial custody till 17 September.

On 14 September environmentalist and human rights activist Mr. Yumnam Jiten of Mayaik Koibi was arrested by the police. Police raided the office of the All Manipur United Clubs Organisation and arrested finance secretary Mr. Sungchen Koireng of Lamphel Sanakeithel, publicity secretary Mr. Likmabam Tompok of Maklang, assistant finance secretary Mr. A Soken of Wangoo, assistant finance secretary Mr. Irom Brojen of Haorang Khunou, assistant secretary (organization) Mr. Toarem Ramanda of Patsoi part-I, office secretary Mr. G Sharat Kabui of Langthabal and Mr. Thiyam Dinesh of Takhellambam Leikai. The general secretary of All Manipur Ethnic Socio Cultural Organisation Mr. Shamjetsabam Nando Luwang of Yumnam Khunou was also arrested. On 15 September all of the detainees other than Sharat were booked under Section 121/121-A of IPC, Section 16/18/39 of UA (P) Act and Section 3 of the Official Secret Act and remanded for 15 days under police custody. On 29 September Dinesh, Tompok and Nando were granted bail against a

surety bond of Rs 50,000 each. A Soken, I. Brojen, Y. Jiten and T. Ramananda were detained under NSA.

On 15 September police picked up Mr. Khangembam Mangi (87) of Thangmeiband Lourungpural Leikai and Irengbam Ranjit (54) of Kwakeithel Lamdong Leikai, i.e., fathers of All Manipur Students Union vice president Kh. Khaba and president Mr. I. Jamesbond respectively in a bid to make the student leaders surrender to the police and foil the class boycott call issued by the AMSU since 8 September. They were released the following day as a result of intense pressure from different circles against their arrest. On 1 October police arrested women meira paibee activists Mrs. Mangsatabam Loitangjao Devi (40) w/o Jobomani of Luwangshangbam Mayai Leikai, Mrs. Mangsatabam Phajarei Devi (57) w/o Iboiyaima of Luwangshangbam Awang Leikai, Mrs. Mangsatabam Leima Devi (46) w/o Tolen, of the same locality and Mrs. Nongthombam Inao Devi (40) w/o Robindro of Luwangshangbam Mamang Leikai on alleged charge of having nexus with underground organisations apart from participating in chappals throwing incidence at the residence of YAS and IFC Minister N Biren Singh at Luwangshangbam on the previous day. They were booked under Section 124-A/147/148/149/443/427/

511 of IPC read along with Section 7 of Criminal Law Amendment Act and Section 39 of UA (P) Act and remanded to police custody for 7 days.

### ***Casualty as a form of repression***

On 3 August Mr Khundrakpam Sanaton (25) s/o late Pakpa of Kongpal Chingangbam Leikai, Mr. Khaidem Shankar (24) s/o late Tomchou of Kongpal Khaidem Leikai and Mr. Nandeibam Rajesh (15) s/o Biren of Khurai Sajor Leikai were injured as a result of rubber bullet firing at Khurai Sajor Leikai. At Kyamgei some protestors including women sustained injuries when the security personnel fired tear gas shells to dispersed them. On 4 August three protestors sustained injuries as a result of tear gas shells and mock bombs fired by the police. In separate incidents at Thangmeiband and Khoyathong areas Mrs. RK Landoni of Thangmeiband Polem Leikai, Mrs. Ngangbam Sundari of Kabrangbam Leikai, Mrs. Tondon of Hijam Dewan Leikai, Ms B Shanti, Mrs. Wahengbam Nanao and Mr. Kabrangbam Loken (critical injury at the eye) suffered injury. Following the charge of the cops, the women broke up and some of them took cover in a shop, which had its shutter slightly pulled up. The pursuing cops then lobbed some tear gas shells into the shop through the slightly ajar shutter. At

Khumbong, a 40 year old woman sustained injuries when police fired tear gas shells, mock bombs and rubber bullets to drive back strike supporters.

On 5 August Mrs. Salam Ibemnungsi (81) of Salam Leikai received injury when police fired tear gas while she was going with another woman who was running a hotel at the locality to meet her married daughter. On 6 August Mr. Naorem Prakash (19) of Langthabal Kunja Mayai Leikai was severely beaten up and shot at the eye in a cold blooded manner by the police. Although the SSP (IW) L Kailun, in a statement claimed that the wound was caused by riot-control equipment, the police were looking for the empty cartridge bearing no. 71182 fired from AK Rifles that was discovered along with flesh from the spot where Prakash was rescued. According to Prakash, he was one among those who were marching and raising slogans and protesting the 23 July fake encounter. The police dispersed them, caught him, forcibly lied on the ground, and shot at. He lost his eye and suffered from multiple cracks on the skull.

On 7 August several protestors suffered from minor injuries at Chingmeirong. At Singjamei at least nine protestors were injured in the pitch battle with the police. On 10 August Mr. Puyam Ranbir (27) s/o P Ibotombi, Mr. Yengkhom

Robertson (30) s/o Y Imo and Mr. Laishram Tutu (25) s/o L Loken, were severely beaten up by the MPCs at Waikhom Leikai. They were among the 27 candidates participating in a youth leadership camp that was being organised by WAC since 5 August. As there was curfew, they were playing carom inside the building of the club when a police commandos team frighten them to run and caught and tortured on the charge of protest suspects. Tutu's grandmother Mrs Bino who tried to prevent from taking away Tutu by the MPCs was injured when the police fired tear gas canister at her.

On 12 August Mrs. Sanasam Tababi (40) wife of Tomal of Wangoo Parking was injured in police repression. On 16 August a woman and a child were injured at Lamlai. On 18 August Mrs. Ningthoujam Mani (30) w/o Kullabidhu of Lilong Chajing and secretary of the Singjamei to Lilong Meira Paibi Apunba Lup Mrs. Shantilata (50) sustained injuries when police baton charged upon them. On 19 August Miss Thangjam Naobi (15) was badly injured on her ankle by a splinter of tear gas shell at Chingmeirong Lei Ingkhol. At Salam Mamang Leikai Mrs. Leitanthem Sabitri (47), Mrs. kongrailakpam Premita (25) and Mrs. A Sushila (35) sustained injuries when police hurled a bomb inside a house where they were staying after police dispersed

a sit in protest. On 23 August Mrs. Phanjaobam Sundari (55) of Wangkhei Konsam Leikai, who took cover inside her home was fired upon with tear gas canister, thereby, causing a deep and huge gash on her left thigh, measuring four inches in length. On 25 August a team of MPCs hurled a smoke bomb canister toward a group of scribes at Wangkhei. On 2 September master Lairenlakpam Paris/o Budha, a class V student, while returning from school, was injured on the shoulder in police repression at Khurai area. On the same day Sanjit's mother Taratombi was fainted during a stand off with the police and she was admitted to JN Hospital. On 11 October two working scribes Mr. A Birjit of Kangla Pao and Mr. Priyo Achom of Image TV were detained and harassed by the MPCs at BT Road. The MPCs charged them with underground link, conducted body search, kicked at one of them and threatened to shoot at by placing gun at the head.

### **The safety valve tactics**

While repressive measures were aimed at direct physical confrontation with the democratic forces to kowtow the agitators, other *safety valve* tactics such as legal approach were institutionalised to divert the attention of a section of the population towards a perceived peaceful legal

solution. A bulk of the legal mendicants who sought for relief or justice or compensation within the legal premise enacted by the rulers took keen interest in it. It serves as an effective tool in locating the people within the framework of rule of law and it at the same time constituted an attempt to pacifying the radical leaders or winning over the emotive agitators. However, the State enacted law, in most of the instances of confrontation between the state and the people, exists to buttress the position of the State. The legal process was indeed a time consuming mechanism with lots of hitting around the bush in filtering evidences and articulating arguments, i.e., a negotiation break or a temporary rest hour from the actual process of physical confrontation. The rest hour divides the opinion of the democratic forces and rendered many into frustrations. It gives the state with more resources and time to recuperate itself to carrying out the cycle of violence, repression and pacifying tactics. Whatever be the positive gesture that the state protagonists may try to depict about their legal parameters, the legal side have hardly protected the people of Manipur from the suspension of democratic rights by the Armed Forces Special Powers Act 1958 and other repressive laws such as National Security Act and the series of fake encounters in the AFSPA Free Zones of

Manipur.

### **Downplaying with the MHRC**

On 22 September 1995 the Manipur State Assembly adopted a resolution to establish a Manipur Human Rights Commission. Accordingly the Manipur Human Rights Commission, Lamphelpat was established on 27 June 1998 under the Protection of Human Rights Act, 1993. The main purpose is for protection of human rights and prevention of violation of human rights. Being an instrument of the State, over the years the MHRC has lost credentials as it could not sufficiently address human rights violation committed by the State. However, the MHRC became a prominent agent during the recent imbroglio.

In fact, on 31 July the Manipur Human Rights Commission ordered an inquiry into the 23 July Khwairamband Bazaar firing incident. Subsequently the Commission conducted spot inquiry, met the families of Rabina, Sanjit, and the five injured persons and recorded the statements of several eyewitnesses. At the same time the Commission served notice to the Police Department for giving its statement to the Commission on August 10 and 11. It asked the Director General of Police (DGP) of Manipur, Y Joykumar to submit a report about the incident on or before August 17. The Commission also sought for

the report from the Home Department in connection with the incident, demanded for the video recording of the post-mortem of Rabina and Sanjit as well as the bullets which were removed from the injured persons along with their forensic reports. The Commission reminded the Home Department for giving statement on September 10 and sent a notice to the chief secretary to instruct the DGP to co-operate with the MHRC to complete the inquiry.

The Government of Manipur was indifferent to the MHRC inquiry. On 26 August the government suggested that the inquiry of the Commission should be stopped as one-man Judicial Commission headed by Retired Justice PG Agarwal had been started. However, the MHRC on 24 September, issued summon notice to SP Imphal West, Officer in-charge of Police Commandos to appear in person before the Commission on September 29. In another summon notice, the Commission asked the Director General of Police to furnish the information he had forwarded to the then Assembly session regarding the incident and give the reasons as to why no response was given to the Commission in spite of repeated reminders and notices. The Government of Manipur on 29 September, however, responded with a further directive suggesting the MHRC to wrap up its investigation. Regardless of

the instructions, the Commission took upon serious note over the failure of Imphal West SP and Commando OC to appear before the Commission for recording their statements. On 5 October the Commission issued an arrest warrant of the two police officers, to be arrested and produced before the MHRC by October 9.

