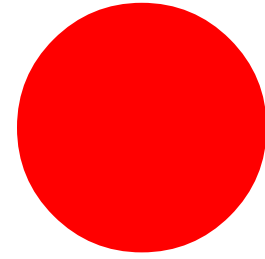


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February - May 2008

Binayak Sen: Twelve Months in Jail

-S.Srinivasan

*Some are born to sweet delight,
Some are born to endless night.*

-William Blake, *Auguries of Innocence*

It is difficult to imagine for most of us what 12 months in jail (and lately in solitary confinement) feels like especially if you are sensitive, polite and gentle to a fault like Binayak.

What does his continued incarceration mean?

To me it means that when the State and ruling elite are convinced a person is harmful for its agenda, it stays that way for a long time. They will go to any extent to ensure their version of reality stays – moving tribals, hutment dwellers, poor, dissenters, et al, out of the way if need be, even as they move in earthmovers. This is not the first time, or the last, tribals or the politically weak, are moved out for the sake of development. Inevitably, tribals have borne the brunt and in this case they are made to fight their supposed rescuers, the Maoists.

The arrest of Binayak and denial even of bail to him is a threat to all those fighting for civil liberties and basic human rights. On the one hand, we want doctors to go to remote areas and to work among the poorest of people. On the other hand, if doctors like Binayak are arrested, young medical graduates are going to receive mixed and fearsome messages about what their future fate might be. It is never possible to work with people without being confronted with poverty and discrimination, which are the root causes of ill-health. One cannot be punished for raising valid concerns about the dismal situation of a large part of our population. If you do not raise uncomfortable questions, how can you be working for the health of the people?

Some say Gujarat's CM Modi is smarter than Chhatisgarh's Raman Singh – though from the same

party. See how cleverly Modi, we are told, has managed the media and the public even though he announces the entire State of Gujarat is an SEZ? In reality, such autocratic behaviour by chief ministers and ruling parties exist in almost all States of India, irrespective of party affiliation. For many of them, the State is a joint family enterprise with crony capitalists, a kind of public-private partnership. The country's land, mineral and water exist to be parceled out virtually free to industrialists, in pursuit of development so-called. However all such land gifted by the State to industrial houses comes drenched in the tears and blood of very, very, ordinary, poor people.

One famous lawyer said on a national channel that if the Supreme Court decided in its wisdom that there was no cause for bail for Binayak, he is sure there had to be good grounds. Very simplistic or convenient or both. We are also disappointed with the Supreme Court that could not see through the litany of false charges piled on Binayak by the prosecution counsel.

Parts of India resemble Sub-Saharan Africa in terms of health, and parts are third world banana republics in terms of political economy. Chhatisgarh is a bit of both. There is a Chhatisgarh in every part of India. Actually, our ruling elite want us to be like China. India is a kind of ersatz China for such China lovers. China itself is unfortunately like US in Guantanamo Bay when it comes to respecting human rights.

Violent dissenters, Binayak is accused falsely of espousing them, give a license to the State to kill. Or at best a license to lock up, for good, the fellow posing inconvenient questions. But often much less than mere dissent provokes the State to kill – just one's existence in the wrong caste/class/religion gives those in the dominating caste/class/religion inspiration to exterminate. If you have been following the Vanzara case in Gujarat, for example.

Is the notion of freedom and liberty incompatible with

the modern nation state? Are democracy and free speech and human rights incompatible with the development paradigm being advocated today by the Indian State? Indeed, it is difficult to fight the modern State, especially the Indian State, with its military and police power, beyond a certain point. Dissent is not tolerated when the stakes are seen to be too high. Here at stake is the very vision of development.

But fight and roll on we must as the Ol' Man River in the song: Binayak rendered it movingly in one of those late night mfc song sessions. The spirit of the song typifies the man.

Ol' man river,
Dat ol' man river
He mus'know sumpin'
But don't say nuthin',
He jes'keeps rollin'
He keeps on rollin' along.

He don' plant taters/tators,
He don't plant cotton,
An' dem dat plants'em
is soon forgotten,
But ol'man river,
He jes keeps rollin'along.

You an'me, we sweat an' strain,
Body all achin' an' racket wid pain,
Tote dat barge!
Lif' dat bale!
Git a little drunk
An' you land in jail.

Ah gits weary
An' sick of tryin'
Ah'm tired of livin'
An' skeered of dyin',
But ol' man river,
He jes'keeps rolling' along.

The *shishya* who went on to become my guru

- P Zachariah¹

It is not often that a guru-sishya relationship develops and endures in today's academics. It is even rarer when the guru eventually learns from the shishya. But that is what happened to me regarding Binayak Sen at the Christian Medical College, Vellore (CMC).

I was a young and eager faculty member in my early thirties when Binayak came to the CMC in 1965. Perhaps because of his Bengali and Brahma Samaj background, Binayak also had some thing of a Shantiniketan flavour about him. And the fully residential life in CMC allowed us to interact over the next nine years as he stayed on to do his doctorate in child health.

But Binayak was no bookworm. He was determined to enjoy student life: on the stage, off the stage, in student union and hostel meetings, in social service projects, playing the fool in picnics and outings and, above all, in endless friendly and fervent arguments. He was conspicuous with a Leftist, analytical perspective, he wanted to go into the why of everything.

Such theorising and argumentation of medical student days usually evaporate like dew in the heat of professional and social pressures in later life. But with Binayak, all these were put to practice in the cooperative hospital of the iron-ore miners he helped establish.

For almost a decade he worked with the miner volunteers on equal terms and nearly equal income. With many others among the CMC faculty and alumni, I considered him a true follower of Ida Scudder, the

founder of CMC. And we remained in touch. As the years passed in the Chhattisgarh region, infested with tuberculosis and malaria, the handsome lively Binayak of student days took on the celebrated look of Gurudev Rabindranath Tagore. He was now looked on with awe at alumni reunions to which his adoring and prosperous fellow alumni invited him as chief guest. And he never failed to chastise them for their perceived shortfall in passion for the marginalised. But one time I saw Binayak really deflated was when his mentor Shankar Guha Niyogi was murdered and the labour movement there lost its Gandhian moorings. He felt he had to move on.

But what he moved on to was an even lower level of human need: the dispossession and denial of rights of tribals. Their needs filled his heart again. And his own perceptions moved on from community health and public health to health as a human right. He became physician, public health expert, social activist, eco warrior, political campaigner, all rolled into one. The two days I spent with him at Raipur in the thick of all this remain memorable.

As a student, he always asked why. By the time he had finished in CMC and JNU, he had already come to the conclusion that, more than infections and diseases, social factors determined health.

But he continued to keep asking why? And that led him increasingly into the political determinants of health, the denial of human rights, the forced ejection from homes and the way of life of peoples.

I got into teaching medicine in Vellore in the hope

¹Source: <<http://www.dnaindia.com/report.asp?newsid=1165175>>

of inspiring young people, like Binayak, for service. Binayak outgrew that and taught me, that all the altruism cannot achieve health where human rights are ignored.

And I hope that when he is eventually released, he will devote his remaining years to inspiring a new generation of health professionals to explore the link

between health and human rights. As Jonathan Mann did when he moved to a Chair in Harvard. And may that release be soon.

Binayak is already 58 and not in the best of health. His remaining days are too precious to India to be spent in Raipur Central Jail.

PUCL Challenges the Vires of the Chhattisgarh Black Law in the Supreme Court

Raipur, May 17, 2008: (Saturday)

The People's Union for Civil Liberties (PUCL) has challenged the Constitutional validity of the Chhattisgarh Special Public Security Act 2005 in the Supreme Court of India. The Petition was filed on 14th May, 2008, the day Dr. Binayak Sen, its National Vice-President & State General Secretary of Chhattisgarh PUCL completed one year in prison, having been illegally detained under the provisions of this draconian law.

The Petition has been drafted by Former Chief Justice of Delhi, Sri Rajendar Sachar, Senior Advocate Sanjay Parikh and Adv Anita Shenoy. It may be recalled that the PUCL had also challenged the notorious Prevention Of Terrorism Act (POTA), which was later repealed by the Indian Parliament in 2004.

It may be mentioned that till date some 43 citizens of Chhattisgarh have been detained under this draconian law, including Dr. Binayak Sen (Medical Doctor), Ajay T G (Film Maker) — both are members of the PUCL.

...As Senior Advocate K G Kannabiran, National President of PUCL, India, argues in his letter to the National Human Rights Commission (NHRC), the CSPSA and UAPA operate by criminalizing the very performance of civil liberties activities, and culpability is decided upon not by direct proof, but through guilt by association.

According to the information collected by the PUCL, some 43 persons/organizations have been implicated under the Black Law of 2005. Out of these persons two are doctors, two are journalists/media persons and one lawyer. The petitioner's have also collected few F.I.R/other documents to point that how the provisions of impugned Act of 2005 have been misused/abused. Among those detained under the Act of 2005 are: a class XII student named Chandrkanti Toppo aged about 22 years from Ambikapur, who has allegedly provided hospitality to the Maoists in her house, from where she lived and studied ; an Electrician named Gupta from Ambikapur, who has allegedly provided technical assistance in electricity to the Maoists; a Doctor from

interiors of Rajnandgaon district, whose prescription was said to have been found among the materials seized from the Maoists; a Free-lance journalist named Sri Prafulla Kumar Jha, aged about 63 years, who is a Gold Medalist in Anthropology from the Ravishankar University at Raipur in Chhattisgarh, and has done remarkable work on tribals living in the then Bastar District (now consisting of Dantewara, where the CPI – Maoists are said to be active); a writer named Sri Asit Kumar Sen aged about 60 years, who has been long associated with editing and publishing work bringing out magazines and books, from whose house books and magazines in bulk were allegedly seized; two Cloth Merchants named Naresh Khubnanai aged about 40 years, and Ramesh Sudhomal aged 45 years, who have allegedly sold "camouflage coloured" cloth in bulk for uniform; one Tailor named Dayaram Sahu aged about 50 years, who has allegedly stitched these uniforms; a well renowned Medical Doctor, Binayak Sen, aged about 57 years, who is also the National Vice-President of People's Union for Civil Liberties (PUCL) and the General Secretary of the Chhattisgarh Unit of PUCL.

Dr. Binayak Sen is the first Indian & the first South Asian Doctor to have been given the prestigious Dr. Jonathan Mann Award-2008 for Global Health & Human Rights, established in 1999 to honour Dr. Jonathan Mann by the Global Health Council with membership in 140 countries of 6 continents. Dr. Binayak Sen has also been given the R R Keithan Gold Medal -2007 by the Indian Council of Social Sciences for " a fresh and radical interpretation of Gandhiji's core concerns".

A media person, film-maker, Ajay T G, who is also a member of the State Executive Committee of the Chhattisgarh Unit of the People's Union for Civil Liberties, who has allegedly written a letter to a Maoist. As a film maker, Ajay T G has worked on numerous projects as Director, Cameraman, and editor, and is also an accomplished graphic artist. Some of his films have been screened at festivals abroad.

Rajendra K Sail, President

Chhattisgarh has Highest Rate of Farmers' Suicide: But the Figures are Fudged!

-Shubhranshu Choudhary¹

I would like to begin today with a story- about Sharma ji and Verma ji. Of course it is all in my imagination- but what happened to them was indeed terrible.

One day Sharma ji's son committed suicide. Much hue and cry was made over why a young boy would commit suicide. The media considered the issue at length. The Prime Minister personally visited Sharma ji with compensation. The reason behind the suicide, according to the inquiry commission, was that the boy studied in a co-ed school. Co-ed school is one where girls and boys study together. The report elaborated thus: The girls had ridiculed the boy for some reason, and his sensitive nature could not bear the trauma.

The issue was hotly debated in the Parliament- how to save our youth from recurring suicides- but clearly the option of immediate closing down of co-ed schools could not be considered.

Some years passed by.

One day Sharma ji's friend Verma ji's son also committed suicide.

It was a sad occasion. People had gathered to console Verma ji, who was desolate. But he said he had read all the reports of Sharma ji's son's suicide. His own son was not studying in co-ed school. So Verma ji felt that the doctor was fudging facts by suggesting that his son had committed suicide.

The body was there, right in front of him, but Verma ji would not report suicide. And thus the Prime Minister did not visit Verma ji for compensation.

Sharma ji lives in Vidarbha and Verma ji in Chhattisgarh.

I don't know if this point is going across to the reader or not- but the conditions in Chhattisgarh today are very similar to Verma ji's.

Two weeks earlier, on 8th of February, I had written in this column that according to the figures available with the National Crime Record Bureau of the Central

Home Ministry, approximately 1400 landholding farmers commit suicide in Chhattisgarh every year- i.e. 4 farmers per day.

This does not include the numbers of those farmers who commit suicide but are not landholders.

The reaction in Chhattisgarh was similar to the one of Verma ji.

It was said that the farmers of Vidarbha and Andhra cultivate cash crops for which they take loans. But as the farmer in Chhattisgarh cultivates paddy, for which the labour requirement is high, however high loans are not required, so the figures of farmers' suicides are fudged.

Minister of Agriculture, Sharad Pawar has accepted in the House that the figures of farmers' suicide provided by the National Crime Record Bureau are accurate. (30th November, starred question number 238, the Agriculture Minister responds to Ram Jethmalani).

The Bureau figures do not claim that the farmers are committing suicide due to reasons related to farming. And I am not claiming that here either.

I am only requesting for a study of these figures, to probe and understand what is happening.

Rhetoric of the kind- "Are we blind, that 4 farmers committed suicide everyday and we did not know," does not serve any purpose. For seven years these figures have been available with the National Crime Record Bureau. Not a peep from any Chhattisgarhiya in the direction!

I then began an exploration for any earlier study of Farmers' Suicides in Chhattisgarh.

I know of Verier Elwin's book *Maria, Murder and Suicide*, in which he studied the issue of Suicide amongst the Tribes of Bastar, and found that suicide is more prevalent in Maria tribe as compared to the Muria Tribe.

Subsequently I also found out about Professor Jonathan Perry of London School of Economics. He conducted a study in 2003, about suicides in the Bhilai Region. I contacted him and he told me, "Some years back

¹ Email: <shu@cgnet.in>. The author is a freelance journalist based in Delhi. He has worked with BBC for more than 10 years and also has experience of working with organisations like Guardian, Sky News, etc. Reproduced from: <http://www.cgnet.in/> with author's permission.

I was in Bhilai for a research project and I found that in the settlements of Bhilai where I was carrying out my survey, the incidence of suicide was above average. In fact the figures were so significantly high that I started collecting figures from the hospitals and Police Stations, although this was not the subject of my study.”

Professor Perry added, “This was about the same time as news of Andhra Pradesh Farmer suicides had started streaming in. I always felt that the conclusion that loans were at the root of the Farmers’ Suicides was coming from a very superficial type of study. After my Bhilai experience I am not surprised by the figures you quote to me about Chhattisgarh Farmers.”

In the meantime, my friend Yuvraj Gajpal who is pursuing his PhD in Canada, took a deeper look at the figures of National Crime Record Bureau. He calculated the rate of Farmers’ suicides in the various states, and points out the following:

That in Chhattisgarh, 6.29 farmers commit suicide per lakh of population. Maharashtra follows at 4.59, Andhra Pradesh is next with 3.42, and Karnataka stands at 3.25. He questions why so much attention is given to suicides in Maharashtra by journalists whereas he has not read anything about suicides in Chhattisgarh!

Yuvraj continues, “In Chhattisgarh, the percentage of landowning farmers is 17% of the total population. However the figure for farmers committing suicide as a percentage of total suicides is 33%, i.e, compared to other professions, twice as many farmers in Chhattisgarh take their own lives. What is the reason?”

I thought it might be a good idea to share these figures with Professor K Nagaraj of Madras Institute of Development Studies as he has been studying the subject for many years now. Professor Nagaraj said that he has recently received the figures for the year 2003 onwards, and his analysis will be ready in a few weeks. On the face of it, he sees no mismatch in the figures.

I asked Prof Nagaraj, that people in Chhattisgarh say that this is a paddy cultivation area, and not a cash crop cultivation area. So how can farmers be committing suicide?

He laughed and said, “Please go to Thanjavur district of Tamil Nadu, which is a paddy cultivation area. Many farmers are committing suicide there. As opposed to this, the rest of Tamil Nadu has substantial cash crop production. But the rate of farmers’ suicide is much

lower here. The reason is that the road network is excellent and upon crop failure, the farmer is able to find other livelihood. The only conclusion which can be drawn from this is that every problem is unique in itself.”

I asked him, “Bihar and Uttar Pradesh are also paddy cultivation areas, but not many farmers commit suicide in those states as compared to Chhattisgarh?”

