CHAPTER III

OUTLINING THE PARAMETERS OF STATE CONTROL

Introduction

At the very outset we had attempted to explore the meaning of voluntarism and had examined the nature of voluntary activity in India since independence. We had also traced the change in the nature of voluntarism with the advent of the sixties and seventies and examined the reasons for this change. In the present chapter we will attempt to focus our attention upon three voluntary organisations which concern themselves with the issue of civil liberties and democratic rights— the Citizens for Democracy (CFD), the People's Union for Civil Liberties (PUCL), and the People's Union for Democratic Rights (PUDR)—study their activities and examine the perception of social transformation that they envisage in order to enhance liberty for the citizens.

Of the three voluntary organisations chosen for a closer examination, the Citizens for Democracy is the oldest, having its inception in 1974; the People's Union for Civil Liberties and People's Union for Democratic Rights were at one time part of one organisation—the People's Union for Civil Liberties and Democratic Rights...
which had its inception in 1976 during the period of the Emergency.

In a way the three bodies share a common ancestry. The CFD sprang up under the leadership of Jaya Prakash Narayan. The PUCL and DR too appeared under his patronage during the Emergency, and later bifurcated to become the PUCL and the PUDR in 1980.

Thus the three bodies are creatures of the seventies — the period which had seen a proliferation of voluntary organisations in India, many of which incorporated a critical perception towards the State's policies.

Some groups in this period were the Association for the Protection of Democratic Rights (APDR) which was formed in Calcutta on 25 June 1972, the Andhra Pradesh Civil and Democratic Rights Association which in 1973 had split to form the Andhra Pradesh Civil Liberties Committee (APCLC) and the Organisation for Protection of Democratic Rights (OPDR). Bombay had the Association for the Protection of Democratic Rights (APDR), which had sprung up in 1972. Maharashtra also had the Committee for the Protection of Democratic Rights (CPDR), which was set up in 1977.

In 1982 there was an attempt, after three years of effort, to set up the All India Federation of
Organisation for Democratic Rights (AIFODR), which included struggle oriented civil liberties groups. These included the Association for Democratic Rights (AFDR), Punjab, Gantantrik Adhikar Samrakshana Samiti, Orissa, Janadhipathy Avakasa Samakshana Samiti, Kerala, Organisation for the Protection of Democratic Rights (OPDR), in Andhra Pradesh, Lokshahi Haqq Sanghatana, Maharashtra, Peoples Union for Civil Liberties and Democratic Rights (PUCL & DR), Rajasthan.

The late sixties and early seventies were turbulent years for the Indian polity. The activities in West Bengal and in the Srikakulam district (Andhra Pradesh), of the Communist Part of India had radicalised Indian politics. The year 1974 saw the birth of Navnirman Movement in Gujarat and Jaya Prakash Narayan's Total Revolution Movement in Bihar, both of which had students at the helm. The Total Revolution had emphasised Jan Shakti (People's Power) and advocated the right to recall people's representatives from the legislatures. In other parts of the country too, the period saw agitations against price rise.

Also certain actions of Mrs Gandhi's regime were seen as authoritarian and undemocratic and as encouraging corruption. The issue of supercession of senior judges while appointing the Chief Justice, and the promotion of the idea of a "committed judiciary"
were interpreted as contributing to an erosion of people's rights in the country.

However, it was the imposition of the Emergency which posed most starkly and clearly the authoritarianism inherent in the regime. The nineteen months of the Emergency saw the denial of civil liberties, several high-handed actions on the part of the executive, and the ruthless crushing of the opposition parties and of critical opinion. 5

However the emergence and events of the Emergency had their own significance for the civil rights movement which received added impetus and acquired a wider base with the "shellshocked" 6 middle class intelligentsia now joining the stream of the already existing body of opinion which had, in isolated pockets, been working to uphold the rights of the poor and marginalised sections of society.

According to Smitu Kothari:

The nineteen months of Emergency ... represent a water-shed in the post colonial history of democratic India. During that period the civil rights movement developed a wider organisational base and consequently grew more visible. 7

The middle class intellectuals, when personally effected by the excesses of the Emergency could articulate more clearly and loudly their understanding of the denial of liberty and prevalence of
repression. Issues of the democratic polity, of general impoverishment, of inadequacies of the post-independence development strategies were now raised with a heightened consciousness. There was now a greater awareness and appreciation of the work being done by small groups among the marginalised sections.