The Government of Manipur, on 7 October, issued another instruction to wrap up the MHRC inquiry. By then the Congress MLAs were publicly abusing the MHRC members for quoting the Chief Minister in the newspapers. In the meanwhile the Deputy Secretary of the Commission Y Rameshchandra took side with the government and it was learnt that he in his own capacity had not delivered the warrant of arrest issued earlier to the three police officers of Imphal west district. While the rest of the Commission members sought for an explanation from Rameshchanra, the commission on 9 October issued another warrant of arrest to the Senior SP and OC of the Imphal West. The Commission asked the concerned authority to produce them before the Commission on October 21. At this point of time the Guwahati High Court intervened into the matter and on 19 October issued a stay order against the MHRC enquiry proceeding till November 2. A ruling of the

GHC on 4 November further stayed the enquiry till November 17.

### ***The legal hibernation***

Following the 23 July firing incident the City Police reportedly registered a case under FIR no. 75(7)09 of the City PS under section 302/326/307/506 IPC 17/20 (UA-B) Amendment act 25(1)-B Arms Act. The next day on 24 July, Mr. Th Chinglensana, husband of the slain Rabina, filed a complaint at City Police station in connection with the killing of his wife at Khwairamband Bazaar. The City Police refused to register a case based on the complaint. On 7 August Ch (O) Taratombi, mother of the slain Sanjit submitted a report to the OC of City Police alleging that her son was killed by the personnel of Manipur Police Commando on July 23 after his arrest at BT Road. The City Police refused to register an FIR. On 17 August Rabina's mother-in-law Memi filed a writ petition at the Gauhati High Court appealing to the Court to issue necessary directives so that an FIR case was registered at City police station based on the complaint filed by Chinglensana. The Court issued a ruling asking the respondent (City Police) to submit report of the FIR case to the Court on Wednesday. On 25 August the Gauhati High Court Imphal Bench directed the OC of the City Police to register an FIR on

the basis of the report submitted by the petitioner (Sanjit's mother Taratombi). Accordingly, the City Police on 26 August registered a case with regard to the killing of Ch Sanjit based on the complaint lodged by Ch Talatombi under FIR no. 82(8)09 under section 302/34 of IPC and 27 (3) Armed Amendment Act of the City Police Station. On 31 August Justice Ashok Potshangbam of the Guwahati High Court issued a ruling asking the respondent (City Police) to submit report of the FIR case (based on the complaint of Rabina's husband Chinglensana and mother-in-law Memi) to the Court on Wednesday.

On 2 September, in the hearing of a writ petition filed with the Imphal Bench of Gauhati High Court, praying for taking up an FIR case over the killing of Rabina, lawyer of the respondents (City Police) produced an FIR registered on the basis of the report of the MPCs. To this, the lawyer of the petitioner contended that the details of the FIR produced from the side of the respondent had nothing to do with the complaint. After hearing both the sides, the Court fixed 7 September as the next hearing of the writ petition. On 7 September, in the court of Justice Ashok Potshangbam of Gauhati High Court, Imphal bench, the State DGP counter charged that the photographs and reports

published in the Tehelka Weekly about the killing of Sanjit as fake ones and make up story. In the affidavit, the DGP claimed that the statement given by the CM O. Ibobi in the floor of the state Assembly as true and commented that there was no reason for registering another FIR case in the same incident as City Police had already taken up an FIR case on the incident. On 11 September the court directed the City Police to register a separate FIR case as per the complaint lodged by the husband of Rabina. However, on 18 September the police filed a writ appeal against the ruling issued by a single Imphal Bench of Gauhati Court directing the police to take up an FIR case immediately in connection with the killing of Rabina on July 23. The court received the appeal but no stay order was issued. On 29 October a double bench of the Guwahati, Imphal Bench ordered to submit a progress report of the investigation into the FIR case separately registered with the police with regard to the killing of Ch Sanjit within two weeks time. The court also directed the respondent concerns of the case to submit affidavits to the court within two week time from the date of issue of the notification.

### ***The safety valve inquiries***

The CM's version of the incident on the floor of the assembly on 23 July was

rejected by eyewitnesses who charged the MPCs responsible for the indiscriminate firing upon the crowd and the cold blooded custodial murder of the medical attendant Sanjit. There was hue & cry demanding for the punishment of the culprits. While the civil societies pressured upon the government for a judicial enquiry the CM tried to cover up the crime through insisting for a departmental enquiry. However, stung by the sequence of pictures released by the Tehelka Weekly that have shown fake encounter and as a result of the subsequent escalation of widespread protest the CM ordered for a magisterial inquiry into the incident. According to a notification issued by Additional Secretary (Home) M Yaiskul Meitei dated August 1, a magisterial enquiry was ordered to establishment of the facts and circumstances leading to the incident, analysis of the facts and circumstances, findings based on the facts and circumstances and analysis thereof and recommendations to prevent recurrence of such incidents in future.

The CM's attempted *safety valve* tactics of diverting public attention towards the magisterial enquiry was becoming self-defeating in the wake of widespread protest and more evidences of fake encounter.

In an attempt to defuse the outrage the CM on 5 August agreed to conduct Judicial Inquiry and to suspend seven police commandoes including a sub inspector who were present at the crime scene. The government on 28 August, annulled the previous order of Imphal West District Magistrate announcing a Magisterial Inquiry and, in exercise of the powers conferred by-section 3 of the Commission of Inquiry Act, 1952 (60 of 1952), appointed a One-Man Commission of Inquiry to be presided over by Justice (retired) PG Agarwal of the Gauhati High Court to enquire into the circumstances leading to the firing incident. The terms of reference of the commission were enlisting of facts and circumstances leading to the incident of firing and death of the two persons, as well as bullet injuries sustained by five others and to recommend measures to prevent recurrence of such incident in future.

The terms of reference of the proposed judicial commission were not upto the expectation of the public. On 31 August the Young Lawyers' Forum, Manipur charged the terms of reference of the Commission as redundant in view of the FIR already registered as per the direction of the Gauhati High Court, Imphal Bench with the investigation of the case on and had appealed to take into account certain

points so as to enable the Commission to come up with an overall probe of the series of fake encounters perpetrated by the state forces, lapses in the handling of cases and mismanagement of weapons, nexus between corruption, promotion and criminality of the state forces and so on. The YLFM's voice was turned down by PG Agarwal who on 4 September said that the terms of references were decided by the State Government and the Commission has nothing to do in that regard, but to base its proceedings on the terms and reference framed by the State. On 12 September the Commission made an announcement for the full hearing of the commission on 21 September at the Hotel Imphal. The hearing could not be held as the public boycotted the Commission and no affidavit was submitted as per the scheduled. The Commission then proceeded with the process of summoning witnesses at any cost to go ahead with the inquiry. The tactics of summoning and statement recordings and leaking out of information to the media was continued as late as 18 December.

#### IV

#### Conclusion

For a dictator such as Okram Ibobi the political *pogrom* of state terrorism, that was exercised through his handpicked mercenaries who were on police uniform,

was aimed at evaluating himself to the position of *de-facto* ruler by using the cloak of counter insurgency. He who categorically eulogized *Right to Education* and downplayed *Right to Life* in a statement addressed to the *Tehelka Weekly* on 29 November exposes himself of an instinctual character of a brutal dictator who violates human rights for the sake of money and political power. The corrupted mercenaries in police uniforms who were easily lured by money and prospect of promotion & gallantry awards were fallen into the trap laid by New Delhi orchestrated Ibobi. And, they became enemy of the people who are engaged in the just struggle for democratic rights. New Delhi might have dreamt for the insurgents to retaliate against the MPCs and their families and subsequently generate a Punjab model of cyclic revenge and counter revenge, i.e., pitting people against people and thereby weakening the fighting forces of the insurgents. State mercenaries are being recruited and trained to harass the people with the hope that the insurgents would come to the rescue of the victims of state terrorism and target the MPC mercenaries. As the insurgents fail to retaliate the state mercenaries fall into the trap and constructed a terror image of themselves in the eyes of the public. Their terror policy was backfired in the wake of public protest.

The 23 July fake encounter was one of the series of fake encounters perpetrated by the mercenaries under the command of Okram Ibobi in his capacity as Chief Minister and Home Minister. The crime was committed by the MPCs who were not empowered under the provisions of the Armed Forces Special Powers Act 1958. The crime was committed in broad daylight at the heart of the crowded Imphal city where the AFSPA was not imposed. Justice was delayed, if not denied, despite the fact that the public as a whole was the eyewitness to the crime. The crime was occurred at a historical juncture when security forces who bribed with heavy payment to get into the job, event to the extent of selling off land to pay for the cost of the job; motivated or lured by money, prospect of gallantry award and promotion and to settle personal grudges used the cloak of counter-insurgency

and indulged in looting and murdering of civilians in fake encounter. The premise of the criminality of the mercenaries was generated by the geo-economic interest of the Indian rulers who sought for armed solution and not political dialogue to settle the nationality question of Manipur.

For the first time fake encounter was visually captured by camera in a sequence of photographic clippings. The attempt of the government to cover up the crime through wide scale propaganda of fabricated reports to tarnish the political image of the democratic forces was clearly exposed. The government, instead of admitting the fault play and punish the culprits used repressive means and diverting tactics to suppress the democratic voice of the people. The democratic demands of the people have not been fulfilled. The Chief Minister continued to remain adamant to the widespread

call for resignation. The mercenaries continued to function as arrogant and as irresponsible as it had been. The victims of 23 July incident and repression remained uncompensated and their grievances have not been addressed. In short, for the suppressed and marginalised people of Manipur, justice within the framework of democracy under the Indian constitution remains a distant dream as long as the Indian rulers do not put an end to the war on people. The more the number of victim increases, it would be a matter of time that the bulk of the ruled are united cutting across community and regional boundaries and overthrow the militant regime of the Indian state.

**Down with state  
terrorism**

**Long live Democracy**

**Malem Ningthouja**

**19 December 2009**

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## **An open letter and appeal by a Lawyer in Chhattisgarh**

I am a fresh lawyer coming from a tribal family of Jashpur, Chhattisgarh. I finished my law graduation in year 2008, got enrolled with Chhattisgarh Bar Council and started working for poor and underprivileged. For which I had a commitment since my college days. I started learning basics of human rights litigation at Delhi office of Human Rights Law Network and very recently had come to Chhattisgarh to do research for right to food case which is going on in Hon'ble Supreme

Court of India and for this. I went to Dantewada, and met Mr. Himanshu Kumar, Director of Vanvasi Chetna Ashram, who has done some study on this issue and taking information, his advice and guidance. I was also providing some legal assistance to him during my stay in Dantewada.

On 10 December, 2009 at about 2:30 P.M. the Thana Incharge (TI) of Bhairamgarh Police Station Mr. K.S. Nand in civil uniform came to the Vanvasi Chetna Ashram (VCA)

situated at Katiyarraas accompanied by approximately more than 25 SPO's in 5 cars. Director of VCA, Shri Himanshu Kumar and few other volunteers of VCA were present. I was also present there. TI spoke to Himanshu Kumar about taking Kopa Kunjam, s/o Lacchu Kunjam, resident of village Alnaar, Block - Geedam, P.S. Dantewada, who is a volunteer of VCA stating that they need him for some interrogation by the Superintendent of Police.