Prof Nagaraj told me, “Chhattisgarh needs to be studied. But it is obvious that it is not comparable to the areas along the Ganga and Yamuna. Secondly a farmer does not commit suicide only because of agriculture loans-though loans may be a predominant reason. If you examine India after 1991, State help for the common man has reduced steadily, whether it is irrigation, or education. Suicides are caused by a mix of these problems.”

In the end I called P Sainath of *The Hindu* newspaper who has been writing on this subject for many years. I told him that journalists in Chhattisgarh are saying these figures are fudged. Sainath said, “Its like the election results - if they do not match our expectation we say the elections are rigged. Please quote me in your article that if anyone has conducted a study and found that only one farmer is committing suicide in Chhattisgarh every year, then this State is a heaven on earth. I will advise farmers in Europe and America to shift to Chhattisgarh, because even there more farmers commit suicide than this “study” is showing.”

It seems, the journalists in Chhattisgarh are behaving like Verma ji- who could not believe that his son had committed suicide because he was not studying in a co-ed school.

But will the leaders of Chhattisgarh please look into the matter? The assembly session is on, will someone please raise this issue?

Farmers’ Suicides in Chhattisgarh

2001: 1452

2002: 1238

2003: 1066

2004: 1395

2005: 1412

2006: 1483

Source: National Crime Records Bureau of the Central Home Ministry

*Document***So-called Anti-Terrorist Laws are Tools of State Terrorism**

Date: 27th February 2007

The Chairperson & Other members
International Commission of Jurists
33 rue des Bains, 1211 Geneva 8,
Switzerland.

**Sub: Submission for South Asia Sub-Regional
Hearing in New Delhi, New Delhi, 27-28 February
2007**

Dear Sirs/Madams,

Executive Summary

The following letter is in response to the International Commission of Jurists South Asia Sub-Regional Hearing in New Delhi 27-28 February, 2007. The overall claim of the report is to show the hypocrisy of the state. In an effort to prevent terrorism, the State has overlooked inherent human rights, as stated by the Constitution. The report outlines the details of three Acts: Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA), The Prevention of Terrorism Act, (POTA) 2002 and the Gujarat Prevention of Anti-Social Activities Act 1985 (PASA). It also includes an extensive overview of the Commission of the Supreme Court of India's remarks about the police force.

The Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) was one of the more draconian pieces of legislation to be passed by the Indian state. The Chairperson of the National Human Rights Commission, created by a presidential order, wrote an extensive letter outlining the problems with the act and requesting the removal of it. Despite its violation of human rights, TADA remained in force for 10 years (1985-95). It was allowed to lapse on 23rd May 1995 following a nationwide protest by human rights organizations. During this period, 77,500 persons were arrested. According to an NHRC report, Gujarat – with no so-called militant activity at all – once accounted for as many as 19,000 out of 65,000 TADA cases. In other states like Punjab, Maharashtra, Kashmir, and Andhra Pradesh, tens of thousands of people were lying in jail without even once appearing before the court of law.

A survey of TADA cases reveals many instances of false arrests, police excesses, and extortion. People were imprisoned under the act for matters entirely unconnected with violent political acts. In 1987, six workers of Reliance Industries Limited in Ahmedabad, Gujarat, were arrested under TADA for legitimate trade union activity.

The Prevention of Terrorism Act, (POTA) 2002 is no

better than TADA in that human rights were not considered in the implementation. Dr. Mukul Sinha, advocate and founder member of Jan Sangharsh Manch described the POTA as *Production of Terrorist Act* – to preserve and perpetuate the communal divide in Gujarat. In the state of Gujarat, POTA is selectively invoked against minorities. Between 2002 and 2003 in Gujarat State, there are 287 instances in 9 different categories of cases registered under POTA. Among them, one is against a Sikh and remaining are all against Muslims.

According to Zakia Jowher, renowned activist from Gujarat, the POTA is used in Gujarat is different from the way it is used in the rest of the country. She states, “In Gujarat, POTA is systematically used to perpetrate and preserve a communal divide between the Hindu and the Muslim communities.”

The Gujarat Prevention of Anti-Social Activities Act 1985 (PASA) was another act misused by the authorities to target certain members of the community. In this case three different trade union leaders of Apollo Tyres Ltd. Waghodia, district Vadodara, from three different unions were arrested one by one from 2002 to 2005. The collector only briefly overlooked the cases before the men were arrested under PASA. The men were detained for months waiting for judgement until finally released. Mr. Inder Singh upon his release was asked to not enter five districts in Gujarat and was therefore exiled from the state. During this time, the police traumatized the families of the union leaders. It appears from the facts of these cases that Apollo Tyres Ltd and the State Machinery colluded to terrorize workers by misusing the PASA.

Lastly, the issue of human rights and the prevention of terrorism cannot be limited to examining these few Acts. The police authority and state machinery must also be scrutinized. In September 2006, the Supreme Court of India announced the judgment remarking on the misuse of power by the police force. The report showed that Police and Armed forces when operating under laws like POTA or The Armed Forces (Special Powers) Acts take action with the certainty that they are immune from the reach of the law, making them more violent and atrocious. In the name of fight against terrorism, torture by the police has spread to every corner of the country. In fact, it could be argued that the fight against terrorism is a far greater danger to the public and the Constitutional fabric of the country than terrorism itself.

The story of TADA, POTA, and PASA illustrates how

these and other such laws are tools of state terrorism. I would also like mention that we should demand in all countries the new law “The Prevention of Atrocities and State-Terrorism Act, (PASTA) 2007 to counter State-Terrorism. It is an unfortunate reality that the debate around “fight against terrorism” has been overshadowed by rhetoric. The support for POTA is centered on its two core provisions. One section that makes confessions of the accused before a police officer admissible as evidence, and the second is the harsh provision regarding bail. Even under British rule, confessions recorded by a police officer have been barred as inadmissible on the grounds that torture by the police is prevalent, routine, and out of control, thus rendering any confession doubtful.

With the inclusion of the remarks by the Supreme Court regarding Police activity and the National Human Rights Commissions statement on TADA, it is apparent that not only activists but state entities as well are concerned about human rights in reference to the fight against terrorism. The only true way to fight terrorism must be to work with the community, rather than illegally detain people on the basis of their religion, status, or political affiliations. All the Acts outlined in this letter inherently target the human rights of the very people they are claiming to protect.

If we follow the logic of the state’s anti-terrorism legislation, the terrorist is you and me, those who are harassed by police officials, political party’s leaders, communal organizations, mafias, and Government’s top officials. In a state like Gujarat, the “Terrorism of the State” is one of the main issues we are trying to fight. Private individuals have little power compared to the state. The laws discussed above transforms the state into an institution of crime that aims to eternally perpetuate itself. Therefore, we are generally concerned about the acts of these governments and their officials who shelter themselves from the purview of the law.

Main Presentation

There are a number of oppressive laws passed in the name of curtailing “terrorist” activities. At the Central level, there is, (1) The Prevention of Seditious Meetings Act 1911, (2) The Armed Forces Special Powers Act 1958, (3) The Disturbed Areas Act, the Unlawful Activities (Prevention) Act 1967, (4) The Conservation of Foreign Exchange and Prevention of Smuggling Activities Act 1974, (5) The Disturbed Areas Special Courts Act 1976, (6) The National Security Act 1980, (7) The Prevention of Black-marketing and Maintenance of Supplies of Essential Commodities Act 1980, (8) The Anti-Hijacking Act, 1982, (9) The Suppression of Unlawful Acts against Safety of Civil

Aviation Act 1982, (10) Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) [Because of pressure of people’s movement it remained in force only till May 1995],, (11) The Religious Institution (Prevention of Misuse) Ordinance 1988, (12) The Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988, (13) The Indian Telegraph Act, (14) The Information Technology Act 2000, (15) The Prevention of Terrorism Act, (POTA) 2002 [The government was forced to repealed the law on September 21, 2004] and so on.

The list of State-specific legislation includes (1) The Jammu and Kashmir Public Safety Act 1978, the Jammu and Kashmir Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act 1988, (2) The Assam Preventive Detention Act 1980, (3) The Maharashtra Prevention of Communal, Anti-Social and other Dangerous Activities Act 1980, (4) The Bihar Control of Crimes Act 1981, (5) The Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers and Drug Offenders Act 1981, (6) The Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act 1982 and others like this. (7) The Gujarat Prevention of Anti-Social Activities Act 1985, (8) The Karnataka Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum-Grabbers Act 1985, (9) The Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1986,

The TADA and POTA Experience

Let us examine the misuse of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) and The Prevention of Terrorism Act, (POTA) 2002 to understand the use of these so-called anti-terrorist laws by the Government of India.

Even if we go by the opinion of the National Human Rights Commission, it is clear that the character of TADA and POTA lends itself to state abuse of ordinary people.

The National Human Rights Commission in India was set up under Presidential Ordinance in October 1993. Parliament drafted the Protection of Human Rights Act, 10 of 1994, which came into force from 8th January 1994 and replaced the ordinance. The Commission operates within the parameters of this legislation.

The Chairperson of NHRC’s letter dated 20 February 1995 on TADA [1] states

“... In 1984, when terrorist activities increased in Punjab, the Terrorist Affected Area (Special Courts) Act, 1984 was legislated. As terrorist activities increased and functioning of the special courts became difficult, Parliament legislated the Terrorist and Disruptive Activities (Prevention) Act, 28 of 1987. This law was a temporary legislation mainly intended to deal with the prevailing situation in the Punjab. It made considerable deviations from the normal law to meet the emergent situation. The principal ones are:

- (i) raising of the presumption of guilt and shifting the burden on the accused to establish his innocence;
- (ii) drawing the presumption of guilt for possession of certain unauthorized arms in specified areas;
- (iii) making confession before a police officer admissible in evidence;
- (iv) providing protection to witnesses such as keeping their identify and address secret and requiring avoidance of the mention of their names and address in order or judgments or in any records of the case accessible to the public;
- (v) modifying the provisions of the Code of Criminal Procedure particularly in regard to the time set for investigation and grant of bail.

The title of the Act indicates that it was intended to combat terrorist activities and was not, therefore, intended to apply to areas where such activities were not visible. The Act has, however, been extended to the whole country and has been freely applied to situations not contemplated by the Act.

India is also a signatory to the International Covenant on Economic, Social, and Cultural Rights and International Covenant on Civil and Political Rights of 1966. Article 51 of the Constitution as one of the Directive Principles of the State policy states that the State shall endeavour of foster respect for international peace and treaty obligations.

The Indian Evidence Act, 1872, almost 125 years old, has provided that confession before a police officer would not be taken as evidence. Article 20(3) of the Constitution which is one of the Fundamental Rights of the citizens, proclaims that no person accused of any offence, shall be compelled to be a witness against himself. Notwithstanding this, the special provision in TADA makes the confession before a police officer admissible; the withholding of particulars of witnesses, takes away the guarantee of fair trial for accused persons. The shift of the presumption makes it difficult for the TADA accused to establish his innocence to get bail and the amendment of the Code of Criminal Procedure keeps the accused in jail for a long period of 6 months as against the maximum limit of 3 months provided in Section 167 (2) of the Code of Criminal Procedure. If investigation in a case of murder can be completed, in 90 days and if not completed bail is admissible to a murderer as an automatic process, there can be no justification for a longer period to be provided in respect of TADA matter.

The TADA legislation is, indeed, draconian in effect and character and has been looked down upon as incompatible with our cultural traditions, legal history, and treaty obligations. Provisions of the statute as such have yielded to abuse and on account of such a situation, the Act has

been misused over the years and thousands of innocent people who could have been otherwise dealt with, have been roped in to languish in jail. Many feel that the police have found it a convenient legal process to silence opposition and that it has been frequently abused for political considerations.

My honourable colleagues and myself in the Commission are aware of the fact that the Supreme Court in Kartar Singh's case has made an attempt to water down some of the harsh provisions. Besides our international obligations have also to be taken into account. The fact that the law has yielded scope for gross abuse on account of its inherent defects and flexibility has not been given adequate consideration and its draconian procedure has not been weighed. The quarterly review of cases, as directed by the Supreme Court, does not appear to have sufficiently met the grave situation arising on account of the abuse of statute. During these eleven months following the judgment, the expected result has not been achieved. The Commission has involved itself in the process with all seriousness; yet the desired effect remains illusive.

The Act is a temporary legislation and its life is due to expire on 24th May, 1995, unless Parliament in its wisdom decides to extend the same. The Commission has thought it appropriate to appeal to the law makers of the country to take into consideration these features and to bring to an end this very draconian legislation by not granting any fresh lease of life. The plea that without this special law the integrity of our motherland would be in jeopardy is a stand without merit. The law and order machinery should not be permitted to operate any longer under the cover of such a black law. If considered indispensable, some provision to meet terrorism may be incorporated into the ordinary criminal law of the land by amendment ensuring that the objectionable provision are not brought in. The Act itself has been condemned both within the country and internationally as violating our international treaty obligations. We set “liberty” of the individual as our goal in the freedom struggle. How can any of our lawmakers be party to a system of legalizing undue curtailment thereof? The Act operates unjustly and has as its very base a foundation of injustice. It is appropriate to take note of the fact that the rate of conviction even with the several special provisions is grossly low. That clearly indicates indiscriminate use of the Act. Daniel Webster in his funeral oration on Mr. Justice Story a century and half ago said:

”Justice, Sir, is the great interest of man on earth. It is the ligament which holds civilized beings and civilized nations together. Wherever her temple stands, there is a foundation for social for social security, general happiness and the improvement and progress of our race. And whoever labors on this edifice with usefulness and distinction, whoever clears its foundation, strengthens its pillars, adores its entablatures or contributes to raise its august dome still higher in the skies, connects himself in name and fame and character with that which is and must be as durable as the frame of human society.”

We hope and trust that you would give your anxious

consideration to the matter and help in the taking of steps for protecting the human rights of the Indian people keeping in view the noble traditions of this great country and restore confidence in the minds of the people. In the Indian democratic set up, equality is the rule and the rule of law provides the umbrellas under which all are treated at par in real life.

I remind you that have entrusted the Commission with the charge of maintaining human rights and the Commission is finding it difficult to do so unless this draconian law is removed from the statute book.”

TADA remained in force for 10 years (1985-95). It was allowed to lapse on 23rd May 1995 following a nationwide protest by human rights organizations. During this period, 77,500 persons were arrested. According to an NHRC report, Gujarat – with no so-called militant activity at all – once accounted for as many as 19,000 out of 65,000 TADA cases. In other states like Punjab, Maharashtra, Kashmir, and Andhra Pradesh, tens of thousands of people were lying in jail without even once appearing before the court of law.

A survey of TADA cases reveals many instances of false arrests, police excesses, and extortion. People were imprisoned under the act for matters entirely unconnected with violent political acts. In 1987, six workers of Reliance Industries Limited in Ahmedabad, Gujarat, were arrested under TADA for legitimate trade union activity. In August 1991, a member of the Haryana Legislative Assembly, Om Prakash Jindal, had a TADA case filed against him.

A study conducted by the Peoples Union of Democratic Rights (PUDR) shows that of the 53,000 TADA cases all over the country only one per cent had yielded convictions in the court of law.

A high-level inquiry committee appointed by Maharashtra government to review TADA cases observed that out of 20 cases involving 150 accused reviewed by it so far, the act was wrongly applied in at least 16 cases.

In October 1993, according to the Union Home Ministry, the total number of detentions under TADA was 52,268; the conviction rate of those tried by designated courts was 0.81% ever since the law came into force. Punjab, with 14,557 detainees, showed a conviction rate of 0.37%. On 24 August 1994, then Minister of State of Home, Rajesh Pilot, stated that of the 67,000-odd persons detained since TADA came into force, only 8,000 cases were tried. Of the 8,000 tried, only 725 persons were convicted. Thus, 59,509 people had been needlessly detained; no cases were brought against them. The review committees of TADA stated that 5,000 cases inappropriately applied TADA was wrong, and asked for the withdrawal of those.

In more than 50,000 cases, TADA was wrongly applied.

Six years after TADA lapsed, it still brought shivers under the spines of those who suffered under it. The statistics speak for themselves: out of a total of 77,500 persons arrested under TADA, only 8,000 were tried, 725 (0.81 per cent) convicted and 3,000 are still believed to be in jails. This is not a healthy track record.

In some parts of India, the Act was used almost exclusively against non-Hindus in a discriminatory manner. According to the National Commission for Minorities, the total number of persons arrested under TADA in Rajasthan as of 1 September 1994 was 432 of which 409 persons belonged to minority groups.

Same is the case with POTA. Responding to a question relating to POTA, Justice A. S. Anand chairperson of NHRC [2] stated:

It did have some provisions to safeguard against its misuse though those provisions may not be enough. Care has to be taken to see that the provisions of POTA are not abused.