A.R. Desai testifies to a body of thought critical of the State prevailing even before the Emergency.

... the exploited and oppressed sections of the people and their alert activist workers were becoming conscious of this 'Assault on Democratic Rights' even earlier, from the mid-sixties. The failure of the plans and the plan holidays from the mid-sixties, generated considerable disillusionment among the underprivileged, exploited and oppressed sections of the people. 8

Aswini K. Ray, does not believe that a democratic consciousness already existed in India in the late sixties and early seventies which was responsible for the rise of the democratic rights movement. In fact he states:

The Democratic Rights Movement in India, as an autonomous political movement, emerged fortuitously during the amoral politics of the Emergency period. Fortuitously, because the Emergency itself was more causally related to a conjuncture of events and personalities of the period rather than structurally India's political economy of the mid-seventies.

In his opinion the events of the Emergency, the relative ease with which it was imposed and the marginal protests which accompanied its imposition, the compromise of democratic institutions:
exposed the fragility of these institutions on the one hand, and the narrow social base of the democratic consciousness within the country, including among its political and intellectual elite, even after three decades of the operation of political democracy.

A Bombay based civil liberties group, the Committee for the Protection of Democratic Rights, presents its perspective on the rise of the civil liberties groups thus:

...the first real widespread interest in civil liberties came when the nation was shocked by the inhuman tortures and killings that were perpetrated by the police on revolutionaries in 1970-71. This led to the mushrooming of a number of civil liberties organisations throughout the country. But these were small and confined to a few intellectuals who had, till then, harboured the illusion that such things were only possible in Iran or Brazil but not in the "largest democracy of the world".

Then came the Emergency. Now, not only revolutionaries, but even liberals and all the parliamentary opposition had to face the wrath of the rulers ... The horrors of the Emergency, brought to the entire nation, and specifically its organised and more vocal sections, the extent which our 'democratically' elected rulers can go.

Talking about the post-independence antecedents of the civil liberties movement, Surendra Mohan says:

After the achievement of Independence, the first protest in the name of civil liberties was systematically organised by the Communist Party and its sympathisers. It may be recalled that they adopted a new policy of confronting the government and were not averse to resort to violent means. ... Preventive Detention laws were being put into effect by the authorities and people were detained without trial for long periods. Civil liberties organisations sprang up to build pressure on government against these actions.

In the early 50's a Civil Liberties Conference was created with the support of various political
elements because by then preventive detention had become the vogue and popular agitations were on the increase. Mr. N.C. Chatterji and Mr. Vaze were the leading lights of this organisation. 13 But, gradually, it lost its momentum in the 60s.

Surendra Mohan points out too that the suppression of the Naxalites in 1968-69, the rigging of the General Elections in West Bengal in 1972, and the repression of the Railway Workers Strike in 1974 created the need for an organisation concerned with civil liberties which would be independent of political parties.

However the appearance on the Indian scene in the 1960s of organisations committed to the cause of civil liberty was not entirely a novel development. In the early nineteen thirties a body called the Civil Liberties Union had been established at Nehru's initiative, which had attempted to conscientise the Indian populace on the issue of the defence of civil liberties against a strong State. Its specific objective was to provide legal aid to the nationalists who were accused of sedition against the colonial authorities. In some of Nehru's writings on the issue of civil liberties, there is a clear and precise enunciation of the civil liberties idea. One statement of Nehru illustrates his understanding of the conception of civil liberties:

The existence of civil liberties is generally considered to be essential for the development of every kind of national activity - political, cultural and economic. With their suppression all these activities suffer. In countries with a
democratic background the greatest value is therefore attached to civil liberty and the people of the most diverse and mutually hostile opinions join together in a common attempt to protect this foundation of all liberty and activity. They consider it their duty to resist even the suppression of any opinion or activity to which they are personally opposed, for once the principle of such suppression is admitted, it can be, and frequently has been, extended to all manner of other activities.