He said, “*SP Sahab ne bulaya hai, kuch puch tach karni hai*”. No notice was served for this. However on being asked by Himanshu Kumar to give some written notice about it, the TI Bhairamgarh immediately wrote on a piece of paper that, “Prati, Kopa Kunjam ! *Apse thana Dantewada me kuch poonch thanch karna chahta hoon. Kripya ap mere sath sadar P.S. kotwali chalein.*” (I want to do some investigation with you at Dantewada Police Station. Please come with me to P.S. Kotwali). Being an Advocate present at the spot, I thought it to be my duty to accompany VCA Volunteer Kopa Kunjam to Dantewada police station. With the consent of Himanshu Kumar, Director-VCA I went along with Kopa Kunjam. At Dantewada police station we were asked to sit down. After making both of us wait for about half an hour, we were asked to come and sit in a vehicle . Thinking that we were being taken to the S.P. Office, we sat in the vehicle. As vehicle proceeded, I introduced myself to the IT Bhairamgadhi saying that I am an advocate, having done my law course from Hidayatullah National Law University, Raipur and am associated with Human Rights Law Network. When the vehicle crossed Dantewada, we became suspicious and asked as to where we were being taken now, to which TI, Bhairamgarh, replied, “Kopa Kunjam is now being taken to Beejapur District”. Kopa Kunjam refused to go further as he was not informed about being taken to Beejapur earlier. I also objected to it, stating that the police should follow necessary procedures under the law and should act as per guidelines of the Supreme Court and that they cannot take Mr.Kopa to Beejapur without giving any notice in this regard. By this time Kopa Kunjam came out from the Bolero vehicle and I also got out of the vehicle. The

TI along with 2 others got hold of Mr.Kopa and with the help of around 15 S.P.O’s bundled Mr. Kopa into another vehicle which was also coming along with them. When I again resisted to such behavior saying that it was illegal to behave in this manner, two S.P.O.’s started abusing and slapping me and bundled me also inside the car. Before being bundled into car, I somehow managed inform my senior Lawyer, colleagues and friends in Delhi about this incident. Noticing this two SPOs, started slapping and beating me and tried to snatch my mobile and, but I didn’t give my mobile, but after this they force me inside the car and did not allow me use the mobile phone.

At about 5 P.M, we reached Bhairamgarh police station. The IT, Bhairamgadhi asked me to give my mobile phone and also asked to switch it off and we were asked to sit there inside the police station. We were kept at a place inside police station with two S.P.O. keeping an eye on us. At about 8 p.m. we were taken for dinner in a nearby Hotel, from where we came in 15-20 minutes. At about 8:45 P.M. the officials of Bhairamgarh police station called me inside a room and tried to ask about the reason of me deciding to accompany Mr.Kopa. About three minutes later TI of Bhairamgarh started addressing me in an extremely rude and disrespectful manner and soon became violent and abusive. He started abusing me with slur and offensive language, which was followed by beatings with a thick bamboo stick and with a hard rubber cane, continuously slapping me while pulling my hair and kicking severely. After sometime he went out

and started beating Kopa Kunjam. Kopa Kunjam was brought into the same room and both of us were beaten severely for 30 minutes by the TI Mr. Nand and an assistant constable Banjara, while some 15 other police staff & S.P.Os surrounded both of us. TI Mr. Nand also said that “ No Advocate in Bastar dares to speak in my presence and you talk a lot. Now show me how much you can talk! Show me how much law you know?” Later I was taken to a separate room and was questioned about the purpose of my stay in Dantewada and association with VCA. At around 10 PM, I listened someone saying that , “*Sala Bada Admi hai , Delhi se Sahab ka phone aya hai.*” Soon after this I was asked to write in a paper that I was brought to Bhairamgadhi and as it has become late evening and there is no mode of transport and since the area is a very sensitive and unsafe, I decided to spend the night at Bhairamgarh station, where I am safe. In Bhairamgadhi Police Station, they said that that Himanshu is a Naxalite and whoever is working with Himanshu is a naxalite and who stays with Himanshu it a Naxal supporter.

Mr. Kopa was very badly beaten and had received serious injuries on his chest, back and leg, due to which he was even unable to walk and sleep properly. I have got injuries on front portion of elbow of right hand, biceps and back causing severe pain and swelling. I was even not able to move my hands and back due to severe pain. I spend whole of night shivering and in pain, speculating what next is to happen.

On 11 December, 2009 at 9:30 a.m. I was sent to Dantewada police station accompanied by 4 S.P.O.'s in a vehicle and one head constable of Bhairamgarh police station, while Mr. Kopa was kept detained. When they reached Dantewada Police Station, two volunteers of VCA were called and I was handed over to them.

After being released, next day, I went to Ambedkar Hospital, Raipur to get a medical examination done, however I was asked make a complaint before the police and I was informed that the police will come after I make

the complaint and then MLC will be conducted in the presence of police. I thought of going back to Dantewada to lodge the F.I.R. but because I was scared of being implicated in any false case this time, I did not go there.

However, being very much concerned about the trend of even lawyers not being allowed to function freely and being beaten up like this, I have no other option except to write this open letter-cum-appeal addressed to every body so that the issue could be taken up by the society itself. I have been subjected this kind of brutality for working for poor and

powerless. It is against law, against democracy and even against morality to do this to an advocate. If such kind of treatment is given to young lawyers who want to work towards a better society, young generation will lose hope.

Kindly take appropriate step against those who have abused power vested in them to beat and insult me in this gruesome manner and help restoring the faith of young people in the democracy and rule of law.

Alban Toppo  
Advocate

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## Arun Ferreira's experiences of torture and Forensic Tests in custody

### I. Physical Torture inflicted immediately after arrest

#### **Continuous Interrogation:**

Many batches of interrogation teams continuously interrogated me sometimes for 16 to 20 hours in a day. I was denied proper sleep sometimes for days in a row. Even if I was allowed to sleep I was woken up at unearthly hours such as 2am etc and interrogated. Sometime I was not allowed to urinate throughout the night long sessions of torture.

#### **Issuing of Threats:**

Threats were continuously being issued regarding the arrest of my family members; rape of my family members in front of me; insertion of ice cubes in my underwear so as to cause permanent impotency; electrocution of the

genital organs etc.

#### **Foot Falanga:**

This is a common method used. All police stations possess an instrument commonly known as 'BAJIRAO'. This is an approximately one and a half foot whipping strip made from conveyor belt material, attached with a wooden handle on one side. This 'Bajirao' is used to strike the palms, buttocks and foot pads of the victims. The use of such an instrument causes permanent pain without showing any external marks or wounds (which ensured that I could not complain to the magistrate). I was regularly hit with this instrument and rods on my feet soles.

With regards to such forms of foot Falanga, 'The Torture Journal on Rehabilitation of Torture Victims and Prevention of Torture' Vol.19, number 1 2009, pg 35 states, "In a more recent study published in 2008, eleven male torture victims reporting exposure to Falanga and eleven; age, sex and ethnically matched controls without prior torture history, were examined according to standardized protocol. All torture victims reported pain in the feet and lower legs and several, but not all, had structural changes in the feet

on clinical examination, contrasting findings in the control group. Reduced elasticity in the heel pads were found in nine out of eleven, and soreness and coating of the plantar fascia in six out of eleven. All the torture

victims reported walking difficulties and in all a compensatory altered gait pattern was observed at clinical examination". I still experience persistent pain and foot dysfunction especially in winter even after two and a half years of Falanga.

### **180 degree Stretch:**

In this method I was made to sit on the ground with my back facing against the wall. My hands (both in handcuffs) are pulled by a rope above my head and tied. My legs were then split wide so as to get the maximum angle. Two security agents then stood on my thighs so that there was no elevation.

This causes tremendous pain in the inner regions of the thigh. A sense of 'tearing' (without any external injuries, to avoid court complaints).

### **Other Forms:**

I was handcuffed with both hands on the floor throughout the torture sessions which sometimes lasted for days. I was sometimes

made to stand for the entire day. If I attempted to sit, I was beaten. I was made to stand with my arms kept sideways parallel to the ground. After a hile pain develops in the arms.

### **Beatings and Striking:**

Slapping, boxing, banging my head against the wall were regularly carried out (as is evident from the photograph released)

**All such forms of Torture are violative of the INTERNATIONAL CONVENTION, AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR D E G R A D I N G TREATMENT OR PUNISHMENT (adopted by the UN in 1984 and which came into force on June 26, 1987. This convention as been ratified by the Government of India.**

**This convention defines torture as .....**

**'ARTICLE 1: For the purposes of this convention, Torture means any act by which pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising from, inherent in or incidental to lawful sanctions.**

**Arun Ferreira  
Central Jail, Nagpur  
December 2009**

## **II. Forensic Tests**

Many friends and well wishers have suggested that I should write down some of my experiences of the forensic tests (narco analysis, lie detector and brain mapping) conducted on me at the Mumbai and Bangalore Forensic Scientific Laboratory (FSL). Below is an attempt in that direction. I have heavily borrowed, especially the scientific aspects from a lecture given by Dr. Amar Jesani at the 22nd Dr. Ramanathan Memorial Meeting organized by PUDR (Delhi). Other information has been collated from press reports and interactions with other jail inmates on whom these tests were

conducted, such as the 7/11 Mumbai train serial blast accused and the Bilkis Bano case (Gujarat) accused. In this present discourse I have not gone into the legal, medical, ethical and scientific aspects of why such forensic tests should be discontinued but have instead delved on my own experiences and its similarities with those of others at the Mumbai and Bangalore FSLs.

### **On the question of voluntary consent**

After being arrested in Nagpur by the Maharashtra police on May 8th, 2007, myself and three other persons were charged with sections of the Unlawful Activities (Prevention) Act and were sent to police custody by the magistrate for approximately 11 days. To justify our 'seditious' intentions, the police concocted a story that our arrests were a preventive measure since we intended to blow up the Ambedkar Memorial at Deekshabhoomi. During my police custody my interrogators kept forcing me to sign a letter of consent for

Narco Analysis to be conducted on me. Although I declined to sign such a letter I was shocked that the prosecution produced this letter of consent with my forged signature in court. Both Ashok Reddy (my co accused) and myself represented by our lawyers rejected such a letter as proof of our consent while in police custody. But, alas, the magistrate permitted such tests to be conducted on us even though we did not furnish our consent in court. Subsequently, we were taken to the Mumbai FSL at Kalina where four forensic tests were conducted on us, ie. Psychological profiling, Narcoanalysis, Brain – mapping, and lie detector tests. With no satisfactory results and having failed in this exercise of manufacturing proof of our criminal intentions (if any), the Maharashtra police soon tried to get us to undergo another test. This time the Bangalore FSL was fixed as a venue since it had a reputation of ‘success’ in aiding the security agencies in their investigation. The requisite court permission was obtained from a lower court in Bhandara in a murder case. (The particularities of the murder case are irrelevant since none of the questions asked during the forensic test dealt with the case details). This time, neither our lawyers, nor did we have any inclination that such an order was passed. The magistrate even denied the existence of such an order to our legal counsels. The Asst Director, Dr. Malini, Bangalore FSL, conducted these sets of forensic tests on us in September 2007.