There are apprehensions that POTA can be misused. Any law can be misused. What we have to see is whether there is an inbuilt mechanism to safeguard the Act from being misused. It has. But more safeguards are required to be provided against its abuse.

The rights of a person in uniform are equally important as those who belong to civil society and a balanced approach to both was necessary.

No civilized country could allow terrorism to flourish, but one has to differentiate between a criminal and a terrorist. While all terrorists are criminals, it does not necessarily mean that all criminals are terrorists.

Dr. Mukul Sinha [3], advocate and founder member of Jan Sangharsh Manch described the POTA as *Production of Terrorist Act* – to preserve and perpetuate the communal divide in Gujarat. In the state of Gujarat, POTA is selectively invoked against minorities. Between 2002 and 2003 in Gujarat State, there are 287 instances in 9 different categories of cases registered under POTA. Among them, one is against a Sikh and remaining are all against Muslims.

According to Zakia Jowher [4], renowned activist from Gujarat, the POTA is used in Gujarat is different from the way it is used in the rest of the country. She states, “In Gujarat, POTA is systematically used to perpetrate and preserve a communal divide between the Hindu and the Muslim communities.”

She describes in her testimony at the People’s Tribunal:

We have been speaking to several families where a member has been charged or detained under POTA. We have conducted a survey of more than 25 families. The facts that emerge as common are as follows:

1. In all the 25 cases, people have been detained illegally before they were arrested. This period of illegal detention varies from three days to as many as 25 days.
 2. They have been invariably been picked up from their homes or neighborhoods, whereas the Crime Branch version gives the location of their choice as the place of arrest.
 3. In some instances, family members were detained as substitutes till the person named by the police turned up. Sometime even two family members were detained for days. The broad patterns of police operation suggest that for every person arrested, several other are illegally detained. During September 2003, about 350 to 450 persons were being kept in illegal detention in Ahmedabad city, according to the estimates of civil society groups.
 4. In all 25 cases, there is no previous history of crime for the accused or their families.
 5. Most of the accused are small-time employed people such as electrician, radio/TV repairers, drivers, religious teachers, etc. Some have an activist background and actively helped others irrespective of religion in the earthquake and during the riots.
 6. All the accused are young, mostly below 30.
 7. The general pattern of this picking-up operation has been as follows: burst into peoples' homes at an unearthly hour in a group of 25-30. Ransack the home, terrorise the inmates, and never leave without picking up at least one family member. This includes picking up of a senior citizen of 65, like Mr. Karimi, when the person of their choice is not at home at the time.
 8. In some cases, important documents like degree certificates, wedding photos, etc., have been taken away by the Crime Branch.
 9. In almost all cases, the families are threatened with encounter killing and POTA invocation if they speak up or inform anyone about their plight. Tarun Barot is bandied about as the encounter specialist.
 10. There have been instances of harassing extended family members, like grandparents, uncles, etc., who live elsewhere. Again, the favourite time appears to be well past midnight.
 11. In almost all cases, signatures have been taken on blank sheets from not just the accused but, in quite a few cases, from their family members too. If the family members refused to sign on blank paper, they were threatened with the continuation of the illegal detention. At times, they were told their son or relative could be freed only if they signed such papers.
 12. The family members are not allowed to meet with the accused for quite some time, and certainly not before the confession have been extracted. In one case, the old parents of one of the victims only got a glimpse of their son when he was brought to the court with his head covered and that too from a distance from at which they could not speak to him, and he could not bear them or know that they were there.
 13. In some cases, the person thus picked up is the sole breadwinner and thus the arrest or detention leaves the family in dire economic condition.
 14. We also have access to six complaints written by some of the accused while they were in judicial custody. Copies of these were sent to various agencies but to no avail. Some of the shocking facts are follows:
 - a. Torture – these people have been subjected to severe torture, including electric shock administered to private parts, and the moving of a wooden roller-like object on their bodies. Several victims (Kalim/Anas) fell unconscious during the course of this torture a number of times. They have also named the officers who routinely tortured them.
 - b. The accused have been forced to hold weapons in postures dictated by the police, and the police recorded this on video.
 - c. They were asked to work with some electric gadgets (apparently gestures of making bombs) while photos were taken and videos were shot.
 - d. Repeated threats of encounters: “Ab ki baar upar jayega”. (This time you will go up) (meaning, this time he will be killed).
 - e. Forced to memories statements before being taken to the Magistrate. Forced to read out statements while it was being taped.
 - f. There seems to be a systematic brainwashing or the perpetration of a certain ideology into the Crime Branch workforce, as becomes evident from the number of instances where hatred of Muslims is evident. The accused have repeatedly complained about insult to their religion and gaalis (abuses) hurled at their community even by clerical and support staff (who are not directly connected with the accused), suggesting a systematic demonisation of a whole community.
 - g. In shocking incident, an accused has complained of (and named) a Magistrate who told the Crime branch to “properly prepare” the accused when he refused to sign a pre-written statement. This is not enough. This same Magistrate reminded another accused (as found in the complaint) of history of encounter of Crime Branch officials when he hesitated in signing the confession.
- Mr. Anas Abdul Rashid Machiswala in his written submission sent to the People's Tribunal [5] records an event when he refused to sign on the papers before the Magistrate. The Magistrate himself said “take him away, prepare to bring him back by 4.00 – 4.30. Dr. S. K. Gupta slapped him before the Magistrate and brought him to the circuit house in Shahivan. He was taken to a room and was brutally beaten up. The police official said, ‘Everything here belongs to us. If you do not sign, we can take more remand and we will also call your old father here. Then both of you can sit together in jail. We can make more remand and also encounter.’”
- Ms. Yasmin Haneef Shaikh, wife of M. Haneef A. Razak Shaikh revealed in her testimony to the People's

Tribunal [6] that “Most of my husband’s business dealings were with the Hindu Sindhi community, however, now we are in a bad state as we are being boycotted by our business associates. After the story about my husband’s “terrorist actions” was carried in detail in the *Sandesh* newspaper; we have been subjected to a severe economic boycott.”

Misuse of the Gujarat Prevention of Anti-Social Activities Act 1985 (PASA)

On the morning of 26 July 2004 [7], Apollo Tyres Kamgar Sangh’s President and employee of Apollo Tyres Ltd. Waghodia, district Vadodara, Mr. Inder Singh was arrested. In subsequent days, various new FIRS were launched against him and later he was booked under the PASA. The union anticipated such action against them on 25 July 2004, one day prior to the arrest, and they approached various authorities for protection. While arresting him on 26 July 2004, the police had violated all legal norms and specifically D. K. Basu’s guidelines [8]. Further, invoking PASA was a calculated move which had no basis other than terrorising other workers of the company. The Vadodara district administration had hurriedly prepared the PASA file very early in the morning against Mr. Singh, to help the management of Apollo Tyres Ltd. The PASA board agreed to ultimately drop the PASA charges against Mr. Inder Singh.

Even in May 2002, Mr. Balwinder Singh, a union leader of Apollo Tyres Karmachari Sangh was arrested under PASA for his union activity.

On 4th June 2005 Mr. Naresh Patel [9], President of Apollo Tyres Employees Union was also arrested under TADA for his union activity. PASA board agreed to ultimately relieve Mr. Naresh Patel from PASA.

It appears from the above history that all three main leaders of all three unions of Apollo Tyres were arrested one by one under PASA. It appears from the facts that Apollo Tyres Ltd and the State Machinery colluded to terrorise workers by misusing the PASA.

Supreme Court Remarks about the Police Authority

Let me inform the Commission of the Supreme Court of India’s remarks about the police force, which is looking for indiscriminate power.

The Supreme Court in its recent interim order dated 22nd September 2006 in Writ Petition (Civil) No. 310[10] of 1996 observed:

“... 4. In its first report, the Commission (National Police Commission) first dealt with the modalities for inquiry into complaints of police misconduct in a manner which will carry credibility and satisfaction to the public regarding their fairness and impartiality and rectification of serious

deficiencies which militate against their functioning efficiently to public satisfaction and advised the Government for expeditious examination of recommendations for immediate implementation. The Commission observed that increasing crime, rising population, growing pressure of living accommodation, particularly, in urban areas, violent outbursts in the wake of demonstrations and agitations arising from labour disputes, the agrarian unrest, problems and difficulties of students, political activities including the cult of extremists, enforcement of economic and social legislation etc. have all added new dimensions to police tasks in the country and tended to bring the police in confrontation with the public much more frequently than ever before. The basic and fundamental problem regarding police taken note of was as to how to make them functional as an efficient and impartial law enforcement agency fully motivated and guided by the objectives of service to the public at large, upholding the constitutional rights and liberty of the people. Various recommendations were made.

In the second report, it was noticed that the crux of the police reform is to secure professional independence for the police to function truly and efficiently as an impartial agent of the law of the land and, at the same time, to enable the Government to oversee the police performance to ensure its conformity to the law. A supervisory mechanism without scope for illegal, irregular, or mala fide interference with police functions has to be devised. It was earnestly hoped that the Government would examine and publish the report expeditiously so that the process for implementation of various recommendations made therein could start right away. The report, inter alia, noticed the phenomenon of frequent and indiscriminate transfers ordered on political considerations as also other unhealthy influences and pressures brought to bear on police and, inter alia, recommended for the Chief of Police in a State, statutory tenure of office by including it in a specific provision in the Police Act itself and also recommended the preparation of a panel of IPS officers for posting as Chiefs of Police in States. The report also recommended the constitution of Statutory Commission in each State the function of which shall include laying down broad policy guidelines and directions for the performance of preventive task and service oriented functions by the police and also functioning as a forum of appeal for disposing of representations from any Police Officer of the rank of Superintendent of Police and above, regarding his being subjected to illegal or irregular orders in the performance of his duties.

With the 8th and final report, certain basic reforms for the effective functioning of the police to enable it to promote the dynamic role of law and to render impartial service to the people were recommended and a draft new Police Act incorporating the recommendations was annexed as an appendix.

5. When the recommendations of National Police Commission were not implemented, for whatever reasons or compulsions, and they met the same fate as the recommendations of many other Commissions, this petition under Article 32 of the Constitution of India was filed about 10 years back, inter alia, praying for issue of directions to

Government of India to frame a new Police Act on the lines of the model Act drafted by the Commission in order to ensure that the police is made accountable essentially and primarily to the law of the land and the people. The first writ petitioner is known for his outstanding contribution as a Police Officer and in recognition of his outstanding contribution, he was awarded the "Padma Shri" in 1991. He is a retired officer of Indian Police Service and served in various States for three and a half decades. He was Director General of Police of Assam and Uttar Pradesh besides the Border Security Force. The second petitioner also held various high positions in police. The third petitioner-Common cause is an organization which has brought before this Court and High Courts various issues of public interest. The first two petitioners have personal knowledge of the working of the police and also problems of the people. It has been averred in the petition that the violation of fundamental and human rights of the citizens are generally in the nature of non-enforcement and discriminatory application of the laws so that those having clout are not held accountable even for blatant violations of laws and, in any case, not brought to justice for the direct violations of the rights of citizens in the form of unauthorized detentions, torture, harassment, fabrication of evidence, malicious prosecutions etc. The petition sets out certain glaring examples of police inaction. According to the petitioners, the present distortions and aberrations in the functioning of the police have their roots in the Police Act of 1861, structure, and organization of police having basically remained unchanged all these years.

6. The petition sets out the historical background giving reasons why the police functioning have caused so much disenchantment and dissatisfaction. It also sets out recommendations of various Committees which were never implemented. Since the misuse and abuse of police has reduced it to the status of a mere tool in the hands of unscrupulous masters and in the process, it has caused serious violations of the rights of the people, it is contended that there is immediate need to re-define the scope and functions of police, and provide for its accountability to the law of the land, and implement the core recommendations of the National Police Commission. The petition refers to a research paper 'Political and Administrative Manipulation of the Police' published in 1979 by Bureau of Police Research and Development, warning that excessive control of the political executive and its principal advisers over the police has the inherent danger of making the police a tool for subverting the process of law, promoting the growth of authoritarianism, and shaking the very foundations of democracy.

The commitment, devotion, and accountability of the police have to be only to the Rule of Law. The supervision and control has to be such that it ensures that the police serve the people without any regard, whatsoever, to the status and position of any person while investigating a crime or taking preventive measures. Its approach has to be service oriented; its role has to be defined so that in appropriate cases, where on account of acts of omission and commission of police, the Rule of Law becomes a casualty, the guilty Police Officers

are brought to book and appropriate action taken without any delay.

7. The petitioners seek that Union of India be directed to re-define the role and functions of the police and frame a new Police Act on the lines of the model Act drafted by the National Police Commission in order to ensure that the police is made accountable essentially and primarily to the law of the land and the people. Directions are also sought against the Union of India and State Governments to constitute various Commissions and Boards laying down the policies and ensuring that police perform their duties and functions free from any pressure and also for separation of investigation work from that of law and order. The notice of the petition has also been served on State Governments and Union Territories. We have heard Mr. Prashant Bhushan for the petitioners, Mr. G. E. Vahanvati, learned Solicitor General for the Union of India, Ms. Indu Malhotra for the National Human Rights Commission and Ms. Swati Mehta for the Common Welfare Initiatives. For most of the State Governments/Union Territories, oral submissions were not made. None of the State Governments/Union Territories urged that any of the suggestion put forth by the petitioners and Solicitor General of India may not be accepted.

Besides the report submitted to the Government of India by National Police Commission (1977-81), various other high powered Committees and Commissions have examined the issue of police reforms, viz. (i) National Human Rights Commission (ii) Law Commission (iii) Ribeiro Committee (iv) Padmanabhaiah Committee and (v) Malimath Committee on Reforms of Criminal Justice System.

8. In addition to above, the Government of India in terms of Office Memorandum dated 20th September, 2005 constituted a Committee comprising Shri Soli Sorabjee, former Attorney General and five others to draft a new Police Act in view of the changing role of police due to various socio-economic and political changes which have taken place in the country and the challenges posed by modern day global terrorism, extremism, rapid urbanization as well as fast evolving aspirations of a modern democratic society. The Sorabjee Committee has prepared a draft outline for a new Police Act (9th September 2006). About one decade back, viz. on 3rd August, 1997 a letter was sent by a Union Home Minister to the State Governments revealing a distressing situation and expressing the view that if the Rule of Law has to prevail, it must be cured. Despite strong expression of opinions by various Commissions, Committees and even a Home Minister of the country, the position has not improved as these opinions have remained only on paper, without any action. In fact, position has deteriorated further. The National Human Rights Commission in its report dated 31st May 2002, inter alia, noted that:

Police Reform

28(i) The Commission drew attention in its 1st April 2002 proceedings to the need to act decisively on the deeper question of Police Reform, on which recommendations of the National Police Commission (NPC) and of the National Human Rights Commission have been pending despite efforts to have them acted upon. The Commission added

that recent event in Gujarat and, indeed, in other States of the country, underlined the need to proceed without delay to implement the reforms that have already been recommended in order to preserve the integrity of the investigating process and to insulate it from 'extraneous influences.

9. In the above noted letter dated 3rd April, 1997 sent to all the State Governments, the Home Minister while echoing the overall popular perception that there has been a general fall in the performance of the police as also a deterioration in the policing system as a whole in the country, expressed that time had come to rise above limited perceptions to bring about some drastic changes in the shape of reforms and restructuring of the police before the country is overtaken by unhealthy developments. It was expressed that the popular perception all over the country appears to be that many of the deficiencies in the functioning of the police had arisen largely due to an overdose of unhealthy and petty political interference at various levels starting from transfer and posting of policemen of different ranks, misuse of police for partisan purposes and political patronage quite often extended to corrupt police personnel. The Union Home Minister expressed the view that rising above narrow and partisan considerations, it is of great national importance to insulate the police from the growing tendency of partisan or political interference in the discharge of its lawful functions of prevention and control of crime including investigation of cases and maintenance of public order.

Besides the Home Minister, all the Commissions and Committees above noted, have broadly come to the same conclusion on the issue of urgent need for police reforms.

There is convergence of views on the need to have (a) State Security Commission at State level; (b) transparent procedure for the appointment of Police Chief and the desirability of giving him a minimum fixed tenure; (c) separation of investigation work from law and order; and (d) a new Police Act which should reflect the democratic aspirations of the people. It has been contended that a statutory State Security Commission with its recommendations binding on the Government should have been established long before. The apprehension expressed is that any Commission without giving its report binding effect would be ineffective.