However with the advent of independence, the importance of a "watchdog initiative" in the form of the Civil Liberties Union soon declined. Tarkunde analyses the role of the Civil Liberties Union in retrospect:

The Civil Liberties Union did not really become a force in the country at any stage. It has historical importance in that it was thought of at that time. But in the day to day affairs of the country it hardly mattered ... Domestically, a separate presence of the CLU was not felt as it took up the same issues as the national movement.

An organisation called Citizens for Democracy had sprung up in April 1974 at Delhi, under the inspiration of Shri Jai Prakash Narayan. It was concerned with the state of declining democratic values in India and upheld issues such as the protection of civil liberties, promotion of electoral reforms and opposition to prise rise and corruption, and the promotion and expansion of freedom of the media and press. Important individuals supporting this initiative included, Shri M.C. Chagla, Shri V.M. Tarkunde, Prof. V.V. John.

The roots of the organisation lay in Jai Prakash Narayan's idea which he shared with Sarvodaya workers in
Bangalore in 1972, of a broad-based organisation formed for the preservation and strengthening of democracy in India. The organisation should consist, he had thought, of all those who cherished democratic values but were not interested in party politics.

The Citizens for Democracy was a non party organisation. It was not a political party, or even a supporter of a political party. It was set up:

for the purpose of strengthening democracy in the country ... Its main aim was to defend civil liberties and ensure the independence of the judiciary and the freedom of the press and other mass media like the Radio and Television.\(^{16}\)

The People's Union for Civil Liberties and Democratic Rights was formed in October 1976. It had some association with the Citizens for Democracy in as much as it too sprang up under the direction and patronage of Jai Prakash Narayan. It sprang up during the Emergency in order to overcome the limitations under which the Citizens for Democracy operated, i.e. "that no member of a political party could become an office bearer of any branch of the CFD".\(^{17}\) To facilitate the participation of political party members a different organisation was required. Thus sprang up the People's Union for Civil Liberties and Democratic Rights (PUCL & DR). It was envisaged as a movement all over the country.\(^{18}\)
The creation of the organisation during the restrictive Emergency period was only possible at this time due to the partial lifting of the ban imposed on meetings to enable discussions on the Forty Fourth Constitution Amendment Bill. Jai Prakash Narayan nominated a coordination committee consisting of seventy members and authorised it to form similar coordination committees at the State and local levels. In October 1976, the People's Union for Civil Liberties and Democratic Rights was formally inaugurated.

However in March 1977 the Emergency was withdrawn, and PUCL and DR tended to fall into a decline. Many of the leading lights of this organisation were part of the new Janata Government, or were closely identified with the Janata Party, and when in power tended to lose interest in the civil liberties body.

The removal of many of the restrictions imposed during the Emergency period created a feeling that the Janata Government was liberal in nature. Several investigation commissions on Emergency excesses had also been announced. There was a general feeling that the new government would be more amenable to dialogue and corrective action. However some actions of the government soon revealed that the democratic credentials of the regime could not be taken for granted. Though they had fought and won their election on the main plank
of restoration of rule of law, and safeguarding civil liberties, yet as, the PUCL and DR remarked:

during their regime the democratic rights ... remained as lyrical allusion as during the early years of the Congress.20

In fact, the Janata Party attempted to introduce a bill which sought to make preventive detention (with a few liberal features), a permanent part of the legal system by amending the Code of Criminal Procedure.21 This revealed the necessity for continued civil liberties awareness and critical perception towards the government. However the return to power of Mrs. Gandhi, in 1979 gave further impetus to the necessity of reviving the democratic and civil liberties consciousness among the people.