At both the laboratories we

were instructed to sign a letter of consent before the commencement of these tests. Once again we declined. The Mumbai laboratories told us that such a rejection would constitute a rejection in the implementation of the court order. At Bangalore on the other hand, Dr. Malini threatened us that such a rejection would amount to the absurd logic that we were deceiving since we were afraid of the truth being exposed. Ultimately, after much ruckus both of us signed the form with an additional note stating that we were not giving our consent but rather following the courts orders. Such a mandatory formal consent is empty in content with no real rights in actual practice. The Madras High Court in the case of Dinesh Dalmia (2006) aptly sums up this absurd dilemma the person “maybe taken to the laboratory for such tests against his will, but the revelation during the tests is voluntary”.

### ***Psychological Profiling***

In psychological profiling, the FSL psycho analyst goes into the details of the life of the accused. His/Her past history, family background, childhood problems are brought to the fore by friendly discussions. In this relaxed atmosphere the topic of the concerned crime is then brought before the accused and the psycho analyst then attempts to discover his/her involvement in it. This test was conducted on us only at the Mumbai FSL. Obviously Bangalore’s Dr. Malini believes that such psychological profiling tests are a waste of time. The Mumbai FSL

Director, Dr. Rukmini Krishnamurthy in Aug 2008 stated that in 97% of the cases of those who underwent Narco analysis, the suspect reveals the same facts as revealed in psychological profiling. Many other Forensic experts also admit that the Psychological Profiling was more accurate and preferable to narco analysis.

### ***Narco Analysis Test***

Before we were taken to the various FSLs, a series of medical examinations were conducted on us to check our physical fitness and record our vital medical parameters. A list of the tests conducted are HB, TC, DC, ESR, Blood sugar, Fasting, Post prandial, Random, blood urea, Se, Creatinine, Urine complete analysis, BP, Chest, X ray, ECG, Echo, TMP, HIV, HBS Ag. We are then made to totally fast i.e. denied food and water for 12 hours before Sodium Pentothal is administered. The reason behind this is to avoid nausea, which is a side effect of administering the truth serum. The test is conducted in an operation theatre of a local government hospital having back up facilities for surgery, etc. i.e. in the case of a medical emergency. During the test an anesthetist, the interrogator or Forensic Psychologist, a physician and a person to video record the proceedings are the only people allowed to be present in the laboratory. The police are denied entry.

At the Mumbai narco tests, the person operating the video camera was also writing down the discussion verbatim. At Bangalore, Dr Malini herself

operated the video camera while asking questions, no one recorded in writing. At both places there was no physician in stand by in the Operation Theatre while the tests were being conducted – this job was done by an unqualified laboratory hand. The Anesthetist administered the drug intravenously diluted with Saline, while constantly monitoring the heart beats and breathing pattern of the subject. Before going further it is essential to understand the working of anesthesia. As quoted by Dr Amar Jasani “there are four different stages of anesthesia. The first stage is called induction, which is when the person is actually given the anesthetic substance, and its effects start. The second stage of anesthesia is a phase of excitement and the beginning of the loss of consciousness, when the person is partly conscious or semi conscious or in a trance like state. As one continues to give anesthesia, which is called the surgical plane, when the person; losses sensation and is totally unconscious. This is called the surgical plane, because to undertake surgery the anesthesia has to be maintained at this stage by maintaining an appropriate level of concentration of the anesthetic agent. The loss of consciousness at this stage is irreversible. However, if more anesthetic substance is given than the dose required for achieving and maintaining the surgical plane, then it leads to coma. The forth stage of anesthesia is called coma or overdose, and is often irreversible. In the fourth stage there is depression on the brain stem and medullar

regions and it can lead to death.”

During both the Mumbai and the Bangalore narco tests, the anesthetist gradually regulated the concentration of sodium pentothal so that we would remain in the second stage of anesthesia for a maximum period. This duration was the window during which the forensic psychologist asked the questions. Initially the psychologist asked control questions, ie those questions that are indisputable (like name, surname, place of birth and so on). Later on specific questions, linked to the crime were asked. At the Mumbai tests the psychologists ceased asking question once we went into a state of unconsciousness. But at the Bangalore Narco tests, the forensic psychologist, Dr Malini, continued asking questions, at times slapping and abusing the subject so that he/she may not slip into unconsciousness. Some accused of the Mumbai 7/11 serial train blast case even experienced their ears being squeezed by pliers and some were given electric shocks to keep them awake and hence extend the duration of questioning. The pain inflicting methodology of Dr Malini was also intended to subdue the subjects so that they would answer the questions obediently and without resistance. Contrary to popular belief, it is possible to recollect and remember the treatment meted out and the questions asked although one is a state of trance. Somewhat like recollecting a dream after waking up – one may not remember all the details with

complete accuracy, but one will definitely remember the highlights! The Bangalore forensic experts used the drugs with ‘police efficiency’, ie with total disregard for medical ethics and health of the subject. In other words, the second stage of anesthesia is forcefully and artificially brought about, even if the subject keeps slipping into the third stage. Similar to a wave form, where the crest of waves represent the second stage, and, the troughs the third stage. Dr Malini regularly slapped, scolded and physically tortured the subjects to jerk them out of their troughs. In retrospect one understands that even the medical records of the subjects also help the anesthetist to this threshold of semi consciousness to the optimum. But eventually, all this cannot continue endlessly. The exercise has to finally end due to the depletion of oxygen in the subject’s body. The subject is then made to wear an oxygen mask and allowed to sleep. The subject recovers from deep sleep after an hour and is gradually given water and a light snack to avoid vomiting. The grogginess continues for another 2 3 hours.

Dr. Malini even overcame this medical obstacle. At the Bangalore FSL, in many cases, a single subject was subjected to many narco tests in a single day, although the court permission was obtained for only one. At the 7/11 Mumbai train blast accused Asia Khan Basher Khan was subjected to a total of 7 narco tests at the Bangalore FSL. From my experience, and those of other accused that I have managed to interact with in jail, we can

confidently conclude that the narco tests only decrease the individual's ability to lie and is in no way a fool proof method for uncovering the truth. The revelations supposedly made under the influence of truth serum may contain fantasies like a person under the influence of alcohol. Knowing this inherent flaw, the government security agencies and Dr. Malini in particular have used the Narco analysis for other purposes. One wherein the video recording of the Narco analysis test is edited and manipulated so as to "manufacture" results as desired by the prosecution. This "fabricated evidence" was deliberately leaked to the media in the case of the 7/11 train blast accused so as to generate public support for the police arrests. In the Sr. Abhaya unnatural death case the CBI raised the aspect of illegal tampering of the video CDs by the Bangalore forensic experts in the Kerala High Court (Sept. 2008). Secondly assuming that the accused has no mental record of the questions asked and the answers given during the tests the police use this "assumed hidden knowledge" in further interrogation sessions. They tell the accused that he/she has revealed the "truth" during the Narco test and should therefore "confess" the crime since it would be pointless in putting up a resistance. In future to avoid such abuse of the subjects' human rights the courts should make it mandatory for the concerned FSL to submit unedited copies of the Narco VCD along with its written reports to the accused.

### ***Polygraph lie detector tests***

In the lie detector (polygraph) tests we were made to sit and about 5-6 sensors were attached to various parts of our bodies. One at our finger tips, one at our arms to calibrate the blood pressure, another across the chest and across the head, one on the ear lobe, and sensory pads were kept below our feet and buttocks. These sensors monitored our body's response to a series of questions (probes), which we were allowed to answer in only yes or no. The underlying principle here is that a deceiving person will show physiological signs of deception such as perspiration, an increase in heart beat, change in breathing pattern, and so on. Two types of probes are supposed to be asked, control questions and specific questions. When the control questions are asked the sensors record the physiological responses, which ought to be at normal levels since one would not have lied while answering them. Such control questions should be mixed along with specific ones. A sufficient time gap should be maintained between the questions so as to normalize readings. If there is a noticeable physiological change during the answers given to specific questions as compared to the control ones, the forensic expert then concludes that the subject has lied. In the Mumbai FSL, the forensic expert presented me and my co-accused, with a set of 16 questions each. About 8 were control ones. The questions were shown to us

prior to the actual commencement of the tests. During the tests the entire set of questions were asked, this time recording the readings of the sensors. This process was carried out thrice so as to average out any errors. At the Bangalore FSL this process was carried out in an entirely unprofessional manner. Firstly the list of questions was huge, totaling about 60 questions. Secondly control questions were absent from the list. Thirdly none of the questions were shown to us before the tests. This made it difficult to comprehend the questions, especially in the case of incorrect framing. For example, question no 22 was "do you know Avinash and Javed?"

- this question can have multiple answers and the subject will therefore require time to answer in yes or no; thus affecting the reading. Fourthly the entire lists of questions were asked only once, without much time intervals between the questions. But this erroneous methodology did not matter. Dr Malini came to her pre-determined conclusion that we both "showed signs of deception .... indicating non truthfulness in (our) statements given".

### ***Brain Electrical Oscillation Signature (BEOS) or Brain Mapping Tests***

These electrodes record the electrical activity of the brain when certain stimuli are presented before the subject. These recordings are fed into a computer which analysis the electrical oscillation by using

Neuro Signature System (NSS). At the Mumbai FSL we were presented with a audio stimuli, while at the Bangalore FSL video slides on the computer screen were shown to us, ie video stimuli. In BEOS, the underlying principle is that if one were part of a certain incident, event or crime, as in this case, video or audio stimuli (probe) regarding the incident would bring out a response in one's experiential knowledge. If not, the knowledge of the event could be called conceptual.