10. More than 25 years back i.e. in August 1979, the Police Commission Report recommended that the investigation task should be beyond any kind of intervention by the executive or non-executive. For separation of investigation work from law and order, even the Law Commission of India in its 154th Report had recommended such separation to ensure speedier investigation, better expertise and improved rapport with the people without of-course any watertight compartmentalization in view of both functions being closely inter-related at the ground level. The Sorabjee Committee has also recommended establishment of a State Bureau of Criminal Investigation by the State Governments under the charge of a Director who shall report to the Director General of Police. In most of the reports, for appointment and posting, constitution of a Police Establishment Board has been recommended comprising of the Director General of Police of the State and four other senior officers. It has been further

recommended that there should be a Public Complaints Authority at district level to examine the complaints from the public on police excesses, arbitrary arrests and detentions, false implications in criminal cases, custodial violence etc. and for making necessary recommendations.

Undoubtedly and undisputedly, the Commission did commendable work and after in depth study, made very useful recommendations. After waiting for nearly 15 years, this petition was filed. More than ten years have elapsed since this petition was filed. Even during this period, on more or less similar lines, recommendations for police reforms have been made by other high-powered committees as above noticed. The Sorabjee Committee has also prepared a draft report. We have no doubt, that the said Committee would also make very useful recommendations and come out with a model new Police Act for consideration of the Central and the State Governments. We have also no doubt that Sorabjee Committee Report and the new Act will receive due attention of the Central Government which may recommend to the State Governments to consider passing of State Acts on the suggested lines. We expect that the State Governments would give it due consideration and would pass suitable legislations on recommended lines, the police being a State subject under the Constitution of India. The question, however, is whether this Court should further wait for Governments to take suitable steps for police reforms.

The answer has to be in the negative.

11. Having regard to (i) the gravity of the problem; (ii) the urgent need for preservation and strengthening of Rule of Law; (iii) pendency of even this petition for last over ten years; (iv) the fact that various Commissions and Committees have made recommendations on similar lines for introducing reforms in the police set-up in the country; and (v) total uncertainty as to when police reforms would be introduced, we think that there cannot be any further wait, and the stage has come for issue of appropriate directions for immediate compliance so as to be operative till such time a new model Police Act is prepared by the Central Government and/or the State Governments pass the requisite legislations. It may further be noted that the quality of Criminal Justice System in the country, to a large extent, depends upon the working of the police force. Thus, having regard to the larger public interest, it is absolutely necessary to issue the requisite directions. Nearly ten years back, in *Vineet Narain and Ors. v. Union of India and Anr.* SC/0827/1998, this Court noticed the urgent need for the State Governments to set up the requisite mechanism and directed the Central Government to pursue the matter of police reforms with the State Governments and ensure the setting up of a mechanism for selection/appointment, tenure, transfer and posting of not merely the Chief of the State Police but also all police officers of the rank of Superintendents of Police and above. The Court expressed its shock that in some States the tenure of a Superintendent of Police is for a few months and transfers are made for whimsical reasons which has not only demoralizing effect on the police force but is also alien to the envisaged constitutional machinery. It was observed that apart from demoralizing the police force, it has also the

adverse effect of politicizing the personnel and, therefore, it is essential that prompt measures are taken by the Central Government.

12. The Court then observed that no action within the constitutional scheme found necessary to remedy the situation is too stringent in these circumstances. More than four years have also lapsed since the report above noted was submitted by the National Human Rights commission to the Government of India. The preparation of a model Police Act by the Central Government and enactment of new Police Acts by State Governments providing therein for the composition of State Security Commission are things, we can only hope for the present. Similarly, we can only express our hope that all State Governments would rise to the occasion and enact a new Police Act wholly insulating the police from any pressure whatsoever thereby placing in position an important measure for securing the rights of the citizens under the Constitution for the Rule of Law, treating everyone equal and being partisan to none, which will also help in securing an efficient and better criminal justice delivery system. It is not possible or proper to leave this matter only with an expression of this hope and to await developments further. It is essential to lay down guidelines to be operative till the new legislation is enacted by the State Governments.”

The Supreme Court in its interim order dated 18th December 1996[11] in Writ Petition (Criminal) No. 539 of 1986, with Writ Petition. (Criminal) No. 592 of 1987 observed:

“... 18. However, in spite of the constitutional and statutory provisions aimed at safeguarding the personal liberty and life of a citizen, growing incidents of torture and deaths in police custody has been a disturbing factor. Experience shows that worst violations of human rights take place during the course of investigation, when the police with a view to secure evidence or confession often resorts to third degree methods including torture and adopts techniques of screening arrest by either not recording the arrest or describing the deprivation of liberty merely as a prolonged interrogation. A reading of the morning newspaper almost everyday carrying reports of dehumanising torture, assault, rape and death in custody of police or other governmental agencies is indeed depressing. The increasing incidence of torture and death in custody has assumed such alarming proportions that it is affecting the credibility of the Rule of Law and the administration of criminal justice system. The community rightly feels perturbed. Society’s cry for justice becomes louder.

19. The Third Report of the National Police Commission of India expressed its deep concern with custodial violence and lock-up deaths. It appreciated the demoralising effect which custodial torture was creating on the society as a whole. It made some very useful suggestions:

“... An arrest during the investigation of a cognizable case may be considered justified in one or other of the following circumstances :—

- (i) The case involves a grave offence like murder, dacoity, robbery, rape etc., and it is necessary to arrest the accused and bring his movements under restraint to

infuse confidence among the terror-stricken victims.

- (ii) The accused is likely to abscond and evade the processes of law.
- (iii) The accused is given to violent behavior and is likely to commit further offences unless his movement are brought under restraint.
- (iv) The accused is a habitual offender and unless kept in custody he is likely to commit similar offences again. It would be desirable to insist through departmental instructions that a police officer making an arrest should also record in the case diary the reasons for making the arrest, thereby clarifying his conformity to the specified guidelines.....

The recommendations of the Police Commission (supra) reflect the constitutional concomitants of the fundamental right to personal liberty and freedom. These recommendations, however, have not acquired any statutory status so far....

... 29. Police is, no doubt, under a legal duty and has legitimate right to arrest a criminal and to interrogate him during the investigation of an offence but it must be remembered that the law does not permit use of third degree methods or torture of accused in custody during interrogation and investigation with a view to solve the crime. End cannot justify the means. The interrogation and investigation into a crime should be in true sense purposeful to make the investigation effective. By torturing a person and using third degree methods, the police would be accomplishing behind the closed doors what the demands of our legal order forbid. No society can permit it.

30. How do we check the abuse of police power? Transparency of action and accountability perhaps are two possible safeguards which this Court must insist upon.

Attention is also required to be paid to properly develop work culture, training, and orientation of the police force consistent with basic human values. Training methodology of the police needs restructuring. The force needs to be infused with basic human values and made sensitive to the constitutional ethos. Efforts must be made to change the attitude and approach of the police personnel handling investigations so that they do not sacrifice basic human values during interrogation and do not resort to questionable forms of interrogation. With a view to bring in transparency, the presence of the counsel of the arrestee at some point of time during the interrogation may deter the police from using third degrees methods during interrogation....

35. In addition to the statutory and constitutional requirements to which we have made a reference, we are of the view that it would be useful and effective to structure appropriate machinery for contemporaneous recording and notification of all cases of arrest and detention to bring in transparency and accountability. It is desirable that the officer arresting a person should prepare a memo of his arrest at the time of arrest in the presence of at least one witness who may be a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. The date and time of arrest shall be recorded in the

memo which must also be counter signed by the arrestee.

36. We, therefore, consider it appropriate to issue the following requirements to be followed in all cases of arrest or detention (ill legal provisions are made in that behalf as preventive measures :

- (1) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible, and clear identification and nametags with their designations. The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.
- (2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made, it shall also be countersigned by the arrestee and shall contain the time and date of arrest.
- (3) A person who has been arrested or detained and is being held in custody in a police station or interrogation centre or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.
- (4) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organisation in the District and the police station of the area concerned telegraphically within a period of 8 to 12 hours after the arrest.
- (5) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.
- (6) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed; of the arrest and the names and particulars of the police officials in whose custody the arrestee is,
- (7) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor-injuries, if any, present on his/her body, must be recorded at that time. The "Inspection Memo" must be signed both by the arrestee and the police officer effecting the arrest and its copy provided to the arrestee.
- (8) The arrestee should be subjected to medical examination by a trained doctor every 48 hours during his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory, Director, Health Services should prepare such a panel for all Tehsils and Districts as well.
- (9) Copies of all the documents including the memo of

arrest, referred to above, should be sent to the Magistrate for his record.

- (10) The arrestee may be permitted to meet his lawyer during interrogation, though not throughout the interrogation.
- (11) A police control room should be provided at all district and State headquarters, where information regarding the arrest and the place of custody of the arrestee shall be communicated by the: officer causing the arrest, within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous police, board.

The story of TADA, POTA, and PASA illustrates how these and other such laws are tools of state terrorism. I would also like mention that we should demand in all countries the new law "The Prevention of Atrocities and State-Terrorism Act, (PASTA) 2007 to counter State-Terrorism.

It is an unfortunate reality that the debate around "fight against terrorism" has been overshadowed by rhetoric and not remained genuine [12]. Why would the Government want POTA or WOTA (the War of Terrorism Act)? The support for POTA is centered on its two core provisions. One section that makes confessions of the accused before a police officer admissible as evidence, and the second is the harsh provision regarding bail.

Even under British rule, confessions recorded by a police officer have been barred as inadmissible on the grounds that torture by the police is prevalent, routine, and out of control, thus rendering any confession doubtful.

Police and Armed forces when operating under laws like POTA or The Armed Forces (Special Powers) Acts take action with the certainty that they are immune from the reach of the law, making them more violent and atrocious. In the name of fight against terrorism, torture by the police has spread to every corner of the country. In fact, the fight against terrorism is a far greater danger to the public and the Constitutional fabric of the country than terrorism itself. People are brutalized, often without any reason, and frequently for minor crimes. If we accept laws like POTA or the newly planned replacement act known as WOTA (the War of Terrorism Act), then we will next have to contend with a demand for limitless executive power without any accountability to law or nation.

The threat of terrorism is manipulated by the police and exaggerated in the media, and has thus made the judiciary concede to the police force and ignore naked excess.

Let me make it very clear that history tells us that anti-terrorist laws like TADA or POTA have neither

prevented the occurrence of terrorist acts nor acted as deterrents to the violence. Innocent people, rather than terrorists, have been the victims.

The phrase “war on terrorism” creates a wrong impression among some people that there is a solution to terrorism and that is mainly military or use of so-called law like “POTA”.

But in fact, we need to identify the real cause of terrorism, encourage concern and cooperation from the common people, and not fight back with state violence. That is why I strongly feel that you cannot fight terrorism without real popular support. You can only get people’s genuine support if the government addresses the basic problems of the working masses and really represents their viewpoint in the parliament or state assembly.

Even after all this, the state is adamant to enjoy its extra-constitutional power in the name of countering “terrorism”. In 2004, the Government of Gujarat passed “The Gujarat Control of Organized Crime Bill” which was originally sent for presidential approval on March 26, 2003 [13]. The president returned with the suggestion of what are now Sections 14, 15 and 16, which gave blanket powers to district collectors and district superintendents of police to intercept and record telephonic and other means of communications, violating the privacy of citizen. The Gujarat Assembly passed the Gujarat Control of Organized Crime Bill (GUJCOC), on June 2, 2004, on the lines of The Maharashtra Prevention of Communal, Anti-Social and other Dangerous Activities Act 1980 (MCOCA), which has been in operation in Maharashtra since February 1999 and Delhi since January 2002. The GUJCOC, it may be noted, has provisions allied with POTA that would allow the holding of detention without trial, subject to a review committee’s decision on the application of the act. The first MCOCA case of Farooq Abdul Gafoor Chifa in Mumbai became an example, not of efficiency and precision, but of misuse and the familiar casual approach of investigating agencies associated earlier with TADA, and later with POTA.

It is expected that the state is a legal entity which is duty-bound to protect its citizens to ensure that it acts and behaves within the purview of the Constitution. Otherwise, the very foundation of a democratic polity is at stake. However, if we go by the present Government’s behaviour during the Gujarat carnage 2002 then we are left with no choice but to say that it was the terrorism of the state, which still continues in one form or other form. I have a strong feeling that in the name of countering “terrorism” the state is becoming a grossly powerful terrorist itself through

self-empowerment of indiscriminate authority. Who are the terrorists? If we follow the logic of the state’s anti-terrorism legislation, the terrorist is you and me, those who are harassed by police officials, political party’s leaders, communal organizations, mafias, and Government’s top officials. In a state like Gujarat, the “Terrorism of the State” is one of the main issues and we are trying to fight. Private individuals have little power compared to the state. The laws discussed above transforms the state into an institution of crime that aims to eternally perpetuate itself. Therefore, we are generally concerned about the acts of these governments and their officials who shelter themselves from the purview of the law.

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- [7] Letter dated 29th July 2004 of People’s Union for Civil Liberties, Gujarat.
- [8] Writ Petition (Criminal) No. 539 of 1986, with Writ Petition. (Criminal) No. 592 of 1987 of D K Basu v State of West Bengal; Ashok K Johri v State of Uttar Pradesh, India, Supreme Court, 18 December 1996, AIR 1997 SC 610.
- [9] Interview of Naresh Patel, dated 10th December 2005 by Rohit Prajapati.
- [10] Writ Petition (Civil) No. 310 of 1996, interim order dated 22nd September 2006 in case of Prakash Singh and Ors. Vs. Union of India (UOI) and Ors.
- [11] Writ Petition (Criminal) No. 539 of 1986, with Writ Petition. (Criminal) No. 592 of 1987 of D K Basu v State of West Bengal; Ashok K Johri v State of Uttar Pradesh, India, Supreme Court, 18 December 1996, AIR 1997 SC 610.
- [12] “Identify real cause of terrorism” by Rohit Prajapati, *Indian Express*, Letter to the Editor column, 14th October 2006.
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Preliminary Comments on the Chhattisgarh Special Public Security Act 2005

The Commonwealth Human Rights Initiative (CHRI), expresses its deep reservations to the Chhattisgarh Special Public Security Act 2005. After close analysis, we believe that it may become a potential instrument to throttle the right to free speech, legitimate dissent, and trample the fundamental rights enshrined in Articles 14, 19 and 21 of the Constitution.

Features of the Act also imperil the existence of civil society organisations, which are an integral part of Chhattisgarh's democratic life and whose existence is vital to development and peace-building in the state.

We are aware that the State and the society are facing grave problems of violence and the government has a duty to maintain public safety and security. However, the response to insurgency must be conditioned by the imperative to uphold constitutional rights.

In *Maneka Gandhi's* case (1978 SCC 248) the Supreme Court emphasised that the procedure affecting the rights of any person must be "reasonable, fair and just." Indeed a fine balance must be struck between the need for security and the protection of liberty.

However, in seeking to maintain public order, the Act intrudes into the realm of personal liberty and democratic freedoms. We illustrate below, ways in which the Act breaches the spirit of the Constitution of India:

Draconian punishment for activities declared "unlawful"

Draconian punishment for up to seven years is provided for committing an "unlawful" activity, the definition of which is imprecise and loose to encompass everyday pursuits such as committing an act, uttering words, writing or making visual representations that may "create risk or danger" for public order, peace and public tranquility or create an impediment in the administration of law or institutions.

The present definition of "unlawful activities" imperils free exercise of fundamental freedoms set out under Article 19 of the Constitution and illustratively it appears to restrict the right to hold public meetings; organise public protests; and oppose government policies through the media.

Wide and unbridled governmental powers to declare organisations unlawful

Any organisation can be declared "unlawful" by the state government on the grounds that it is involved in committing any "unlawful activity" or if its objective is to encourage, assist or induce the same through any means. This may be done by issuing a notification that specifies the reasons for doing so. However, the stipulation to disclose reasons may be dispensed with in "public interest". This clearly violates the principle that reasons must be given by the government before taking any action that affects citizen's rights. Once an organisation is declared unlawful, its funds and premises can be seized. The existence of such wide and unbridled powers represents a serious threat to civil society from expressing legitimate dissent against government policies.

Punishment for mere membership or participation

The Act prescribes punishment with imprisonment for up to three years merely for being a member of an organisation that has been declared "unlawful". A person is liable to punishment even if s/he were a member, participated in its meetings or received contributions on its behalf before the organisation was declared unlawful. This breaches the well established principle of non-retroactivity of laws, which holds that a person cannot be punished for an act that was not illegal at the time it was committed, overlooking Article 21 of the Constitution that guarantees that no one shall be deprived of life or liberty except according to the procedure established by law.

Punishment for involuntary contributors, protectors

The Act prescribes punishment with up to two years imprisonment for making a contribution to an unlawful organisation or for protecting a member of an unlawful organisation. This is a real danger that blanket application of this provision may result in undue harassment of persons coerced by insurgent groups to provide sustenance and shelter to them.