It has been pointed out that the PUCL and DR (Delhi Unit) actively functioned in the period of Janata rule because of its members' conviction that such a rule had not in any way altered the entrenched social base of oppression of the country, despite the political change. Hence the PUCL and DR (Delhi Unit) organised a National Convention on the release of political prisoners to remind the Janata Party of its electoral promises. The Convention prepared and submitted a list of political prisoners, and emphasised the need of improving the conditions in prisons. Other concerns of the Delhi Unit in this period were - investigation and reporting of
repression of miners in Dalli-Rajahara, workers in Kanpur, agricultural labourers in Pantnagar, Muslims in Aligarh, tribals in Singhbhum and peasants in Telengana.\textsuperscript{22}

In the National All-India Convention at Delhi on 22-23 November, 1980, People’s Union for Civil Liberties became a membership organisation. At the National Convention too, the Delhi wing of the PUCL and DR broke away from the main body, and formed a new organisation in March 1981. To avoid possible confusion it named itself as People’s Union for Democratic Rights (PUDR), with a manifesto and a Constitution that were unanimously approved by the General Body. A.K. Ray explains the rift in these words:

The People’s Union of Civil Liberties was revived in November 1980 ... Soon a National Level PUCL came into being, demanding of the existing organisations, like the PUCL and DR (Delhi Unit), to merge their identity with the National PUCL. The PUCL and DR (Delhi) ... quite obviously could not accept with equanimity the demands of its liquidation .... \textsuperscript{23}

Surendra Mohan of the PUCL comments on this interlude thus:

... the need was felt to revive an organisation like the PUCLDR. A committee was therefore set up to draw up a set of rules for the organisation. ... It was agreed generally that learning from past experience, the role of political parties should not be dominant so that there is no repetition of 1977-79. The name was also shortened into PUCL. \textsuperscript{24}
Though the PUCL and PUDR emerged as two separate bodies, yet they have a harmonious relationship. They have held joint meetings, cooperated on several issues to widen democratic and civil liberties consciousness in the country.  

Rajni Kothari who has served as President, National PUCL stated in 1985, that PUCL and PUDR, though two separate organisations had a broad understanding and cooperated on many issues. Aswini K. Ray of the PUDR comments:

"Given the present base of the overall movement, this would still leave vast areas of oppression in India, uncovered, and leave enough scope for many new organisations to strengthen the base of democracy in the country."

It may be of value to outline the aims and objectives and activities of the three organisations we have chosen from the arena of civil liberties i.e., the Citizens for Democracy, the People's Union for Civil Liberties, the People's Union for Democratic Rights.

The three civil liberties organisations concern themselves with the denial of civil liberties, but they are also conscious of the environment, and the denial of democratic rights which large sections of the people in the country are facing because of economic or social reasons. They possess the awareness that malfunctioning, malpractices of established political institutions and degeneration in the social fabric of
the country may also lead to decline of civil and democratic rights. Thus while the broad framework of purpose in its widest sense remains the same for the three organisations we have chosen, nevertheless some division of labour seems to have made itself manifest.

As seen earlier, the Citizens for Democracy arose in 1974 from concerns of mitigating the evils, drawbacks in the democratic fabric of the nation, and also wished to concern itself with civil liberties. However with the setting up of the PUCL, a fraternal body, as a membership organisation in 1980, the CFD demarcated a kind of division of labour. The civil liberties questions were now dealt with by the PUCL, and the CFD concerned itself with issues relating to the democratic order. The PUDR is concerned with issues of both civil liberties and democratic rights. They have tried to meet the problems and issues of the poorest sections of the populace.

In this study we have dealt with CFD in a separate section as it has made a conscious choice to concentrate on issues of democracy rather than civil liberties. The PUCL and the PUDR will be treated together in a separate section as there is an identity of concerns. The CFD differs a little from the other two bodies, in being the oldest among the three and also belonging to the period before the Emergency.
However we must hasten to point out that such a separation of treatment has been made with a purpose or objective of facilitating inquiry rather than to establish any basic differentiation in the task. There can be no separation in the tasks which the CFD, the PUCL and PUDR have allotted themselves and which they perform. The civil liberties and democratic rights are indivisible, a continuum and along with a democratic system form an integrated whole.

But before we begin a detailed examination of the organisation, pattern, the objectives and the tasks and working of the three civil liberties groups, it may be relevant to highlight that the provisions of the Indian Constitution have not ignored the individual, his civil liberties and democratic rights. Very often what the group seek is not beyond what has been constitutionally proposed to be given. It may be relevant to outline the parameters within which these groups present their case.