Through the electrical oscillations fed into the computer, the analyst is supposed to conclude whether the subject is part of the incident or event in question. As previously mentioned, here too two types of probes are presented – control or neutral probes, and specific probes. The probes are designed based on the information given by the Investigation Officer as well as the subjects. At the Mumbai FSL different sets of possible

event scenarios containing about 10 to 20 probes (statements) and arranged in a sequential order were read out to us. We were instructed to close our eyes and avoid movements. In the BEOS report from the Mumbai FSL, each probe was mentioned, tabulated with a corresponding signature showing either 'experiential knowledge' or 'nil experiential knowledge'. Hilarious as it may sound, "married to my wife" probe showed 'Nil experiential knowledge'! At the Bangalore FSL we were shown video slides on a computer screen, no audio stimuli were presented. The probes did not contain any control ones. What is most unscientific of the Bangalore FSL was that in its final report of the BEOS test, it mentioned that auditory probes were presented, whereas in fact none were. Even the signature of each video probe was not mentioned in its report. The deliberate doctoring of results by the

Bangalore FSL reached heights of absurdity when we observed that both Ashok Reddy (my co accused) and my BEOS reports were exactly similar – mere photocopies.

### ***In conclusion***

**As easily noticeable, the above discourse is insufficient and subjective. My experience is limited to just two FSLs. There is a need for properly compiling more such experiences of subjects who have undergone these tests. I hope this endeavor will help motivate the scientific and medical community to build such database. It would serve us as an important tool for 'movement against narco analysis test as a form of TORTURE'.**

**Arun Ferreira  
Central Jail, Nagpur  
December 2008**

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## **Arun Ferreira's father's letter to the NHRC**

**Prayer to intervene in the matter of my son namely Arun Ferreira's continuous and malafide incarceration so as to halt any further violations of his Human Rights**

Hon'ble Chairperson,

My son, Arun Ferreira, has finally (after a 31 month protracted and agonizing wait) been acquitted from the false charges filed against him, when he was arrested on 8th May 2007 in Nagpur. The judgment pronounced on 17th December, 2009 says a great deal about Arun's innocence and also exposes the

hollowness of the allegations leveled by the state police in branding him a 'Naxalite' and his subsequent implications in trumped up cases.

Arun has been a Social Activist right from his college days. He has dedicatedly stood up for the rights of the oppressed sections. While in Mumbai he has played an active role in advocating the

rights of students and also those of slum dwellers vis-à-vis their forcible evictions by the Government. He fought for the protection of the rights of Muslim minorities during the 1993 Mumbai riots. Prior to his arrest, he was involved in mobilizing the youth of Vidarbha against the anti-people policies of the Government and also against social atrocities such as Khairlanji etc.

On the 8th of May 2007, Arun was picked up by the Nagpur police and shown to be arrested along with three other previously unknown

persons at Deekshabhoomi, Nagpur. The police, immediately, through a malicious media campaign branded Arun a 'Naxalite' who was supposedly carrying a 'Pen drive' containing information which was evidence of his 'Anti- National' activities.

Arun was brutally tortured and continuously interrogated while in police custody. Apparently the police wanted to extract from Arun certain information, which he knew nothing of. He was then subjected to brain-mapping, lie-detector tests and the dreaded (and discredited) Narco-Analysis tests not once but twice. I have attached a file on Arun's experience with Narco Analysis for your information & records (Annexure I). This torture and respective tests apart from physically harming Arun (headaches, stomach related ailments and sore feet soles) appeared inconclusive or rather not in accordance with the designs of the police (Annexure II). The Nagpur Police even overtly issued threats to arrest Arun's friends who came forward in Mumbai to publically support him and denounce the slanderous campaign of the police.

During the entire trial at the honorable Nagpur court, the Nagpur police miserably

failed to prove that Arun and the three others (who were apprehended at Deekshabhoomi) had even possessed a pistol, pen drive or any other unlawful literature that the police alleged. No independent (civilian) witnesses or 'seizure-panch' witnesses supported the concocted story of the police. Although the police tried to delay the trial proceedings by regular and repeated adjournments, the honorable court acquitted Arun from all the charges thus vindicating his innocence.

But, alas, Arun's incarceration still continues. The cases wherein he was subsequently arrested are still pending. Arun is being denied any attempts at Bail. Arun's name or description was absent in any of the police intelligence files or in any Naxal-related crime records throughout the country prior to his arrest. He has been falsely implicated in Naxal-related crimes in Gondia, Gadchrioli and Chandrapur. The ulterior motive being to harass him and to ensure his indefinite detention, I was also horrified to learn that Arun, despite being just an under-trial prisoner was detained along with death-row prisoners! This is shocking and unheard of.

Finally, it came to my notice that the state police have resorted to the harassment of similar honorably acquitted individuals by re-arresting them in a whole slew of new cases. This action by the state is unethical, sly and underhanded and is certainly not a healthy practice. It is also in violation of the fundamental Human Rights of an individual. I fear the same practice will be resorted to by the state police in my son's case too.

On the one hand I am exhilarated and excited by the acquittal. However the possibility of re-arrest on Arun's final release and a whole new set of new cases being trumped up is terrifying.

It is in these circumstances that I appeal to the honorable Maharashtra State Human Rights Commission (SHRC) to intervene in this matter so as to halt any further re-arrests of Arun and ensure that he is speedily and properly released from prison, so as to once again unite with his friends and family.

Awaiting a positive and fruitful response,  
Thomas Ferreira  
father of Arun Ferreira

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## Condolence message

**PUCL Jharkhand Unit President Subrata Bhattacharya, 76 died on 26th January 2010. He was an Engineer and was actively engaged with Progressive Cultural Movement in his early age. He has been active with the rights movement for over two decades. CDRO deeply condoles his demise.**

# Letter to the PM by the striking political prisoners of Nagpur Jail

To  
Shri Manmohan Singh  
Hon'ble Prime Minister of India,  
New Delhi.

4<sup>th</sup> December 2009

**SUBJECT** : One day hunger strike by Political Prisoners on 10.12.2009  
**THROUGH** : The Sup' dt. Nagpur Central Prison, NAGPUR  
(vide letter No. 13703/09 dated 9.12.2009)

Honorable Sir,

The Political Prisoners of the Nagpur & Amravati Jail will undertake a one day symbolic Hunger strike on 10<sup>th</sup> December i.e. THE INTERNATIONAL HUMAN RIGHTS DAY. As political Prisoners we feel it our responsibility to protest the gross Human Rights violations amounting to Genocide by the Indian State that is being perpetuated on the most oppressed & poor of this country.

Firstly, we protest the deployment of 75,000 troops to evict the tribals of Orissa, Jharkhand, Chattisgarh, Parts of Maharashtra & Andhra Pradesh from their homelands. The sole arm of this "operation Greenhunt" is to give access to the Big Corporations like Tatas, Essar, Mittal, Vedanta, etc. to the vast mineral & forest resources. This "operation Greenhunt" is bound to result in the killing of thousands, displacement of millions, the destruction of the ethnic identity of the tribals, and the devastation of the ecology which will jeopardize the lives of future generations.

The Indian State has been depriving the people of Kashmir and the North East Region of their right to self-determination, a right which has been recognized the world over as an essential Human Right. Massive deployment of the Military, who have been given full liberty to arrest, torture & kill the people of these regions through the Armed Forces Special Powers Act (AFSPA) has resulted in tens of thousands being killed in the Kashmir and North-East Region.

In the name of 'development' the state has forcefully evicted millions of people and devastated their lives. Over 60 million have been displaced since 1947 to make way for Big Projects. Now once again the creation of SEZs are resulting in the devastation of millions of poor families across the country. And this kind of "Development" has only resulted in the silent massacre of millions and a colossal & irreversible environmental damage. The only benefit has been that of the big corporates and other elites in the country.

The State has also devised draconian laws to incarcerate people who resist these Human Right violations & genocidal policies.

## **We therefore demand:**

1. Call off "operation Greenhunt" and withdraw all Armed Forces from these areas.
2. Withdraw the Armed Forces from Kashmir & the North-East.
3. Abolish the Armed Forces Special Powers Act (AFSPA)
4. Cancel all permissions for SEZ and return the land to the people.

In Protest.

Sd/-

Sd/-

1. K. Ashok Reddy  
(On behalf of the Striking Political Prisoners)  
Nagpur Central Prison  
Nagpur – 440 020.
2. S. Sridhar

# Press Release on Police Assault on Women Fact finding team in Narayanpatna, Orissa

A 9 woman fact-finding team and their driver were assaulted in the Narayanpatna Police Station premises when they went to enquire into the conditions leading up to the police firing of 20 November, 2009, in Naryanpatna, Orissa. The 20 November, 2009, firing which left 2 adivasis dead and hundreds injured has triggered tensions in the area. The team which fled the police and other armed people in Orissa just concluded a press conference at Parvathipuram, Vijayanagaram District, Andhra Pradesh. The team was in Orissa after receiving disturbing reports of state-sponsored violence, rape, molestations and atrocities against adivasi villagers, and members of the Chasi Mulia Adivasi Sangh. According to reliable reports, the CMAS, a peaceful, democratic movement fighting for the dignity and rights of adivasis, is being branded extremist by the State in a prelude to unleashing terror on the tribal inhabitants of the area. Prompting the State's violence is the CMAS' campaign for land rights and against the liquor-moneylender-mining lobby. Following the firing of 20 November, 2009, the conditions in Narayanpatna have been vitiated, with platoons of state police, CRPF and the dreaded Cobra battalions posted in the area. The routes to the area have been sealed off, and reports filtering out of the area from adivasis speak of atrocities against adivasis. This bears a

striking resemblance to Home Minister P.Chidambaram's Operation Greenhunt launched against indigenous people in Chattisgarh to evict them from their lands, and free up the areas for occupation by mining corporations like Tata and Essar.

Below is a narrative of the day's happenings as told by Shweta Narayan and Madhumita Dutta over phone:

Even before our visit, we had alerted the District Collector on 8 December 2009, of our intent to visit and enquire into the situation. We had sought his assistance in facilitating a meeting with the adivasi leaders of Chasi Mulia Adivasi Sangh imprisoned by the police in the wake of the 20 November, 2009, firings. We were particularly interested in meeting one woman leader who was allegedly raped in police custody. The Collector was told clearly about our intent to visit and our identities.

The team comprised of:

1. Sudha Bhardwaj, Advocate, and PUCL-Chhattisgarh
2. Mamata Dash, NFFPFW, Delhi
3. Madhumita Dutta, The Other Media, Chennai
4. Shweta Narayan, The Other Media, Chennai
5. Rumita Kundu, Campaign Against Violence on Women, Bhubaneswar
6. Pramila, Muktigami Mahila Sanghatana, Bhubaneswar
7. Kusum Karnik, NFFPFW, Vidarbha, Maharashtra
8. Ramani, Progress

Organisation of Women, Parvathipuram, Andhra Pradesh

9. Durga Jha, Chattisgarh Mahila Adhikar Manch, Chhattisgarh

At 10 a.m., an All India Women's Fact Finding Team consisting of 9 women reached Narayanpatna Police Station and requested to meet the Station In-charge.