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People Call Upon GAIN to Leave India and Government of India to Regulate PPPs

We the undersigned

Aware that infant and young child feeding and nutrition is a crucial period of child development and nutrition inputs are key to their survival, health and later developments;

Concerned that there is increasing interference of baby food/children's food lobby on policy and implementation level for infant and young child feeding and nutrition;

Believe that such interference is conflicting with public interest;

Highly disturbed on the setting up of an India Alliance led by GAIN, the Global alliance for Improved nutrition, which is a business interest NGO and its interests are creating markets for its partners like Unilever, Cargill, Danone, and Wockhardt.

Noting that Government of India has failed to initiate public action in this area and now moving towards public private partnerships with MNCs to tackle the problem of child malnutrition;

Appreciating the fact that the Ministry of HRD has not succumbed to the pressures of the Biscuit Manufacturers lobby and resisted the attempts to replace the hot, cooked mid-day meal with a packet of biscuits;

Concerned that food supplies is a major problem as well as price rise which pushes people to poverty;

Believe that MNCs would be keen to market their baby foods for infants and young children, which will perpetuate poverty;

Seriously concerned that GAIN under Infant and child nutrition intends "to find new & sustained market for fortified food" and for "promoting market driven solutions"

Recognise that market solutions have failed where health and nutrition are concerned, specially where majority are poor, without purchasing power or purchasing with indebtedness and they can't resist aggressively marketed products;

Respect the Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992 as amended in 2003, which prohibits promotion of all infant milk substitutes and baby foods for children below 2 years;

Protest against such action and partnerships, which

cater to profits and markets;

Call upon Government of India, not to allow private manufacturers and multinationals to take over and compromise the nutrition of India's infants and children;

Call upon private players in nutrition to leave India's children alone and submit our concerns explained in the document 'Questioning Market Solutions for Child Malnutrition'

Signed by Civil Society organisations and their representatives.

Questioning Market Solutions for Child Malnutrition

- GAIN comes with a preset mind aiming to build business for its partners. Proposed GAIN Forum in May 2007 lays down its intent. "...The demonstrated benefits of GAIN's new business models will attract some of its leading partners from the EU, European Governments, leading companies such as Cargill, Unilever and Danone, and representatives of major international organisations."
- Unlike traditional aid campaigns GAIN looks to build new markets for nutritious foods."
- The new alliance is seen as "...champions for infant and young child feeding related issues in the country..." And they will advocate for "IYCF friendly policy/ regulatory environment.... increasing access to affordable complementary foods/ complementary food supplements in accordance with the regulations in the country..."
- Yakult Danone is a joint venture entrant to the probiotic foods market in India, they have already begun supporting pediatricians.
- In 2007, UNILEVER in partnership with UNICEF "... piloted an education programme for schoolchildren in Uganda highlighting the importance of hand-washing with soap, underpinned by our soap brand Lifebuoy. Coupled with this, the Unilever Marketing Academy helped develop health promotion campaigns in Kenya, Tanzania and Uganda. During the year the brand grew by 9%."
- Wockhardt, listed as one of the partners and who has recently acquired 'Farex' brand from DUMEX (stated reason to give up is prohibition of promotion), has been recently found to be

illegally promoting the 'Farex Infant Formula' through gifting 'slip pads' to doctors. Thus violating the Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992 as amended in 2003.

- This raises the question of who will decide what Indian children should eat- health and nutrition experts from India, or corporate driven bodies from abroad.
- Who should decide? Indian mouthpieces of the business interest NGOs (BINGOs) or public interest NGOs (PINGOs) and the GOs.
- Why such special focus on fortified complementary foods? Issue is not fortification but market based solution.
- Who is interested in scaling business for Cargill, Danone, Unilever and Wockhardt? Who wants to sell the little babies of India to MNCs?
- Where are the guidelines for private sector and what is a private sector in the Partnerships? These are open questions to all, including the Government of India

Notes on Child Malnutrition

- Child malnutrition in India is essentially a problem of under 24 months so should be dealt entirely during or before that. It is so much so that it doubles up during first six months, reflecting undernutrition of mothers and infants. Further after six months it peaks by 2 years during the time it is due both to lack of food, that is hunger, and inadequate breastfeeding, with lots of other liquids or liquid like foods given to babies.
- Child malnutrition is associated with majority of infant deaths. Most deaths of children under five occur during first year, and 2/3rd of those during first month, due to newborn infections, diarrhoea and pneumonia.

- In India , more than 1.4 million infants die each year, and about 36 million children under three are under nourished and do not develop to their full potential .
- A cohort of more than 10 million under weights is added every year. These children continue to suffer the long term impact and pushed to severe child malnutrition due to hunger later in life.
 - Assuming that 27 million babies are born in India 75% women i.e. more than 20 million are NOT beginning breastfeeding within an hour. 72% i.e. close to 19.5 million women are NOT exclusively breastfeeding for six months and 48% i.e. close to 12 million are NOT giving solid/ semisolid foods for complementary feeding to babies by 6-9 months.
- According to the most updated scientific evidence one to one or group counselling/ education about breastfeeding and complementary feeding is the way to enhance these practices and after six months solid food supplements are required for food insecure populations.
- Universal coverage of starting breastfeeding within one hour can avert 22% newborn deaths. Universal coverage of exclusive breastfeeding can cut down diarrhea deaths by 4.6 times, and pneumonia deaths by 2.5 times.
- As a public health recommendation WHO, UNICEF, Government of India recommend exclusive breastfeeding for the first six months of life and after six months, mothers milk plus complementary feeding using semisolid/solid family foods is recommended.
- The Infant Milk Substitutes Feeding Bottles, and Infant Foods (Regulation of Production, Supply and Distribution) Act 1992 as amended in 2003, bans promotion of all kinds of foods marketed for babies under the age 2.

People Begin 'Occupation' and Direct Monitoring of CHC Pati, Barwani

Something new is unfolding since 19th of May, 2008 in the quiet taluka town of Pati in District Barwani of Madhya Pradesh, over the last three days. Between 50 to 200 people, many of them Village health committee (VHC) members or ASHAs, have been camping by turns in the premises of the community health centre. VHC members in small groups have been directly observing and monitoring activities in various departments of the CHC, to ensure adequate services. A 'People's health information centre' has been set up in a large tent in the compound of the CHC where

doctors and social workers from SATHI-CEHAT (the block nodal NGO for community monitoring) and ASHAs are giving information to patients approaching the CHC about the services and facilities they should be provided as a right. After completing their consultation, patients report back to at the information centre where doctors see their prescriptions and advise them about the adequacy of the investigation and treatment - then some of them go back to the CHC demanding revised treatment or additional necessary services. Gross deficiencies in services are announced

on the microphone, so that the CHC staff can hear it and make amends. A few VHC members are posted at the nearby medical store to see if any patient from the CHC is being sent to purchase essential medicines. Over 60 pictorial posters have been displayed on all sides of the tent, explaining issues like Peoples health rights and mandatory services at various levels, Rational approach to injection and saline infusions and Women's health issues.

Why are people resorting to this 'direct monitoring' of Health services in such large numbers, since the last three days and continuing even now?

It needs to be noted that Public Health services for the people in adivasi villages of the remote Pati block have generally been grossly deficient. None of the three PHCs in Pati block have even a single doctor since several years. In the CHC, generally most patients have been required to purchase the medicines from medical stores, the ambulance parked in the CHC has been almost never been given to patients requiring emergency transport, doctors in the CHC have been absenting themselves from the OPD from time to time while they call patients for private consultation at their residence, a single needle was routinely being used to inject upto 10 patients, and staff have been reported to charge money from patients illegally.

While many of these problems are common to rural public health services across the country, the response of the people in the villages of Pati has been distinct. Since Pati block and Barwani district have been taken up in the first phase of community monitoring of health services under NRHM, in the past few months there have been regular discussions on health rights in villages, with active people coming forward to form VHCs. The various problems with health services were identified in meetings of these VHCs. Then members of VHCs from different villages divided up the days of the week, and began visiting the CHC turn by turn, talking to patients and directly observing the key problems in the CHC on a regular basis.

Based on this context the Peoples organisation 'Jagrit Adivasi Dalit Sangathan' involved in supporting community monitoring of health services organised a demonstration of around 1500 people at CHC, Pati on 17th April, 2008. People demanded that all the deficiencies in health services be corrected, and the Block Medical Officer promised that ambulance facilities would henceforth be made available to the needy patients. However even after this, there were shocking cases of denial of health care including the

tragic case of Reshmi Bai from village Ambi. She was brought from her distant village to the CHC on the afternoon of 2nd May 08 with severe anemia and in a critical condition - yet there was significant delay in giving her medical attention, and despite her having a 'Deendayal card' (entitling the family to free services) the BMO denied her an ambulance to transport her to the district hospital in Barwani. Reshmi Bai died the same evening without receiving any medical attention. After this incident another mass demonstration was organised on 8th May, 08 where people demanded an explanation of this blatant denial of health service. While these mass actions had built pressure, substantial improvement in the CHC was not apparent so the VHC members, supported by the People's organisation and the block nodal NGO, have now decided to take community monitoring one step forward, by camping in the CHC and organising direct collective monitoring of health services until some definite improvements are achieved.

The continuous presence of large numbers of VHC members and ASHAs and their 'direct collective monitoring' of all services in the CHC over the last three days (19 to 21 May) has led to some, at least temporary, improvements. Yesterday (21 May) VHC members have reported that all patients are now being given medicines from the CHC's own supply with not a single patient being sent to the store, the ambulance is now being provided to patients requiring transport to the district hospital, each patient is being injected with a separate needle and syringe, and the doctors are available in the OPD throughout working hours. However obviously many other deficiencies and systemic problems remain, and the people of Pati block including VHC members and ASHAs are still continuing their innovative 'direct monitoring' of health services as an intensive and innovative form of community monitoring. Today (22 May, 2008) a dialogue is planned by inviting the District health authorities to Pati, asking them to commit about how existing improvements will be maintained and how other outstanding systemic issues will be addressed.

The public health system is supposed to treat ordinary people of their illnesses. Yet when the public health system is ill itself, ordinary people may come forward to 'treat' it - as being proved by the initiative of the people of Pati. Such initiatives need support from all of us.

SATHI-CEHAT members presently at Barwani (Abhay, Dhananjay, Nitin, Sant, Makarand, Smitha, Ajay), May 22, 2008

Dr. P.K. Sethi: 1927-2008*- M.R. Rajagopalan¹*

Beginning from the third quarter of the 20th Century medical profession and medical services have become commercialized. Words like medical tourism super specialty hospitals are becoming current. Such facilities are beyond the reach of common man especially from the poorer sections. In such a situation, Dr. Sethi not merely championed the cause of the common man but his inventions, viz., the Jaipur Foot for the amputees and his calipers for the polio affected children, were made available for the weaker sections at prices affordable by them. Not only that, his appliances were far superior to, and more versatile than, those available in the market for the well to do people at 10 to 50 times the price!

Dr. Pramod Karan Sethi, known as Dr. P.K. Sethi, was born November 28, 1927 in Varanasi. Dr. Sethi passed away in the early hours of 6th January, 2008. He is survived by his wife, Sulochna; three daughters, Lata, Nita and Amrita; and a son, Harsh. His father, Nihal Karan Sethi, was a Professor of Physics at the Banaras Hindu University from its inception and was a scholar for some time with Sir C.V.Raman, the Nobel Laureate in Physics. Since his father was transferred to Agra in 1930, Dr. Sethi received his education in Agra. He got his MBBS Degree from Sarojini Naidu Medical College in Agra in 1949 and received his Masters in Surgery from the same College in 1952. He received his FRCS from Edinburgh.

Upon his return to India he joined Sawai Man Singh (S.M.S.) Government Hospital and Medical College in Jaipur as a Lecturer. In 1958, the hospital instituted an Orthopaedic Department and Dr. Sethi was made its head.

There were no rehabilitative services at S.M.S. when Dr. Sethi began his work and he recognized the immediate need for physiotherapy. But the hospital had no apparatus and no money to provide it. There was a tradition by which grateful patients present gifts to doctors. Dr. Sethi ruled that doctors in his department could not accept money, insisting that only a gift of something useful to the hospital should be accepted. When patients tried to press money on him, Dr. Sethi asked for equipment for his new

physiotherapy section. As there were no sources of ready-made equipment, he requested and was given raw material components like wood and pipes. One patient donated the wages of a carpenter and Dr. Sethi himself set out to find craftsmen who could build parallel bars and similar paraphernalia.

Dr. Sethi also focused on changing the character of the occupational therapy practised at that time, which emphasized training patients in simple vocational skills such as weaving and knitting. He wanted to set up a workshop in which patients could use materials designed to improve motor and coordination skills while doing meaningful work. No space was available in the hospital, but the opportunity to establish a work area arose when the lease expired on a small tea shop on the hospital grounds. The shop had gained a somewhat disreputable reputation as a “hangout for shady characters from the town,” and the hospital administrator was eager to put the building to other use. He offered Dr. Sethi the space. Overnight Dr. Sethi set up his workshop in the teahouse and moved in his staff. When the lease holder protested about the new arrangement, Dr. Sethi pointed out that the shop was being used for treating patients: “How can you turn them out?” he asked.

Dr. Sethi was determined to use occupational therapy as a means of increasing a patient’s dexterity through participation in an engrossing activity; this led him to use nonconventional techniques and equipment. Pedal-operated saws gave patients the opportunity to exercise their legs while creating a decorative object. Dice and card games were used to encourage hand and mind coordination for stroke patients, and activities were designed to increase hand and finger dexterity for the partially paralyzed. As with the physiotherapy section, the organization of this section was a response to the recognition of specific needs, using the small staff and simple facilities available.

During this formative period as head of the Orthopedic Department of Sawai Man Singh Hospital, Dr. Sethi became increasingly concerned with the problems of providing appropriate and inexpensive appliances for polio patients and amputees. The nearest sources of rehabilitative devices were over a thousand miles away (in Bombay and Poona); only his wealthier patients

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could afford the trip to obtain them. Dr. Sethi began to look for a way to set up a workshop to create at least some of these appliances at the hospital.

Dr. Sethi noticed a male nurse, Mohammad Khan, who, while working in a room where plaster casts were made, showed an active interest in mechanical and technical matters. Khan came from a family of craftsmen; to test his skills, Dr. Sethi asked him to make splints and other simple aids. Recognizing Khan's potential, Dr. Sethi seized an opportunity to send him to the Bombay All-India Institute of Physical Medicine and Rehabilitation Workshop for a two-year training program in the construction of appliances for the handicapped. In six months, Khan returned, having learned everything the institute could teach him. Dr. Sethi thereupon set up a workshop for him in the old tea shop to which an affluent patient had added two extra rooms, making it possible for both Khan's shop and the occupational therapy workshop to be housed under one roof.

Khan's workshop became known as the Fabrication Unit and its first products were calipers (braces) for polio victims. Polio in India is a disease widespread among children; most Indians are exposed to it early in life and by the time they are adults, have either contracted it or become immune. Surgical intervention can straighten some of the deformities caused by polio, but a child needs a caliper to support a paralyzed limb to enable him to walk again. Calipers are fairly simple devices to make and the Fabrication Unit became proficient in their production.

Dr. Sethi's growing confidence in the unit's capabilities led him to consider the production of artificial limbs. The simplest limbs to reproduce were those for amputees whose legs had been taken off below the knee, so in 1965 the Fabrication Unit started making limbs based on Western models using the "Solid Ankle Cushioned Heel" (SACH) foot piece.

The SACH foot was designed to be worn with a shoe which disguised its artificiality and protected it. Its rockered sole provided ease for walking, but its rigid wooden keel - from ankle to instep - made it difficult for the wearer to walk over rough ground and impossible to squat or sit cross-legged. It was, however, a great improvement over the peg leg which medical wisdom had decreed was the prosthesis to be provided to the poor. "While it is true that a peg leg is simple and inexpensive," Dr. Sethi has written, "even the rural amputee of today would reject it on cosmetic grounds." Its appearance is a constant reminder of the maiming of the wearer. It was

the SACH foot, then, that the workshop made and which was fitted to Dr. Sethi's patients.

During the first two years that these limbs were being made Dr. Sethi became aware that the limbs were often discarded after their novelty wore off. Investigation proved that the limbs had been constructed and fitted properly, but that the wearers found them inappropriate to their needs. The shoe presented most of the problems. It was superfluous for Indians who customarily went barefoot in the fields, at home, at work and at places of worship. It was expensive and deteriorated rapidly when exposed to water or mud. In addition it severely limited postural flexibility.

Recognizing the defects of the prosthesis, Dr. Sethi drew up criteria for an ideal foot piece. He described his needs to the workmen in Khan's shop. The foot should not require a shoe, therefore, it must look like a bare foot. It should be waterproof and durable. It should be flexible enough to allow for ease of walking over uneven ground and for its wearer to squat and sit cross-legged. Finally, it should be made of inexpensive, readily available materials.