We were told that the policeman was busy, and were asked to come in the evening. The person questioning us asked us for names and mobile phone numbers and names of organisations. We gave all of that. We noticed quite a number of uniformed policemen, and many people in plainclothes. None of the people in uniform (we assume they were policemen) had any name tags. We asked one of them who the people in plainclothes were, and were told that they were all policemen. We asked the man how many police were there in this area, and he said more than 2000 police. One striking thing is that none of the many people gathered there were adivasi.

About 20 adivasi men were huddled, squatting inside the police station premises. We asked the police man near us who they were, and were told that the adivasis were former activists of the Chasi Mulia Adivasi Sangh, who had come to surrender. This has been happening for a few days now, and many newspapers are reporting this.

By this time, the crowd of so-called plainclothes police were getting restless. We heard people commenting saying: "Ab aa rahen hain. Jab hamarey gaon jal rahe the, tho kahaan the?" (When our farms were being burnt, where were you? Now they show up.)

Madhumita felt the situation was looking troublesome, and suggested we leave. As we were stepping out of the police station, our driver was cordoned off and was being questioned in a very hostile manner and being threatened. We heard someone saying that he is a regular to these parts, and they enquired as to his antecedents.

We somehow managed to extricate the driver. One of the policemen in plainclothes, who we saw inside the police station premises, was taking photographs, and he said "Maaro Inko." (Beat these people up). That is when more than 200 people surged ahead. The driver was being slapped repeatedly. Madhu and 75-year old Kusum Karnik tried to intervene and that is when one man went for Madhu's throat. Kusum was hurt too.

Rumita Kundu was verbally abused inside the police station. One man crudely said that all these women had come to sleep with the men there. Mamta Dash was hit on her back, and abused. One man attempted to strangle madhu. When she moved to save herself, her jaw was injured. All this happened inside the police station premises.

The driver was the one that was being assaulted most, and

we did all we could to extricate him and board our vehicle. By this time, the vehicle was being broken. The rear windscreen was broken. With great difficulty, we fled the area driving towards Bandhugaon. We were followed by the plainclothesmen who claimed to be police on bikes. Somewhere between Bandhugaon Police Station and the village itself, we were stopped by two men in plainclothes. They said they were police, and they demanded to see the driver's license. As he was enquiring, about 20 people gathered there. But nothing untoward happened here. We were scared nevertheless.

From there, we proceeded to Kottulpetta. Even before we got to this village, news seemed to have reached them about our visit. A road blockade had been organised, with a bullock cart blocking the road. There were no oxen. The people there, again all non-tribals, pulled out the driver and started assaulting him. They tried to pull down another male colleague of ours, Mr. Poru Chandra Sahu. and tried to beat them up. We intervened, and that's when Kusum didi, the 75-year old activist, was hurt on her head. We were there for more than 15 minutes. More violence. More damage to the vehicle. More slaps for the driver. Our friends outside had been notified almost as soon as problems began, and phone calls must have been pouring into the Collector and SP's office.

By this time, two bikes carrying one of the plainclothes "policemen" who

had taken our names in Narayanpatna, and another plainclothes guy who was tall and burly, reached there and asked the youth to disperse.

We reached Bondapalli, the border village within Andhra Pradesh. Almost in no time, a jeep load of Andhra Pradesh police along with plainclothes youth (young boys) armed with rifles and bullets arrived on the scene. They demanded to know who we were. We were treated more like criminals than victims, and our vehicle was searched. Only after Madhu spoke to the SP of Vijayanagar, and the DGP were we allowed to go. The police who stopped us immediately changed the tune, and offered to help us with medical assistance etc.

Our experience with armed youth and police has left us clearly terrified, and convinced that the situation created by the police in Narayanpatna and this part of Orissa is extremely vitiated. We have the following concerns and demands which we conveyed to the media at a press conference in Parvathipuram, Vijayanagarm District, Andhra Pradesh.

When Medha Patkar, Binayak Sen, Abhay Sahoo called the Collector, Koraput, his first response was that he had no prior information about the team's visit and no information of any such incident in the area. Later, he said he is rushing in a RDO to the spot. His last version, when the team was trying to flee the area after it was attacked for the third time in police presence, was that the team's vehicle was found abandoned near Andhra

Border and that there was no one in the vehicle. He stated the same to Binayak and Medha also. This was the time when some MPs had called the Collector and Governor and Medha had spoken to the Governor's OSD. So we realised that either he was lying outrightly or he was being deliberately fed wrong information, in anticipation of another brutal attack, by the SP.

### **Concerns:**

1. The scenario of terror that we witnessed, and were subject to shows the kind of tense situation prevailing in the Narayanpatna area post November 20, 2009's police firings in Narayanpatna.
2. There is no access for people to get in and out of the villages in Narayanpatna, with all routes blocked by armed goons.

3. There is no way to get information about what is happening inside, and no means of verifying the very disturbing accounts we are getting about abuses, molestations and violence against adivasi people.
4. The number of plainclothesmen who claimed they were police, and the comfort with which people outside the Narayanpatna police station were interacting with the police, and reacting to one policeman's instruction to beat us up, suggests that there may be some truth to reports that there is a Salwa Judum style Shanthi Samiti in this area as well. This may either be sponsored or working in close complicity with the police and state.
5. If the Fact Finding team of prominent women has been treated with such violence,

it is clear that there is absolutely no room for dissent inside the villages.

6. All the people who attacked us were non-tribals.

### **Demands:**

1. The officers at the Police Station should be suspended to create an impartial situation and enable the carrying out of investigations into the firing of 20 November, 2009, and the subsequent reports of atrocities against tribal people.
2. The SP Koraput should be suspended.
3. The Government should constitute a high-level independent investigation team and not depend on the police, who are clearly biased, and are using the language of terror and violence to suppress dissent.

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### **Statement by CDRO condemning the CBI report on Shopian Incident**

The findings of the CBI in the Shopian incident of May 29, 2009, appears to be yet another instance, if a particularly blatant and strident one, of the mockery of justice that has repeatedly characterized the Indian state's operations in Kashmir.

The report completely exonerates the security officers indicted. It indicts instead precisely those who had raised the question of their guilt in the rape and murder of 22 year old Neelofer Jan and her 17 year old sister in law Asiya Jan

The CBI is now claiming that that the original autopsy

that had held that the two women were raped and killed was wrong; the government appointed Jan Commission which inquired into the incident and found four policemen guilty of suppression of evidence as well as the Special Investigation Team were wrong. While it mounts an elaborate effort to show the doctors involved in the initial investigation, the lawyers who took up the case on behalf of the accused as well as the former and present public prosecutor and also family members of the victims, the CBI upholds the death by drowning theory.

In the midst of its strident campaign to show that all those who had raised this issue were guilty, it has forgotten to explain how the two women could die of drowning in the shallow river Rambhara where their bodies were found, which was only one and a half feet deep and where nobody in more than a decade died due to drowning. It has also perhaps slipped the mind of the CBI that they need to explain, how, for instance, the bodies of the two women appeared 1.5 km apart when the currents were not strong enough to carry the bodies over undulating terrain. This becomes all the more

important because the Executive Engineer of the Flood P&D Department summoned by the Jan Commission on 12<sup>th</sup> June, 2009 categorically stated that gauge of water discharge “has not shown sudden increase during the three (daily) readings that we normally recorded during the month of May, 2009” (p 82, Report 2, Jan Commission’s Final report submitted on 10<sup>th</sup> July, 2009). The strange fact that the bodies were suddenly found at about 5.30-6 a.m. of 30 May, when actually the people of the village had been searching at the same spot up to 2.30 a.m. also remains unexplained by the CBI. They also fail to inform as to why it took eight days for the police to register a FIR, when the Shopian police station were aware that the two women were missing since evening of 29<sup>th</sup> May, 2009 and when their bodies were found the next day. As a result the police failed to carry out proper investigation soon after bodies were found and instead allowed evidence to be destroyed or damaged.

In the light of the above we support the demand raised by Majlis I Mashawarat (Shopian) and J&K Coalition of Civil Society for an international inquiry into the incident of rape and murder of the two women in Shopian, as demanded by. We also demand immediate identification, prosecution and arrest of the guilty officials.

**Issued on behalf of CDRO by Kranti (APCLC). Nigreichon (NPMHR and Asish Gupta (PUDR)**

## Shambo: A Plea for Justice

Shambo is 30 years old, or 35, she doesn’t know, it doesn’t matter. She has four children. She lives in village Gompad in Dantewada district of Chhattisgarh, which is unconnected by road. The region where her village is situated has seen the presence of the Marxist-Leninist (now called Maoist) movement for the last two decades. Since 2005, the state government and the central government initiated and encouraged a group called the Salwa Judum to fight the Maoists. This has led to some 650 villages being evicted of their residents and homes being burnt to ashes. Many more villages are being denied any access to rations, medical aid or education. Over the last year, a Gandhian organisation Vanvasi Chetna Ashram (VCA) based in Dantewada has been trying to help implement the Supreme Court order that people be resettled in their villages. One such village is Nendra, located close to Shambo’s village.

On 1 October 2009, a police party composed of the CRPF along with the local police entered Shambo’s village. Most able-bodied people ran for their lives. Those left in the village were at the mercy of the police party. A team composed of various human rights and other social organisations visited Nendra, only accessible village in the area, after news trickled out that nine persons were killed in Gompad village. People from Gompad met this team and gave them details of those killed: two persons were travelling from Bhadrachalam town and had taken shelter in this village for the night; four

persons from one family, a couple, and their two daughters. The infant son of one of the daughters had his fingers chopped off. Others including Shambo were injured. VCA gave its contact numbers to the villagers if they needed help. Some days later, the VCA received news that villagers had carried Shambo to the road as the bullet wound in her leg had started rotting.

Mr. Himanshu Kumar of VCA brought her to their ashram and from there to Delhi to a public meeting at the Constitution Club on 20 October to initiate a process to establish some sense of peace and to prevent further escalation of the war whose most visible outcome was Shambo, lying on a makeshift stretcher next to the podium.

That evening Shambo was admitted to a hospital where doctors struggled to save her leg. A part of the tibia (main bone of the lower leg) was smashed and had rotted. After removing this, metal pins were drilled into the upper and lower parts of the bone, and the lower leg was held together by metal rods, with a gap where the bone was removed. From the hospital, Shambo recorded an affidavit stating the happenings on 1 October at her village and the same was filed as a petition at the Supreme Court of India.

After a period of recuperation, Shambo was desperate to see her children. The VCA arranged for her to stay at their ashram in Dantewada till the surface healed and she was fit to undergo the rest of the long medical procedure that

involves more operations and a slow growing back of the bone. She was to return to the hospital at Delhi around the end of the year.

Meanwhile, the situation was getting worse in Dantewada. The central Home Minister declared in a meeting with Mr. Himanshu Kumar that he was willing to visit Dantewada and hear the people to gather the truth about atrocities committed against them. To make this successful, the VCA decided to launch a month long programme, starting on 14 December with a padyatra to the affected villages to tell people about the proposed visit by the Home Minister, a satyagraha to plead with the government to see the truth and a public hearing where victims and their families could depose before the public. But the entire programme was disrupted by the state government. A senior activist of the VCA was arrested on 10 December and charged with murder. On 12 December, police forced the cancellation of the dharamshala booking where people coming for the padyatra were to stay. On the night of 13 December people were prevented from reaching Dantewada and those in Dantewada faced threatening mobs of the Salwa Judum. The entire programme was thus cancelled.

Meanwhile, four women from Samsetti village in Dantewada who had suffered rape at the hands of Special Police Officers two years ago and had shown the courage to file a complaint were made to put their thumb impressions on blank papers. Himanshu Kumar sent protest messages

but the next day the four women were again picked up by the police and illegally detained for five days. To protest against this attitude of the government, to find a way so that truth could prevail, Himanshu Kumar started a fast. The government in turn continued its offensive. People visiting Dantewada to express support for the fast were prevented from getting a place to stay, were followed by police and harassed till they left the area. They were also prevented from visiting any village. All this while Shambo was housed in the VCA ashram and its volunteers took care to ensure that her wound remained free of infection.

By the end of the year, the landlord whose rented premises served as the office of the VCA was pressurised daily to have the same vacated. To prevent the landlord's harassment, the VCA decided to vacate within a week. The first task towards this end was to send Shambo to the hospital in Delhi for her further treatment.

On the night of 2 January 2010, Shambo was put on a bus to Raipur. After police surrounded the bus thrice, those accompanying her brought her back. The next morning when Himanshu Kumar escorted Shambo, a vehicle with policemen followed their vehicle. On reaching Kanker town they stopped for food around noon. Police accosted them and brought them to Kanker police station. They were detained there till for a couple of hours. When organisations from across the country started making protest calls to the state government, police

responded that Himanshu Kumar was free to leave, but that the Dantewada police needed Shambo for her statement. A need that the police discovered only when Shambo embarked on her journey to the hospital after staying a month in Dantewada town!

Late in the evening, despite protests by Himanshu Kumar that her statement be taken in his presence, Shambo was taken away by the police. Her whereabouts were not disclosed. That the Cr.P.C. through S.160 forbids the any woman from being asked to appear at any place except her home for the purpose of recording a statement, is conveniently bypassed. The message sought to be sent through the actions initiated against Shambo is the following: if a victim of state violence obtains some satisfaction by seeking redress and justice then additional pain would be caused to her that more than offsets that satisfaction.

Shambo's medical condition is precarious. She is not permitted to apply any degree of stress on the leg currently held in place by metal rods. She needs regular cleaning of the metal pins with antiseptic to prevent infections that could travel straight to the bone, permanently affect all possibility for her recovery.

It is feared that her affidavit to the Supreme Court of India seeking redress for injustices committed by the forces of the Union of India will become the reason for being forced to give statements against herself, for her continued detention and possible incarceration and for

denying to her the possibility of proper medical treatment.

The Peoples Union for Democratic Rights (PUDR) and the Peoples Union for Civil Liberties (PUCL) approached the National Human Rights Commission on 4 January 2010. The NHRC found no reason why Shambo's movement may be restricted and stated that she was free. But no order directing the police to free her was delivered.

On 6 January the PUCL and PUDR filed an application in the Supreme Court that the Petitioner No. 13 in the Criminal Writ Petition No. 103 of 2009, Sodi Shambho, was being intimidated to coerce her to withdraw her petition. The petition prayed that she be permitted to come to Delhi to continue her treatment at the St. Stephens Hospital and that state bear her expenses for the same. On 7 January this was heard by the court and it passed an order directing the police not to prevent or to create any obstacles to Shambo coming to Delhi for medical treatment.

The Chhattisgarh administration has since used every method and every specious argument to prevent Shambo from meeting anybody and from the National Secretary of the petitioner organisation escorting and assisting her passage to Delhi. A classic piece in this respect is the argument that Shambo is a witness and needs to be protected against anybody influencing her. Ironically, she is a witness against the very police which is illegally holding her in custody!

**Harish Dhawan**

## **Press release by PUDR on the developments in Chhattisgarh I**

### ***The Jan Sunwai That Never Was* Listen to the Voices from Chhattisgarh!**

In Dantewada yesterday a team of around 30 activists from NAPM and other organizations, Medha Patkar and Sandeep Pandey among them, were heckled, pelted with eggs and sewage and attacked by a large gang of 'tribal' youth, accusing them of being Maoist sympathizers. The activists were simply walking peacefully to the SP's office to ask him about the on-going repression in the area. Instead of curbing those who perpetrated the violent and unlawful assault, the police focused on sternly reprimanding and pushing back the social activists who were carrying out legitimate activity and demanding the restoration of basic constitutional rights. This impunity enjoyed by these attackers from the so called custodians of law has to be strongly condemned. This impunity is symptomatic of the bizarre situation that has been developing in Chhattisgarh, which seems out of bounds for all fundamental rights and principles of natural justice. Ironically it is the state, the supposed protector of these rights that has been the biggest offender in this regard. This state of undeclared emergency in Chhattisgarh is destroying the basic fabric of democracy in the country. It has to be exposed immediately and stopped firmly.

In November 2009, the central Home Minister declared in a meeting with Mr.

Himanshu Kumar of Vanvasi Chetna Ashram (VCA) that he was willing to visit Dantewada on 6 January 2010 and listen to people to learn the truth about atrocities committed against them by the Salwa Judum. This is how the state went about hearing its people, and the lessons that were taught.

#### **1. How to make a victim and witness of police excesses into a police witness**

Sodi Shambho, one of the victims and witnesses of the Gompad killings by police and SPOs on 1<sup>st</sup> October, 09 and a petitioner in Writ Petition (Criminal) No. 103 of 2009 in the Supreme Court, was on a bus from Dantewada town to Raipur. On the night of 2 January 2010, she was on her way to Delhi for further treatment of her leg which had been shot. The doctors in Delhi who had treated the 20 day old pus filled wound, had asked Shambho to return at the end of the year for further operations for joining the fractures on the main lower leg bone occurring as a result of the bullet injuries.

After her bus was surrounded thrice by the police, Shambho's companions brought her back to Dantewada. The next morning when Himanshu Kumar of Vanvasi Chetna Ashram escorted Shambho, a vehicle with policemen followed their

vehicle and when they stopped for food at around noon in Kanker town, the Kanker police took them to the PS. After two hours of detention, Himanshu was then told he was free to go, but Shambho was taken to Dantewada for questioning by the Dantewada police, supposedly regarding the affidavit recorded by her against the Dantewada police when she was in Delhi. They reached Dantewada only at about 6.30 pm on 3<sup>rd</sup> evening. When contacted by PUDR on 4<sup>th</sup> morning the SP Dantewada said that she had been handed over to her “parents” / “relatives” and examined by a doctor as a medico- legal case needed to be made. She had been sent to Raipur for this purpose.

There are many apprehensions however, regarding the real motives of the police, given that the investigation is being conducted by the very same police against whom Shambho has complained; that she should have been detained overnight for questioning; that in violation of S.160(1) CrPC she, a woman witness, should have been made to attend at the PS rather than the police going to where she is available. Moreover for over a month now Shambho had been staying in the Vanvasi Chetna Ashram in Dantewada town, away from home and family because her wound required regular disinfecting and dressing, facilities for which were not available in her village. But the police did not question her all this while, when she was in Dantewada.

On 5<sup>th</sup> January the police informed the press that SP

Dantewada had received a complaint from some “relative” of Shambho that Himanshu Kumar of VCA had abducted Shambho and held her in captivity for the last two months- a complaint that not surprisingly only came into being once the Dantewada police picked up Shambho! Himanshu Kumar significantly is petitioner no.1 in the writ petition filed against the Dantewada police, in the Supreme Court. The period of Shambho’s “captivity” is the very same period during which Shambho had been treated by doctors in Delhi. Her alleged abductor and captor is Himanshu Kumar who had taken Shambho to Delhi on seeing that her 20 day old wound was festering, when the security forces who had shot her and against whom she has complained had left her to die.

Shambho is to the best of our knowledge currently in a Hospital in Jagdalpur where the kind of specialized treatment required to join the bone, and prevent shortening of the leg are not available. Her condition is very vulnerable as her leg is held together by metal pins as 3 inches of the main bone in the lower leg is missing. It needs regular disinfecting and all stress on the leg needs to be avoided, else it could lead to irreparable damage.

Who meets her is being regulated by the police. Journalists from Indian Express and Tehelka have been prevented from meeting her. The SP Dantewada informed PUDR that as the complaint is against the police, only the state and no outside

agency can pursue it. This as per the SP means that only those whom he and the government find suitable will have access to Shambho- a free, adult, Indian citizen seeking the rights to life, liberty and justice! We are glad that the Supreme Court has today ordered the state to not obstruct Shambho from getting further surgery and medical care in Delhi in continuation with her on-going treatment. We hope the state will refrain from similarly harassing and intimidating other witnesses.

## **2.How to Destroy All Democratic Rights Activity and Dissent**

Don’t suspend fundamental rights but beat down, threaten, imprison, file false cases against all those who mobilize and protest against the state’s excesses and policies. All rights are being violated by the Chhattisgarh government, with the consent of the Center - what exists is an extra-legal state of emergency with suspension of all political and even legal rights.

Thus the fate of the month long programme organized by VCA, starting on 14 December with a padyatra to the affected villages to tell people about the proposed visit by the Home Minister, a satyagraha for the government to see the truth, and a public hearing where victims and their families could depose before the public. On 10 December Kopa Kunjam, a senior activist of the VCA was arrested and charged with murder. On 12 December, police forced the cancellation of the dharamshala booking where

people coming for the padyatra were to stay. On the night of 13 December people were prevented from reaching Dantewada and those in Dantewada faced threatening mobs of the Salwa Judum. The entire programme was thus cancelled. More recently pressure has been brought to bear on the landlord on whose premises the Ashram is housed to get them to vacate within the month, and activists of VCA are being threatened and pressurised.

About 25 to 30 Adivasi villagers who had come to VCA for the Jan Sunwai have been taken away by the police to an unknown location on 5th January.

Meanwhile, four women from Samsetti village in Dantewada who had suffered rape at the hands of Special Police Officers two years ago and had shown the courage to file a complaint which was to come up for hearing on 10<sup>th</sup> December were made to put their thumb impressions on blank papers. Himanshu Kumar sent protest messages but the next day the four women were again picked up by the police and illegally detained for five days, and their villages threatened with dire consequences.

In the meantime security has also been withdrawn from CPI's Manish Kunjam who had been at the forefront of exposing the Salwa Judum and has had threats on his life.