The first rubber foot produced, although beautifully natural in form, was heavy, stiff and the color of automobile tires. Dr. Sethi was so discouraged that he put the project aside for almost a year. Mulling it over in his mind, he decided to reduce the foot's weight by implanting the mechanism of the SACH foot piece into the mould, displacing some of the heavy rubber. The product was considerably lighter but no more useful for squatting or sitting cross-legged than the Western model.

The doctor and the craftsman produced modification after modification. Sections of the solid wooden keel of the SACH foot were successively removed until a large area at the back of the foot was vacated. The space was filled with glued layers of sponge rubber encased in a hard vulcanized rubber covering. The foot became even lighter and more versatile, but it was not completely adapted to squatting or sitting cross-legged. Finally, the SACH foot assembly was eliminated completely and different components were used.

The appearance of the foot was improved when an amputee's brother provided colored rubber from his factory and the foot could then be made in a choice of three shades - light, medium or dark brown - to correspond with the wearer's skin color. The first feet produced were all the same size but later different dies

were made. The solid unseparated rubber toes, which had a discouraging habit of getting knocked off during hard wear, were improved by hollowing them out and packing them with light sponge rubber. A slit could be made between the great and second toes to permit the amputee to wear a sandal.

Demystification of Technology

Making of a prosthesis (artificial limb) is generally taken to be a high technology. The product is high priced and the poor and lower middle class patients cannot afford it. By producing the Jaipur Foot in an improvised workshop in front of the patients, Dr. Sethi broke the myth of high-tech about the prosthesis. The product was not only affordable but was also versatile and superior to high-tech products then available in the market as we have stated at the beginning of this paper.

A Model that is Indian and Versatile: Till Jaipur Foot was introduced in 1970, only Western models of limb were available. This needed a western way of life – sitting on a chair – using a Western model toilet, etc. which hardly anybody in rural India or lower middle classes had. The new design developed by Dr. Sethi takes into account not only the functional demands of floor sitting and barefoot walking culture of the majority of our population but it also added new dimensions: a much more flexible foot piece, with more freedom of movements than is currently available in any prosthetic foot anywhere in the world. The fact that it has a cosmetic appeal of resembling a natural foot and is resistant to water as well as the rugged terrain of our countryside, is an additional bonus.

Help Resume Normal Life: With the Jaipur Foot, the patient should resume his/her old profession. This statement is made a reality often enough – a lorry driver

has taken to lorry driving, a mason is back to house construction, a policeman to his double march. This list is endless. Beneficiaries include Doctors, Lawyers, Office Managers, Clerks, Labourers, Traders, Army Men, Artisans, women, children, young and old – people from almost all walks of life.

I had the privilege of being associated with Dr. Sethi from the year 1988 till his death in 2008. The opportunity came to me when Dr. Kumble of the Department of Science and Technology (DST), Government of India, suggested to me that Gandhigram should start an Artificial Limb Research Centre for manufacturing and fitting of Jaipur Foot to the amputees under the guidance of Dr. Sethi. That took Dr. Kousalya Devi, then the Medical Superintendent of the Kasturba Hospital in Gandhigram (now she is the Managing Trustee since 1997), Mr. Michael a highly talented mechanic and me to Jaipur. With funds from DST, technical support and rubber materials specially developed for an improved version of the Jaipur Foot by Mr. P. Manthiram, Rubber Technologist and Mr. T.M. Vairaperumal, Engineer of the Sundaram Industries Rubber Factory (TVS), Madurai, the Artificial Limb Research Centre in Gandhigram started functioning. We have fitted Jaipur Foot to 2000 amputees during the past two decades. We are also sending foot pieces to Santokba Durlabhji Memorial Hospital cum Medical Research Institute, Jaipur where Dr. Sethi was in charge till his death, Christian Medical College Hospital, Vellore, Kasturba Hospital, Manipal and a few more Institutions. We have also exported foot pieces to Mozambique and Bangladesh.

I found Dr. Sethi to be a man of letters. He was very well read and would discuss about the newly published famous books. He had great interest in trees and

Leg up to Landmine Survivors

... Especially popular in war zones from El Salvador to Cambodia, where land-mine injuries hobble thousands, the foot can be constructed in just 45 minutes out of locally available materials, including rubber from tires and scrap aluminum.

In Afghanistan, spent artillery shell casings have been recycled as legs. They are distributed in war zones by the International Committee of the Red Cross, and also manufactured locally in many places.

... Despite the millions his invention helped to walk again, Sethi told the *British Medical Journal* that he felt disillusioned with the younger generation. "I have often advised our young doctors not to rush to make a lot of money," he said. "My main regret is that I have not been able to pass on my ideology to them."

- Stephen Miller, "P.K. Sethi, 80, Invented Prosthetic Foot", *New York Sun*, January 8, 2008; Quoted in Landmine Survivors Network, <http://www.landminesurvivors.org/news_article.php?id=840>.

flowering plants. During a few occasions when we were traveling by road he would tell me the name of trees – some times I too reciprocated since I have some interest!

He kept a couple of hours for reading every night, and before that held an open house for people to drop in (an eclectic lot!) and discuss everything from politics to the latest Nobel Prize winner in literature. He kept in touch with most doctors working with the poor or trying out innovative ways of providing healthcare. It is this wide range of friends and reading which gave him the broad critical outlook on health care in India. He would discuss and interweave the ideas and experiences of Ivan Illich, Lewis Thomas, Tara Shankar Bandopadhyay, Maurice King, A.K.N.Reddy, Ashis Nandy, Stephen Gould, Raj Arole, N.H.Antia, Zafrullah Chowdhury, Oliver Sachs, Richard Feynman, Rene Dubois, Hassan Fathy and so many others to convince us that Indian medicine had to be more creative, and shed the shackles of a colonial mind and the oppression of money.

Awards won by Dr. Sethi

It is not at all surprising that Dr. Sethi's work got due recognition and won him several awards, such as: Padmashri 1981; Raman Magsasay Award, Manila, 1981; Guinness Award for Scientific Achievement, 1982; D.Sc. (Honoris Causa), Rajasthan University, 1982; R.D.Birla Award for Outstanding Medical Research, 1983; Gandhi Memorial Oration, Raman Research Institute, Bangalore, 1988; Fellow Indian Academy of Sciences, 1989; Knud Jansen Medal and Oration, World Congress in Prosthetics and Orthotics, Kobe, Japan 1989; Dr.B.C.Roy National Award as Eminent Medical Man, 1989; Award as Medical Teacher 1997; Honorary Fellowship Indian Orthopedic Association, 1999.

Dr. Sethi was not happy with the present trends of commercialization of medicine. Here are some quotes from Dr. Sethi's own writing:

“It forces one to concede reluctantly to Ivan Illich's accusation that the modern physician is the most virulent pathogen let loose on mankind ...”

“We have been so bewitched by some of the so-called high technology in the western medical world that we are losing sight of the problems, which really ought to be of concern and which are very different from those encountered in affluent western societies.... It offends my sensitivity when I find how our professional conferences and workshops are being hijacked,

dominated and controlled by commercial enterprises. I do not quite know who is helping whom ...”

“The abominable standards of asepsis in most Indian hospitals do not detract young surgeons from using power tools whose whine so excites their psyche that they behave like adolescents revving up the throttle of a 500 cc motorbike ...”

“We have made them (patients) forget their language of pain and suffering and started treating images rather than persons. We have stopped being good listeners and have forgotten the art of communication with our patients, an art which plays such an important role in the equation for recovery.... Medicine should consider the possibility of contributing more by doing less ...”

“I believe that informed self-care should be the main goal of any health programme or activity. Ordinary people, provided with clear, simple information, can prevent and treat most common health problems in their own homes – earlier, more cheaply and often better than doctors. People with little formal education can be trusted as much as those with a lot. And they are just as smart. Basic health care should not be delivered, but encouraged. Instead of treating family members as a nuisance, we should invite them to participate in something which deeply concerns them. This calls for the medical profession trying to understand our social structure, the ways of thinking of our people, social and economic injustices our people are subjected to, their language and idiom. An insight into these converts a clever physician into a wise one. I very deliberately make this distinction between smartness and wisdom. Please look around and try to locate this class of wise people. They are becoming an endangered species which may soon become extinct ... I am now getting somewhat disillusioned. Not only are we nowhere near to achieving our earlier dreams of conquering diseases or proving an equitable service to our people, we are actually witnessing the congealing of what was at one time considered a healing profession into something mechanistic and often commercial.... Lone voices of protest are quickly smothered, as I have personally experienced. “

Dr. Sethi was really an extra-ordinary person. His knowledge and skills extended beyond medicine to engineering and carpentry, books in different subjects, plants and animals etc. etc. The Nation has really lost the role model of a great doctor with a human face and enormous compassion.

The Doctor in the 21st Century

- P.K. Sethi

I WAS brought up and educated in the colonial era. I practised conventional western medicine in an urban environment. I have been a witness to the heady post-World War II days when, with the emergence of some effective antibacterial medicines, diseases which were formerly lethal, such as pneumonia or tuberculosis, could be effectively treated. Western medicine, which used to be more or less at par with traditional systems of medicine before these discoveries, suddenly surged ahead. I was full of optimism that soon we would have answers to most problems which beset the health of our people.

I am now getting somewhat disillusioned. Not only are we nowhere near to achieving our earlier dreams of conquering diseases or providing an equitable service to our people, we are actually witnessing the congealing of what was at one time considered a healing profession into something mechanistic and often commercial. The healer who provided comfort and support to the sick is becoming a relic of the past. We may have become more efficient but, in the process, somewhere down the line, we have become less humane. And we, who at one time occupied a lofty position in society, are under attack. Where have things gone wrong, and why, is something I have often asked myself.

It is not uncommon, as we grow in years, to look back and romanticise our past, fondly recalling the glory of yesteryears. 'How good things were those days', we say. I do not want to indulge in the luxury of such ruminations. But I do believe that we have, for all the progress we have made, lost out in some precious things and restoring some of these does seem important to me. I confess I have little to offer except to make a very personal and experiential statement. I have found this a useful and salutary exercise to attempt.

When I first entered medical school, medicine was considered a good profession. I did not imagine I would make a lot of money, but I hoped that I would earn the respect and affection of my patients, and even though I expected to lead a hard life, I knew I would be reasonably well off.

My medical school had some good teachers as also quite bad ones. But the good teachers were very good indeed. They were interested in their students, knew them by name, and offered an example of simple living and high thinking. Perhaps, being subjugated by a

colonial power, they subconsciously wanted to prove that they were in no way inferior to their British counterparts. This made some of them fiercely independent and we almost worshipped them. Most of them did not engage in writing research papers and yet were quite original. Fancy audio-visual aids were not available to them and they made up for this by developing powers of expression which are seldom encountered these days. They were accessible to us and took pride in us if we performed well.

During my student days, I had an opportunity to see and hear some of the great teachers and clinicians of our country. They made a deep impression on me. Above all, they oozed wisdom, scholarship, goodness, concern and humility. Where is this class of people today? And why are they fast disappearing?

At that time, medicine was more of an art than a science. We had nothing specific to offer for our common killer diseases and so we largely relied on what would today be classified as the non-technological function of medicine. This meant a lot of talking, holding of hands, standing by and caring. Non-technological though it was, it was very valuable because it provided the family comfort, confidence and reassurance, and these were then, as indeed they always will be, a very important ingredient in the equation for recovery. The good doctors understood their society, and possessed a lot of wisdom.

Traditional healers, it should be remembered, were much better in this art. They were rooted in our traditions and culture and understood the way our people thought. They used a language and idiom which was understood by their patients. Since they had lost the patronage of the state, they were gradually elbowed out of the urban areas. Rural India was always neglected by our imperial powers and this is where they survived and do so even today. If one wishes to have a feel for these two contrasting systems, western and traditional, I cannot recommend a better source than Tara Shankar Bandhopadhyaya's great Bengali novel, *Arogya Niketan*. I think it should be made compulsory reading for all our medical students. There cannot be a better introduction to wisdom, as opposed to smartness, in medicine. A more recent, and rather scholarly account of this phase is available in Poonam Bala's book, *Imperialism and Medicine in Bengal* and the book entitled *Imperial Medicine and Indigenous Societies* edited by David Arnold. As a practitioner of western medicine, my arrogance has been suitably

humbled after reading these revealing works.

While traditional medicine could not grow because it lacked patronage, western medicine adopted the tool of scientific method. We owe to science a special vote of thanks. It has provided some extremely useful bits of information which, with some very painstaking work, has resulted in a much better appreciation of how the human body works. We are getting a greater insight into how it responds to influences which can derange this exquisitely balanced system. Of course, we have to have the humility, and honesty, to accept that there is a lot more about which we do not have a clue. Our ignorance exceeds our knowledge, and this is why we need more of science than ever before.

The discovery of vitamins, some of the hormones, an understanding of water and electrolyte balance and some of the antibacterial medicines have made a tremendous difference in being able to treat many diseases which were formerly often lethal. Diabetes, tuberculosis, typhoid, pneumonia and some bacterial infections no longer pose the threat they did earlier. But one can cite some twenty major diseases, including cancer, rheumatoid arthritis, stroke and hypertension, about which we still do not have a clue and our knowledge or insight into these unsolved diseases is comparable to the situation for infectious diseases in 1875, with similarly crucial bits of information missing. So let us not attribute to medicine a greater store of usable information with coherence and connectedness than actually exists.

The introduction of scientific methods, as distinct from empirical observations, brought about a sudden twist in the manner in which medicine was formerly practised. Objectivity gained respectability and it became necessary to quantify data. Measurement is the hallmark of science and so subjective reactions of the patients, their fears and pain and apprehensions were considered as distractions from cold scientific reason – emotions are so difficult to quantify. Now the medicine man began to adopt the mannerism of a cold scientist. Besides, manners lost their importance and laboratory investigations acquired increasing legitimacy. We stopped being good listeners. A certain degree of aloofness gained respectability. The emotional links between doctors and patients started weakening.

While one cannot quarrel with objectivity and quantification, a very rich source of data obtained by listening to the patients and then subjected to analysis, was lost. Recently, however, the worthwhileness of such studies has been amply demonstrated by the writings of Oliver Sacks. When I read his work on

migraine, I felt for the first time that here was someone who really understood me – no other scholarly work on migraine has provided me the understanding and the capacity to cope with my very personal problem. Oliver Sacks himself once suffered a major knee injury which led him to spend a long time in a plaster cast. His book, *A Leg to Stand On*, reveals a greater insight into the neurophysiology of recovery and rehabilitation than any orthodox work on injuries or rehabilitation which I have encountered.

Now this kind of research all of us can undertake – even in general practice – and this could possibly elevate our methods of management to far more effective and humane levels. I would value detailed, accurate and honest case histories as examples of excellent research, instead of churning out meaningless tables of dubious laboratory data and publishing papers to augment our career prospects. Our medical journals are currently unwilling to publish such personalised, subjective material, but I wish that some of us could come forward to initiate such a move.

This is the time when new drug industries entered the healing enterprise and saw a vast, untapped market that they could exploit. Using the powerful advertisement media, they made us believe that we lived at bay, in total jeopardy, surrounded on all sides by human seeking germs, shielded against infection and death only by a chemical technology that enables us to keep destroying them. We are instructed to spray disinfectants everywhere. We apply potent antibiotics to minor scratches and seal them up with plastics. We live in a world where the microbes seem always to be trying to get at us, to destroy us, and we only stay alive and whole through diligence and fear.

This commercialisation is a perversion of Pasteur's painstaking work which has been converted into an organised, modern kind of demonology. We assume that bacteria somehow relish what they do. Good hygiene is one thing but these are paranoid delusions on a societal scale. Remember Pasteur himself confessing on his death bed, 'Bacteria are nothing; terrain is everything.' This was paying homage to the 'seed and soil' concept which most traditional systems recognised.

It needs to be emphasised that in real life we have always been of relatively minor interest to the vast microbial world. Pathogenicity is not the rule. Indeed, it occurs so infrequently and involves such a small number of species, considering the huge population of bacteria on this earth, that it has a freakish aspect. Staphylococci live all over us on our skin. When you count them up, and us, it is remarkable how little

trouble we have with them; only a few of us are plagued with boils. Streptococi are amongst our closest inmates. They have been living in our throats for a long time. But it is our own reaction to their presence, in the form of rheumatic fever, that gets us into trouble.

There is, in fact, a marvellous symbiosis between them and us. We help each other. Swallow antibiotics and they get rid of the resident bacterial flora from our intestines and all hell is let loose. 'It is only cyclically, for reasons not understood,' as Lewis Thomas points out, 'but probably related to immunologic reactions on our part, that we sense them and this reaction of sensing is clinical disease. Our arsenals for fighting off bacteria are so powerful that we are more in danger from them than from invaders. We live in the midst of explosive devices; we are mined.'