### **3.How To Prevent All Access to Information**

Surround them with armed SPOs, tell hotels not to give them rooms, stop and detain them for long hours,

don't allow them to sleep, are some of the ingenious tactics being used by the police to ensure that 'outsiders' don't try and disclose to the world outside what is occurring in Bastar. Nandini Sundar, sociologist from Delhi University and one of the petitioners in the SC case against the Salwa Judum, together with Ujjwal Kumar Singh Professor of Political Science, Delhi University, respected academics and rights activists, who were visiting Chhattisgarh around the 29<sup>th</sup>- 31<sup>st</sup> of December, '09 were subjected to all of this in the name of protecting them from Maoists. As a result they could not reach Samsetti village and the interiors and were forced to return.

Even more recently on the 5<sup>th</sup> of January, 2010 Satyen Bordoloi and Priyanka Borpujari, journalists from Bombay who had been highlighting violations by the state, and the VCAs struggles, in the print and electronic media and Suresh Deepala, law student and AID volunteer from Hyderabad, Nishtha, student of Tata Institute of Social Sciences who were visiting Himanshu for the jan sunwai were surrounded by 25 armed police and SPOs and prevented from leaving, placing them under virtual house arrest. They were assaulted and their cameras taken away. After public pressure forced the administration to let them free, they were then detained again at the police station on false charges of assaulting journalists. An FIR was filed against them for assaulting journalists. They were at the PS till late at night. They filed a counter complaint.

Clearly what exists in Chhattisgarh in the heartland of the country is a total clamp down where anyone who threatens to expose or challenge either Operation Green Hunt or the prevailing police state, can neither go in or come out. All such persons are being subjected to the violence of the state in its multifarious forms. News to the outside world about the ravages of the military offensive are stifled and a deliberate policy of quelling all reportage from the area barring officially sanctioned information is enforced. What scope then for democracy, Mr. Home Minister?

#### **PUDR demands that:**

1. In accordance with the Supreme Court order of 7 January, 2010, the state must stop obstructing Sodi Shambho's access to medical care besides other fundamental rights, so that her treatment can continue.
2. The Dantewada police be restrained from approaching or otherwise pressurizing her. The state must stop harassing or intimidating her or any other witness involved in any of the incidents concerning the state.
3. The Samsetti case be tried in a court outside Chhattisgarh with the state bearing the expenses of the petitioners.
4. All cases against Himanshu Kumar, Kopa Kunjam and other activists and journalists be dropped.
5. The VCA be allowed to carry on with its activities unimpeded.
6. Rights groups and the media

be allowed free access to the region.  
7. All those guilty of

threatening, attacking, otherwise intimidating local people and organizations,

and visiting activists be punished. 7.1.10

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## **Press release by PUDR on the developments in Chhattisgarh II**

### **When the Accused Protect the Victim and Complainant**

After and despite the SC court order on 7<sup>th</sup> January 2010, in response to a petition filed by PUCL and PUDR, that the State of Chhattisgarh is directed not to prevent or create any obstacles to Sodi Shambo travelling to Delhi for medical treatment at St. Stephens Hospital, the following is the sequence of events till now:

1. The NAPM team which had been promised by the SP that they would be permitted to meet Shambo were not permitted
2. Kavita Srivastava, National Secretary, of the organisation that was petitioner No. 1 in the Supreme Court applied that she be permitted to take Shambo to Delhi.
3. The district administration declared that Shambo was being shifted to Raipur hospital for treatment. The Current hospital in which she is being detained is not equipped to carry out the required medical procedures.
4. A Tehelka journalist was also denied access to Shambo at Jagdalpur. On her complaint to the IG Bastar, she was informed that the police could not

allow a witness to be influenced in any manner by people meeting her. It should be noted that she is being forcibly detained in the custody of the same police that she alleges are responsible for her injuries. All this is being maintained despite the police declaration that there are no charges against her.

5. The NAPM team met the SP Dantewada in order to escort Shambo to Delhi. They were brusquely told not to interfere. That the family of Shambo would decide about her further treatment. That PUCL or others shall not be permitted to have any role in this connection.
6. The team left for Raipur at night to hold a press conference there and to demand implementation of the court order. They were escorted by 3 armed guards inside the bus and a vehicle with policemen following the bus.
7. In the morning at Raipur, at the house of Rajendra Sail, President PUCL Chattisgarh where the team housed itself, 30 armed policemen are stationed, following anybody who leaves for any errand.

8. Kavita Srivastava of PUCL is applying to the Chief Secretary to ensure implementation of the Supreme Court order, that she, as the representative of the petitioner organisation, shall escort and assist Sodi Shambo to reach her hospital at Delhi, and that the police be restrained from creating any obstacles and to permit smooth passage to Delhi.

We fear that pressure will be brought to bear by the Dantewada police on Sodi Shambho and her relatives to make her refuse to come to Delhi. This kind of intimidation is expected given the Chattisgarh police's record and the complete breakdown of Constitutional freedoms in Chhattisgarh. It is indeed ironic that those claiming to "protect" her are those who are in the first place responsible for her injuries and whom she has complained against. In the interests both of justice and Sodi Shambho's health it is imperative that she be allowed to come to Delhi and the police and SPOs restrained from regulating her movements or intimidating her in any manner.

8.1.10

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## **Follow up on Shambo Sodi**

As reported earlier, on 7<sup>th</sup> January, SC had passed an order directing the police not to prevent or to create any obstacles to Shambho coming

to Delhi for medical treatment.

There after, when her lawyer tried to meet her, he was told by the SP Dantewada

that she was shifted to Delhi. After a lot of effort, activists and journalists could locate her in a private ward at AIIMS. Her husband was also there with her. Apart from him, there were three other

persons accompanying her, who pretended to be her 'well wishers'. These men actively prevented the activists and journalists from meeting Shambho and talking to her.

Another petition was filed in SC with the prayer that Himanshu Kumar and Shabho's lawyer be allowed to meet her. On 22<sup>nd</sup> January, SC ordered that Mr. Himanshu Kumar and/or his lawyer be allowed to meet, Sodi Sambo in AIIMS. Chhattisgarh Counsel can be present, but police presence will not be allowed. The Chhattisgarh

state should file a reply in 10 days on the original petition filed on 23<sup>rd</sup> Oct 2009 related to the killing of 16 people during the Operation Greenhunt, in the village of Gompad, Gachhanpalli and others, as well as on the interim application filed on 12<sup>th</sup> relating to the disappearance / illegal detention of the other 11 petitioners.

Immediately after the order came it was learnt that Sodi Sambo was discharged from AIIMS and the activists failed to locate her. This time

a contempt petition was filed in SC, which also requested the court to direct the Chhattisgarh Govt. to bring Shambho back to Delhi. This petition was heard on 29<sup>th</sup> January. The court criticized the Chhattisgarh Govt. for its behaviour in strong words and directed the Chhattisgarh Govt. to bring her back to Delhi and keep her away from police influence, so that her statement can be recorded through a judicial officer. Court has given the government one week's time. The next hearing is on 5<sup>th</sup> February.

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## Statement by CDRO against Operation Green Hunt

Dear friends,

Since the transfer of power in 1947 there has not been a single year when the Indian government has not fought against our people, starting with suppression of Telengana uprising (1946-51) followed by war against Jammu and Kashmir, Naga people, against people of Manipur, Assam, etc. Fact findings by Civil Liberties – Democratic Rights groups, including PUDR, have brought out the fact that such wars/armed conflicts are intrinsically 'dirty war' where casualties occur in form of encounters, custodial killings, enforced disappearances, mortar shelling, search and cordon operations, arbitrary detentions, torture, and rape.

The new war, we fear, in its scale and spread of the war against the Naxalites/Maoists will cover predominately nine states. The fact that the war zone covers primarily tribal areas of 'heartland' India, which is mineral rich and

where the specter of land grab, displacement from forests, privatization of water resources and attack on people's sources of livelihood looms large, makes this war particularly gruesome. We are convinced that this war is nothing short of an attempt at weakening the formidable resistance offered by our people against Government of India's neo-liberal policy. The resistance comprises struggles not only led by Maoists/Naxalites (from CPI(ML) New Democracy to CPI(ML) Liberation), other organisations like PSBJC of West Bengal, CMAS of Narayanpatna, workers' movement in Gorakhpur, dalit landless agricultural workers led by All India Kisan Mazdoor Sabha in rural districts around Allahabad (UP), the NBA and other constituents of NAPM led struggles, Kalinganagar struggle spearheaded by CPI amongst several other. Contribution of this plurality of struggles, different in

nature and even intent, is what has sustained the resistance.

We the undersigned are convinced that singling out Naxalites/Maoists is precisely because they have offered the most stubborn resistance against neo-liberal policies of the Indian government, and which has acted as a fillip for the overall resistance being offered by other groups and parties. The collective resistance has thwarted so far Indian and foreign corporations from implementing more than hundred MOUs in Chattisgarh, Orissa, Jharkhand etc. This war, we believe, is precisely to enable corporations to enforce the secret MOUs which they have signed with the various state governments. We support **all** forms of resistance against this savage war for corporate development unleashed by the state against our own people.

However, we urge all warring parties to declare their

unequivocal adherence to Geneva Convention and other international laws in order to ensure that civilians/non-combatants are not harmed.

We believe, that ethics of war, as enshrined in Article 3, common to the four Geneva Convention of 1949, enjoins on the parties, even to an internal conflict, to respect some basic principles of humanitarian behavior during war/armed conflict, and it is

binding not just on governments but also on the insurgents / rebels / revolutionaries. Moreover, additional Protocol II of 1977 of Geneva Convention supplements Article 3 with few specific provisions where wars take place within a country.

We wish to point out that issues of legality, reciprocity or applicability of the ethical principles underlying Geneva

Conventions and Protocol II cannot be made an excuse to deny that these principles, which govern war/armed conflict, can be complied with and implemented, by all warring sides in so far as their own combat personnel are concerned.

**APCLC, APDR (West Bengal), Bandi Mukti Morcha, COHR, CPDR, MASS, NPMHR, PCHR, PUDR.**

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# *All India Protest Day*

After a discussions with various constituent organisations of CDRO viz PUDR, APCLC, MASS, Loksahi Hak Sangathan, NPMHR, APDR, PUCL Jharkhand etc., it has been decided to hold ALL INDIA PROTEST DAY on 22nd of February (The day on which the Budget Session of Parliament begins) against OPERATION GREEN HUNT and STATE SPONSORED ATTACK ON RIGHTS ACTIVISTS and ORGANISATIONS across the country. Every organisation will organise different programmes as per their plan to mark the protest day. Please do the needful to make this PROTEST DAY a great success.

**Co-ordinators**

**Kranthi, Chaitanya Ningreichon, Asish Gupta  
APCLC, NPMHR, PUDR**