I am sure we are paying too little attention and respect to the built-in durability and sheer power of the human organism. Its surest tendency is towards stability and balance. It is a distortion, with something profoundly disloyal about it, to picture the human being as a tottering, fallible contraption, always needing watching and patching, always on the verge of falling to pieces. This is the doctrine that people hear most often, and most eloquently, in all our information media. We ought to develop a much better system for general education about human health, with much more curriculum time for the acknowledgment, even celebration, of the absolute marvel of good health that is the lot of most of us, most of the time. Most ailments get better by themselves; many, by the next morning.

As a profession, we have not only failed to fight against the falsehood perpetuated by the drug industry but we have in fact become partners in their profit making enterprise and with what trivial bribes of small gifts and dinners! The chapter entitled 'The Pill-Peddlars' by David Gould, a former editor of *New Scientist*, in his book *The Medical Mafia*, is an absolute eye-opener. The entire continuing education of most doctors is through the sales literature freely distributed by our drug industry. And our public now knows it. How, then, can we expect the respect and goodwill of our patients?

The emergence of electronics, digital display systems, microchips and computers have now suddenly changed the entire scenario. The extent to which both patients and doctors have become mesmerised by contemporary diagnostic technology is indeed remarkable. It appears that no doctor is now willing to make a diagnosis – and no patient is willing to accept one – without recourse to the formidable diagnostic armoury of the medical-industrial complex.

New methods of investigations are continually being produced by the massive bio-electronic industry. The low backaches that housewives come to me with, are more often than not directly related to the very nature of their daily chores. But when asked what their problem is, they simply point to their CAT scans (and now MRIs, for heaven's sake) as their complaint. Somebody is clearly advising them to travel to Bombay from Jaipur for an MRI and the report, possibly as an award for the money required to be shelled out, points an arrow at an image which is anatomically not even remotely related to the region where the trouble lies. This is not only a gross abuse and a waste of money for a totally unnecessary investigation, which when used with discretion can provide some very worthwhile information, but it also often leads to uncalled-for surgery. We have started treating images rather than patients.

So disturbed were some physicians by this kind of madness that the *New England Journal of Medicine* published a whimsical article entitled 'CAT Fever'. It is an article which should be read by all doctors and patients alike. And yet Jaipur, in the last two years, has already had five CT machines installed. Quite clearly, it seems to be a good money-spinner.

What does an honest, well-meaning doctor do in such an environment? Should he succumb to the market forces? If he does not, would he not be accused of negligence by the patient? I think we can no longer afford to brush aside or hide under the carpet the distortions which are taking place with increasing frequency in our post-industrial society.

Let us try to understand the inevitable march of so-called high technology which carries with it what Fuchs has called the 'technological imperative' – a tendency to take action whatever the cost, if it offers even a slight possibility of utility. This situation increases the cost of medical care without coming up with any evidence that the benefits exceed those of adopting a more modest approach. Enthoven has expounded on what he terms 'flat-of-the-curve-medicine', i.e. the medical variation of the economic law of 'diminishing marginal returns as input into a system continues to increase.' Medicine should consider the possibility of contributing more by doing less.

Medical Research and State Imperialism

As doctors and teachers, many of us dream of contributing to medical research. Clinical research of the kind my teachers practised, or the kind of documentation which Oliver Sacks exemplified, is not considered respectable enough. Modern research is an expensive business and requires external funding.

Being a government employee, I could only turn to our official research funding organisations. But, my experience of facing the exalted committees who sit in judgement over research proposals was so disheartening that I had to back out. Only work which *they* consider worthwhile is funded and this, in turn, is determined by what our politicians and bureaucracy want.

This is administered research at its worst and having been a member of the governing body of the Indian Council of Medical Research (ICMR) and seen from inside the machinations which go on, I came out frustrated and angry. The scientist-turned-bureaucrat is often a pompous fool and, having failed to achieve anything worthwhile himself, gets a vicarious pleasure in showing his superiority. Instead of scouting for talent, which ought to be their major objective (and we have no dearth of talent in our country), they sit back and wait for people to come and kow-tow before them. I had, therefore, no option but to choose areas where I could rely on community support, and depend on 'user-reaction' as my main tool of investigation rather than an expensive gait analysis laboratory which I had no means of setting up.

When the Government of India set up a centralised production unit for producing components of artificial limbs and appliances, they were upset that I was not promoting their products. They even wrote to my state government that it should put a stop to what I was doing. When an imaginative officer in the Department of Science and Technology helped me get funding to work on appliances for poliomyelitis, someone came along as soon as he retired and ordered me not to share my work with other countries because the government held the intellectual property rights over work funded by them. And these very people cry wolf when Carla Hills comes along and says the same thing!

When I realised that the western artificial limb, suitable for the chair-sitting, shoe-wearing culture of advanced countries, was posing numerous problems for our own amputees, and tried to work out an acceptable design for our floor-sitting, barefoot-walking culture, the orthodox in the profession viewed this work with derision, even though my amputees were more than satisfied. Because I used traditional craftsmen to give shape to my ideas, I was accused of introducing quackery into our profession and every possible obstacle was put in my way. It was only when my work earned the approval of the West that it began to be appreciated locally. Which brings us to another enigma that our researchers face. It is considered respectable to work on problems which engage the attention of the advanced countries, howsoever

irrelevant these might be for our own. This explains why most of the research done here is borrowed, meaningless and second rate. The well-known Egyptian architect Hassan Fathy wrote a marvellous gem entitled *Architecture for the Poor*. I wish our medical researchers would turn to this work for inspiration. But if wishes were horses...

When I see the plight of medical teachers today, and witness the absurdities of the research climate in our country, and when I see how we have become victims of the market forces and a technology gone out of control, I wonder whether I did right to choose the profession I did. The context within which a doctor works today has changed beyond recognition and a redefinition of his role seems to be called for.

Medical Care for the Poor

With the enormous escalation in the costs of medical treatment, largely due to the use of expensive and often unnecessary technologies, the availability of this treatment to the poor is clearly out of the question. This inequity is heightened because of the increasing tendency among doctors to use the most glamorous methods available. Such a medical system is fiscally unsustainable even in the richer nations of the West. It is hardly surprising, then, that the anger of our deprived patients is inevitably directed towards us.

While providing a system of education which is rooted in the West, our policy makers continue to exhort young doctors to go out and work in villages. This is clearly untenable, and it is high time that this issue is taken up by the medical profession itself. Some of our best minds have been working on alternative systems of providing a good standard of medical care to our villages. The Aroles, brilliant products of the Medical College at Vellore, could have had a lucrative future ahead of them. Instead, they decided to work for the poor, needy villagers. Choosing to settle down in a drought-prone village in Ahmed-nagar district, Maharashtra, they have made Jamkhed into a legend. Utilising the services of illiterate village women as health workers, running an ongoing education programme which has transformed these women into extraordinarily effective instruments of social change, the Aroles have been able to improve the vital health statistics in their district from far below the national average to a level that can match the best in the world. Jamkhed has acquired the stature of a pilgrimage centre for me.

Dr. N.H. Antia, who headed the plastic surgery department of J.J. Hospital in Bombay, is among a handful of Indian surgeons who were awarded the prestigious Hunterian Professorship of the Royal

College of Surgeons in England for his outstanding work in reconstructing the disfigured faces of leprosy victims. Through this work, he became increasingly interested in leprosy as a disease, and began to look at its social problems. Gradually, he moved into community medicine and now runs a research organisation on community health, attracting some very bright young minds from a variety of disciplines – medicine, economics, sociology, statistics and so on.

There are probably very few surgeons who have demystified the high technology of modern plastic surgery as successfully as Dr. Antia. His ward orderlies have been taught suturing skin flaps, a task which they perform with a dexterity that would amaze surgeons. He can perform a complicated operation in a village hut and his experience of the extremely expensive germ-shielding, air-conditioned burns unit which he pioneered at the J.J. Hospital, Bombay and the simple, commonsense approach he used with greater success in a modest district hospital in Thane, is so revealing and educative that it should be written up and distributed to all hospitals. It would make our surgeons pause and reflect when asking for controlled environment operating rooms to be able to perform safe surgery. Now, with private five-star hospitals cropping up like mushrooms, this controlled environment is being used as a selling point. Do we want our scant resources squandered like this?

The work done by Dr. Arole in Jamkhed, Dr. Antia's work in Bombay, or Dr. Sanjivi's work in Madras needs to be more widely known and discussed. Rural health care can no longer be left to our politicians and the bureaucracy. But it is here that our Medical Association and the Medical Council of India have failed miserably.

Some Critiques of Modern Medicine

It is interesting that a formidable critique of modern medicine is emerging from the affluent societies of the West. We might do well to remember this before we import wholesale a technology of medicine whose effectiveness is being questioned by many thinkers, even in the land of its origin. Probably the most strident criticism against the modern medical establishment has been voiced by Ivan Illich. When I first read his book *Medical Nemesis*, I was deeply disturbed. In a rare display of scholarship, and with his church background, Illich comes across like a medieval inquisitor, a prosecutor of the most brilliant kind. He had impeached the medical establishment as a major threat to health. He finds the medical establishment sickening beyond tolerable bounds for three reasons:

i) It produces clinical damage which outweighs its

potential benefits. This encompasses the entire gamut of 'iatrogenic' or doctor induced diseases. Remember Carl Sandburg's famous statement: 'I took so much medicine that I was ill for a long time after I got well.'

- ii) It obscures the political conditions of an over-industrialised society which renders it unhealthy.
- iii) It takes away (or expropriates) the power of the individual to heal himself.

A retrospective medical audit reveals that many of so-called achievements of modern medicine should really be attributed to social reformers. Food, housing, working conditions, neighbourhood cohesions as well as cultural mechanisms make it possible to keep the populations stable. In this, Illich has the full support of a profound medical philosopher like Rene Dubois. A very important point made by him is the role of modern medicine to transforming pain, impairment and death from a personal challenge into a technical problem. We are accused of preventing the public from learning how to cope with their own problems, encouraging them to submit passively to an organised profession which has a vested interest in maintaining its hold on a captive population. We use our knowledge as a weapon, to wield power; we are indeed a disabling profession.

From within our own establishment, voices of protest can be heard. *Medicine Out of Control – The Anatomy of a Malignant Technology* is the title of a book by Dr. Richard Taylor. If anyone wants to know the inside story of the overselling of modern medicine, over-investigation, super-specialists, coronary care units, unnecessary surgery, screening and medical check-ups, the diseasification of pregnancy and childbirth, and the medicalisation of life, here is a veritable source-book containing some thought-provoking information. One will find that use of science in medicine is one thing but its transformation into practice is another. The analogy of nuclear science vs nuclear weapons would not be out of place.

The other variety of critique deals with some conceptual problems which have been ably summed up by Ashis Nandy and Shiv Visvanathan in a seminal paper entitled 'Modern Medicine and its Non-Modern Critics'. According to this critique, the relationship between the modern doctor and his patient is to methodically decompose the patient as a person and convert his into a set of laboratory findings. This shadow patient (urine, blood, ECG, X-ray, etcetera), reconstructed from the results of laboratory tests, acquires a medical reality and autonomy of its own, and it is with this shadow that the modern hospital

is concerned. The rest, that is the patient's personal and clinical realities, are seen as variables which induce compromises with the science of medicine. They are not seen as variables that have an intrinsic scientific status. Indeed, as Tariq Banuri has argued, a basic postulate of modernisation is the superiority of the impersonal over the personal.

In a personal communication, Ashis Nandy has reiterated (taking the cue from Tariq Banuri's impersonality postulate) that there is a serious problem of dehumanisation not only of medical technology but of the medical practitioner himself. As the medical system becomes more capital-intensive and mega-technological, the tendency of the average doctor seems to be to reconceptualize himself or herself as a part of the medical technology, a cog in the wheel, so to speak. There is a need to attack this trend explicitly through a reconceptualisation of medical practice and medical intervention by recovering the concept of the general practitioner. But the doctor who trusts the voice of the patient more than the pathological test results, ends up being perceived as less scientific, even though he may be a more gifted healer and more respected as a practitioner. Professional honours and fame are likely to pass him by.

Specialization in medicine is another way to break up an individual into bits, where each part of his body is treated as a sub-system to look after for which a specialist is required. The family doctor or the GP has lost out in this process and he now seems to have no place in a medical scientist's utopia. He is reluctantly being accepted as a residual category, instead of being considered the primary agent for health care, as he deserves to be. I plead for an elevation of the family doctor's position in the hierarchy of our health care system, placing him higher than a specialist. This, I might point out, has always been the case in our traditional healing systems.

All medical systems are part of the biosphere. It is time we recognise that the biosphere does not remain the same when we take recourse to certain forms of medical intervention (e.g., the emergence of mutant strains of bacteria and viruses). There is thus a problem of defining the limits of human intervention in the living universe. Sometimes lesser or limited interventions in the short run allow one to intervene consistently over the long run. We must not make the life of the future generation more difficult.

The Art of Medicine – Physician as Communicator

When I retired from service and started a consultation practice, I realised for the first time that most people who come to me needed to talk. This was a new

experience for me. A study conducted by Professor Madan, a distinguished sociologist at the All India Institute of Medical Sciences, New Delhi, revealed that in the OPD, on an average, a patient had to wait for four hours to be able to get two minutes of the consultant's time. One might argue that the experienced consultant could arrive at a correct diagnosis in two minutes. But this is missing the entire point.

Words, when used by the doctor, can be gate-openers or gate-slamers. They can open the way to recovery, or they can make a patient tremulous, dependent, fearful, resistant. The right words can potentiate the patient, mobilize the will to live, and provide a congenial environment for heroic response. The wrong words can complicate the healing environment, which is no less central in the care of patient than the factual knowledge that goes into the physician's treatment.

Being able to diagnose correctly is a good test of medical competence. Being able to tell the patient what he or she should know is a good test of medical artistry. The patients want assurance. They want to be looked after and not just looked over. They want to be listened to. They want to feel that they are in the doctor's thoughts. In short, patients are a vast collection of emotional needs. And it is the physician who has the most to offer in terms of these emotional needs. It is the person of the doctor and the presence of the doctor – more frequently, and just as much as what the doctor does – that create a healing environment.

I cannot express it more effectively than Norman Cousins did, when he was recovering from a massive heart attack. 'I pray,' he said. 'that the medical students will never allow their knowledge to get in the way of their relationship with their patients. I pray that all the technological marvels at their command will not prevent them practising medicine out of a little black bag if they have to. I pray that when they go into a patient's room, they will recognise that the main distance is not from the door to the bed but from the patient's eye to their own, and that the shortest distance between those two points is a horizontal straight line – the kind of straight line that means most when the physician bends low to the patient's loneliness, fear, and the overwhelming sense of mortality that come flooding up out of the unknown and when the physician's hand on the patient's shoulder or arm is a shelter against darkness.'

Among the oldest discoveries in the practice of medicine is the fact that human beings come equipped with resources of healing that are best mobilised not by detached scientific efficiency but by communication and supportive human outreach.

Needed – A Humane Technology

I believe that informed self-care should be the main goal of any health programme or activity. Ordinary people, provided with clear, simple information, can prevent and treat most common health problems in their own homes – earlier, more cheaply and often better than doctors. People with little formal education can be trusted as much as those with a lot. And they are just as smart. Basic health care should not be delivered, but encouraged. Instead of treating family members as a nuisance, we should invite them to participate in something which deeply concerns them. This calls for the medical profession trying to understand our social structure, the ways of thinking of our people, social and economic injustices our people are subjected to, their language and idiom. An insight into these converts a clever physician into a wise one. I very deliberately make this distinction between smartness and wisdom. Please look around and try to locate this class of wise people. They are becoming an endangered species which may soon become extinct.

These measures, I am convinced, would be in keeping with the new paradigms that are appearing in the field of health sciences. What we need is a technology which is more appropriate (in the sense which Professor Amulya Reddy has so clearly laid down), more humane, more scientific, less expensive and therefore more equitable, more harmonious with our belief system but without any room for superstitions and quackery, and which augments autonomous coping with illness or death rather than dependence on the passive, indifferent and expensive care available in our institutional systems. The physician, as knowledge-seeker and therapist, must possess the technique of the scientist and the vision of the humanist. Unbalanced development in either direction, continued too long, imperils the enterprise of healing.

These critiques of our profession should lead both to a re-examination of the role of the doctor of the future and the possibility of recovering the mobility of the profession. Our responses to the new moves being initiated to increase the accountability of the profession in the Consumer Protection Act are, I believe, being debated at a very simplistic level. I think the medical profession should appreciate that a change in their role is now called for and there is need to creatively respond to the changing situation, particularly from its critics, both internal and external.

But above all, we should never forget, that 'patient care' means really 'caring for the patient'.

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Baba Amte: Restless and Romantic

Ravindra R P¹

He was a zamindar by birth and a successful lawyer by training. He charmed and transformed generations of youth and propelled them into social and political activism. Baba Amte, who passed away in February 2008, was a rare combination of sensitivity and courage.

I first met Baba in the summer of 1978. I was in the twilight zone of a bright academic career and the promise of a comfortable professional life in the pharmaceutical industry. I had heard so much about the Shramadaan Shibir (voluntary service camp) conducted by Baba at his Somnath campus that I decided to attend it; little realizing that it would be the biggest turning point in my life. As we slogged in the scorching sun for full four hours daily, we initially cursed Baba and our own selves. We were dead tired and slept throughout the afternoon.

But in the evening sessions, Baba was both inspiring and unsparing. He hit out at our middle-class consciousness and reminded us that it is essential to “earn our bread by the sweat of our brow”. He narrated tales, mostly from his life. He was a wonderful storyteller, his prose effortlessly merged with poetry. (Baba’s anthology of Marathi poems is aptly titled as *Jwala aNi Phule - Flames and Flowers.*)

For full ten days, he talked with us, challenged us, and inspired us, through his words and deeds. Each building in Somnath was a product of hands that had no fingers. With so-called deformed bodies, they produced almost everything they needed and even created a surplus. The mental deformity of the middle class - its lack of sensitivity and self-indulgence - were more difficult to treat, Baba roared. By the end of ten days, we were transformed. A spirit of restlessness haunted us thereafter, for restlessness is the hallmark of youth, Baba told us. And Baba Amte is the most youthful person I have ever seen.

This way Baba charmed and transformed generations of youth and propelled them into social and political activism. For more than thirty years, young people in Maharashtra, after their encounter with Baba at Somnath shibir, embarked on the journey of activism, choosing their path, which varied, from Marxism-Leninism to Gandhism. Those who took to other modes of life, like Nana Patekar, too contributed to social causes in very many ways.

Baba really lived his life king size. At each stage in his life, he defied conventions and redefined his life. A zamindar by birth, he was already a successful lawyer while in his thirties and also the president of the Warora municipal town council in Chandrapur district, Maharashtra. But being very sensitive he felt that practicing criminal law in our society (as he once told my young lawyer friend) was nothing but glamourised prostitution. And he had the guts to abandon the profession. This rare combination of sensitivity and courage made him try out for himself what manual scavenging meant (he was torn between the conflicting roles of President of Municipal Council and the Chairman of the Sweepers Union).

It was on one such occasion, on a terrible rainy day, that he came face to face with the vision that defined his life for the next several decades - a leprosy patient lying by the night soil, who, in Baba’s own words, had neither the feet to stand on his own, nor the hands to seek the grace of the almighty. He brought him home, ran from post to pillar for seeking medical help and mental support for the leprosy afflicted.

But the society had no space for the ultimate outcaste and the mad man who wanted to be with them. So, it generously handed over a plot of thick jungle, inhibited by wild animals, snakes and scorpions to Baba. And Baba, with his committed army converted it into one of the best role models of self-reliance and constructive work. Anandvan, the rehabilitation colony for all those rejected by society, is a sure cure for depression and cynicism. Its simplicity, tranquility, sense of purpose and the aesthetic sense leave a lifelong imprint on the minds of visitors.

Baba was a true romantic and his faith in love was boundless. That’s why at the height of Khalistan movement, when all others worked on tough security prescriptions, Baba undertook a ‘Knit India’ march to Punjab to open channels of dialogue and assuage the feelings of hurt and distrust. “Where there is love, there is no fear and where there is fear, there is no love” was his motto. So, he had no second thoughts about taking with him his wife and young kids to live with the leprosy patients. Often those who love humanity forget to love their near and dear ones.

Baba’s relationship with Sadhana, his wife was truly amazing. It began when he stood on the marriage mandap, with hands in bandage and several fractures

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in the body (he had a long battle with dacoits on the previous night). With love comes acceptance, sharing and mutual respect. Atheist Baba had no qualms with the rituals of his deeply religious wife. He defied convention and protocol in the public meetings, because he always began his address with "Dear Sadhana", before addressing the galaxy of luminaries on the stage.

He romanced with nature and cultivated special varieties of roses that would not hurt the leprosy-afflicted inmates of his Ashram. His longing for beauty made him a close friend of artists like Pandit Kumar Gandharva and P L Deshpande. The yearly Mitra Melava - (Gathering of Friends) organized by Baba was attended by renowned personalities from literature and art and it became an important cultural happening in Maharashtra.

Baba always dreamt big; but he was no megalomaniac. That's why he opposed large dams and supported smaller water-conservation initiatives and irrigation technologies, which were within the control of common people. He put all his reputation at stake while opposing destructive development and succeeded in stalling Bhopalpattanam and Inchampalli projects. His commitment to Narmada Bachao Andolan is too well-known, but the fact that he even returned Padma Shri and Padma Vibhushan in protest against the continued violation of human rights of those displaced by Sardar Sarovar dam is often forgotten.

We live in an era where great men are reduced to a lowest common denominator, politically convenient to the elite rulers. No wonder the media wants us to remember Baba only as the 'saviour of the lepers'.

Society needs such Babas who can take care of problems it is uncomfortable with. But, let's not also forget Baba Amte who at the historic Narmada rally at Ferkuwa gracefully responded to the humiliations and insults from Sardar Sarovar supporters by appeals for justice and humanity.

I was witness to another occasion when Baba was extremely sad and isolated. The post-Babri riots in Mumbai were yet to subside and Baba was in town for a major surgery. From his hospital bed, he issued an impassioned appeal for peace and brotherhood. But the response of the media was lukewarm, that of the educated Hindus was cold. There was hardly anybody around when our small group visited him. Even as he tried to assure and comfort my Muslim colleague, devastated by the riots, the unmistakable pain in his eyes could not be forgotten.

For decades he endured tremendous physical pain from several debilitating ailments and also mental agonies. His last years were like those of the legendary Bhishma lying on the bed of arrows. But, unlike Bhishma (and several great people of our times), Baba dared to take a stand and staked his reputation for it. That he chose to side with the most oppressed and for sustainable development makes all the difference.

[Baba Amte's organisation: Anandwan - Maharogi Sewa Samiti, Post: Anandwan, Via: Warora, Chandrapur district, Maharashtra-442914, Tel: +91-7176-282034 / 282425 email: <anandwan@gmail.com>]

Source: *India Together*, <<http://www.indiatogether.org/2008/feb/hrt-amte.htm>>

MFC Mid-Annual Meeting

The next mid-annual meeting of the Medico Friend Circle is scheduled for July 4 and 5, 2008 at Yatri Niwas, Sewagram. The meeting will start at 10 am on the 4th and it is hoped that it will end by 4 pm on the 5th afternoon.

The main purpose of this meeting will be planning for the annual meet in December. As discussed and decided at the Dalli Rajhara meeting in Dec 2007, the theme of the January 2009 annual meet is "Health and Displacement".

It is proposed that this topic be discussed under two broad headings- one displacement that is due to political or ethnic reasons, as has been observed in many different places in the country.

The venue of the annual meet will either be in Guwahati or Bonagaigaon, or somewhere else in the North East, and the dates for that will be Jan 9 to 11, 2009. The theme assumes special significance for the North east as they many there have suffered disproportionately higher ill consequences of displacement in Independent India.

Remembering Deepti Chirmulay-Paranjape

Dear friends,

Sunday, March 09, 2008

Last night Deepti Chirmulay-Paranjape, 50 years, passed away after a long struggle with secondaries in brain coming from Cancer breast. A single mother, her son Neeraj, is studying in last year of Engineering at Pune. Pediatrician by training, she kept working in community health, thru first BAIF, then GTZ and in PATH. Last 4-5 years she had this Ca breast problem, operated, treated and now she is part of the five year non-survivors stat. I first saw her in BJ medical college in may be 1981, and asked my wife who was doing a pediatric PG, and Deepti was also doing MD in the same years. We had many common friends and the friendship grew in last 16-17 years.

To mfc she used to come infrequently, Mumbai was the latest meet. However, she was a very active member of the PHC group in Maharashtra since 95-96. The PHC group was mainly active on the CHW issue, the content and contours of a possible new CHW version. Bases in Pune, she was a good negotiator among 11-12 of us in the group - Anant, Dhruv, Pankaj Gandhi, Mira Sadgopal, Shashikant Ahanakari, Kranti Raimane, Ashok Kale, Jagannath Dixit, myself, and Abhay Shukla. We had presented a scheme to the alliance Govt in Maharashtra 1997. She prepared the one page format of the scheme after a year long debate on the hot issues that dog the ASHA scheme now. The 11-12 member group made a very diverse political group - Deepti, Shashikant, Dhruv, myself, etc were the rather liberal group who had little belief in the ability of the Government or Panchayats to operate a CHW-like scheme. Hence we wanted to be as free from the State/Panchayats as possible.

Deepti, as I said, came out with a compro formula. The group eventually broke as differences got severe. But we all remained friends all the more after the group and the ground for dissention frittered. Today the ASHA scheme has a surprising resemblance with the 1p formula, but the medicare and payment part is hugely neglected and the point Deepti used to stress is unfortunately coming back to us. This said, she also contributed to the first of the five ASHA booklets we were preparing for GOI UNFPA in 2006. She also was part of the Mitani study group for CHC in 2006. In PATH, she was working with RCH, especially the urban health initiatives till she was grounded by Cancer secondaries some six months back. We have lost a straightforward, highly intelligent, liberal member of our group. Outwardly, she was a somewhat cynical and head-dominating kind of person, but very warm and loved life. She was one person who had traveled extensively to many countries to study health issues. She was working on health insurance in the last 3-4 years and was quite an expert in this area.

The Ca breast episode, and being a single mother for may be last 15 years, had made her lonely in heart. She used to sometime describe her last years as 'chronic death'. That used to touch me inside. In 2003-04 may be, we were in

a trekking group to Himalaya, along with my daughter and son (that time 10-year old). She was quite tired by the end of the 10-day trek. But at 14000 ft, one midnight we were woken up by some campmates to help a high-altitude afflicted woman who was out of breath. Deepti was carrying an adrenaline injection, just in case someone needed, and the woman was saved by that one small life support. Now she has passed away. Anant was helping the family during her last 2-3 months of bed-ridden existence, with medical help as and when needed, counseling, etc. The kind of Ca Breast she had was a rather malignant type, during last two years, two of her friends with Ca breast also passed away and Deepti used to take it in a matter of fact way.

At the end we lost a very good thinker, friend, and rather early at that. Now with the looming debacle of the ASHA programme in the country, I remember her all the more.

Her pragmatic approach on the issue and design of CHW programme made us uneasy about such programmes. Deepti has finally left. I will ever remember the brightness she was. That reminds how important life itself is, and how dear the friends we have on this earth.

Dr. Shyam Ashtekar

Sunday, March 09, 2008 9:46 AM

Dear friends,

My interactions with Deepti were only during the mfc meetings and she used to write regularly on the e-forum. However, I was almost in tears when she wrote to me a very warm mail during Pakhi's hospital episodes. She was extremely concerned and sent me personal mail to know more about symptoms. I was so touched with her gesture.

My heartiest condolences to the family.

Thanks Shyam for informing all of us.

Sarojini

Sunday, March 09, 2008 9:49 AM

Shyam and friends,

I am saddened at the death of Deepti and was moved by the deeply touching piece written by Shyam. I had met Deepti perhaps less than 10 times in the last 10 years but always appreciated the brief discussions and exchanges that I had with her. Untimely deaths of such friends keep reminding us how finite this life is and how precious every moment is!

Take care!

Lakshmi

Sunday, March 09, 2008 11:46 AM

I had known Deepti since a long time, from her BAIF days. Always thought of her as a co-traveller in many ways - pediatrics, primary health care, maternal child health, newborn care, health systems, NGOs.... The last time we met in a PATH meeting in Delhi that she had invited me to some months ago, she had told me, almost casually and

with her bright, wide smile, that she was not going to be able to continue for long in Delhi since they had detected secondaries, and would I be interested in taking over her work? I remember pausing in midstep with a mix of a sinking feeling and admiration for her courage. My face must have betrayed me, and she said, come on, what else, need to prepare, na? I did not have the heart to probe further. That was the last I saw her, did not quite know how to help, just waited for news, hoping she would fight it out. Somehow, I had fancied she would be one of those in the right tail of the survivorship curve.

I remember her as a remarkably cheerful person, forthright and unconventional, not really bothered about political correctness, and knowledgeable. I do hope she had a peaceful time towards the end.

Sridhar

March 09, 2008 7:18 PM

I had met Deepti first at the Leslie Sawhney at Deolali during a communication workshop way back in 1991. Her very casual way of talking made it easy to become a friend. Her very casual, matter of fact approach about everything: positive, negative, made it quite comfortable for the other to be with her. Last we met was at the Dumdum airport and traveled together till Mumbai - she was returning to Pune from her PATH work and I from a consultancy visit to Siliguri. Somewhere in the flight, she started talking about her apprehension about her possible Delhi transfer.

What moved me was her feelings about Neeraj - her son who was I think in IIInd year. While weaving through his growth and changes in him, she closed the conversation with a chuckle saying "He has become self-reliant - so much that I know he can now live without me." I could see the sadness on her laughing face and a sparkle in her eye. I knew what she meant.

A brave, soft woman has passed away on the 8th of March.

Dhruv

Sunday, March 09, 2008 9:29 PM

Dear Shyam,

Loss of every good person is a great loss to society. Thank you for sharing about Deepti 's life & passing away. Please convey our condolences to her son. It must be a difficult time for him, but with you, Dhruv, Mira Sadgopal, Anant around it would have been less difficult.

My sympathies to all who considered Deepti a friend. We have lost Alpana, Deepti.

Marie D Souza, our friend, who wrote the Tribal Medicine book also has cancer and is in Goa.

With my prayers,

Mira Shiva

Sunday, March 09, 2008 10:49 PM

Dear friends,

This is real sad news. Apart from mfc and health research related interaction with her, Deepti and I also belonged to

the same cohort (SIX) of the LEAD (Leadership for Environment and Development) program. Will miss her vibrant presence.

Ravi

Monday, March 10, 2008 9:10 AM

Dear all,

Shyam has made a succinct summary about her involvement in the PHC group in Maharashtra. She was deeply committed to the CHW programme and she had worked on it for years, mainly in remote areas in Gujarat.

Deepti faced the illness in her typical 'matter of fact' attitude. She fully co-operated with the treatment schedules. Every time I met her to render some help, solace, I was amazed by her courage.

She was a victim of extreme divergent opinions of oncologists and one feels helpless in such situations. She was very clear about the unsatisfactory quality of care in the hospital. Later she was managed at home till the end.

She was humanist, pragmatist, kept away from ideological nuances but was very clear on gender issues. She was in touch with mfc and took interest in mfc matters on issues in which she was interested.

Personally I had a very good rapport with her and I would always feel a deep sense of loss.

With regards,

Sincerely yours,

Anant Phadke

March 10, 2008 11:10 AM

Dear All,

It is very sad to hear about the passing away of Deepti. She has been active in mfc since a long time. I very clearly remember of the time when Preeti, Meeth & I traveled with her in a bus from Wardha to Nagpur after the mfc meet.

It should be either '94 or '95. That was my first meeting with her and she was so much full of ideas, enthusiasm and determined to work on them. I used to read her mails on mfc list serve which reflected her clear perspective. I also remember her visit to Jaipur for couple of days only sometimes after the surgery she had. She was such a fantastic person. We deeply mourn her demise.

Best regards,

Narendra Prayas

March 10, 2008 1:23 PM

Dear friends,

Deepti's passing away is sad news, even if expected for a long time.

Sanjeevani knew Deepti as a childhood friend and I (Vinay) knew her since my college days at BJ Medical College, Pune.

We had acted together in a play.

Later we started meeting her when she used to attend Arogya Samitee (Lok Vignyan Sanghatana) meetings. Sanjeevani once traveled with her (and a few others) to Wardha to attend one MFC annual meeting. She remembers her on that trip as a friend who was nice to get along, not hassled by minor problems in the journey and a person ready and confident to tackle issues as they would come.

When she was at GTZ she was required to do some baseline work on Women and HIV. She felt confident that PRAYAS Health Group (PHG) would do the work and entrusted us with the responsibility.

Even if we were not in constant touch during the illness (Vinay used to meet her occasionally during her frequent hospitalizations, though) we used to know about her health from Anant (who really took great care of her during the last many months) and another common friend (Dr Aratec Palsule).

We would always remember her for all her good qualities, but even more for the tremendous courage she exemplified in her fight with the cancer.

Sanjeevani and Vinay

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