We have seen that the Indian Constitution, under Part III, which talks of fundamental rights articles 14, 15, 16, 19, 20 and 21, guarantees certain civil liberties. Part IV consisting of the Directive Principles of State Policy outlines some social and economic rights. These in totality may be viewed as the yardstick, a measuring rod against which to examine the rights which are available to the citizens.
However while the rights embodied in Articles 14, 15, 16, 19, 20 and 21 are guaranteed rights, the Directive Principles of State Policy which outline certain social and economic principles are ideals — principles of governance which the State would like to implement. They do not, like Part III, have the power of the law courts behind them, to ensure their application. 

However, the principles of democracy and welfare which they outline are the aspirational objectives of the Indian polity.

It may be seen from the Constitutions of the three civil liberties organisations that they envisage protection not only of the civil liberties of the people, but also of democratic rights. The implication is that not only the guaranteed rights of Part III but also the aims of the polity embodied in Part IV will constitute the yardstick by which these groups measure the arena of individual liberty available to the Indian citizen.

According to Hegde and Mukherjea, J.J.:

The Fundamental Rights and the Directive Principles constitute the 'conscience' of our Constitution. The purpose of the Fundamental Rights is to create an egalitarian society, to free all citizens from coercion or restriction by society and to make liberty available for all. The purpose of Directive Principles is to fix certain social and economic goals for immediate attainment by bringing a non-violent social revolution. Through such a social revolution the Constitution seeks to fulfil
the basic needs of the common man and to change the structure of our society. It aims at making the Indian masses free in the positive sense. Without faithfully implementing the Directive Principles, it is not possible to achieve the Welfare State contemplated by the Constitution.

According to Chandrachud, J:

Our Constitution aims at bringing about a synthesis between Fundamental Rights and the Directive Principles of State Policy, by giving to the former a pride of place and to the latter a place of permanence, together, not individually, they form the core of the Constitution. Together, not individually, they constitute its true conscience.

Part III guarantees some Fundamental Rights to the Indian citizen. The Right to Equality is protected by Articles 14, 15, 16, 17 and 18. The Right to Freedom covered by Articles 19, 20, 21 and 22. The six clauses of Article 19 describe the kinds of freedoms given to the Indian citizen. Article 20 deals with the rights of a citizen accused of a crime. Article 21 guarantees life and personal liberty which cannot be taken away except according to the procedure laid down by law. Article 22 speaks of the rights of the arrested person, as well as of preventive detention. Articles 23 and 24 grant the Right against Exploitation. The Right to Freedom of Religion is guaranteed by articles 25, 26, 27, 28 and Cultural and Educational Rights by Articles 29 and 30. Article 32 provides the Right to Constitutional Remedies.

An examination of some important Directive Principles of State Policy will help us to appreciate...
the aspirations of the Indian State. Some of these are:

Article 38: **State to secure a social order for the promotion of welfare of the people.**

(1) The State shall strive to promote the welfare of the people securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life;

(2) The State shall, in particular, strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: **Certain principles of policy to be followed by the State.**

The State shall, in particular, direct its policy towards securing:

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
(d) that there is equal pay for equal work for both
men and women;
(e) that the health and strength of workers, men
and women, and the tender age of children are not abused
and that citizens are not forced by economic necessity
to enter avocations unsuited to their age or strength;
(f) that children are given opportunities and
facilities to develop in a healthy manner and in
conditions of freedom and dignity ...

Articles which outline Directive Principles which
relate to economic arrangements of work and conditions
of work are:

Article 41: Right to work, to education and to
public assistance in certain cases.

The State shall, within the limits of its economic
capacity and development, make effective provision for
securing the right to work, to education and to public
assistance in cases of unemployment, old age, sickness
and disablement, and in other cases of undeserved want.

Article 42: Provision for just and humane conditions
of work and maternity relief.

The State shall make provision for just and humane
conditions of work and maternity relief.

Article 43: Living wage etc. for workers.

The State shall endeavour to secure, by suitable
legislation or economic organisation or in any other
way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities ...

Article 43(A): Participation of workers in management of industries.

The State shall take steps, by suitable legislation ... to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.


The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Directive Principles have also spoken of free legal aid to the poor, of organising village panchayats as units of self governance, of a uniform civil code for citizens throughout the territory of India, of free compulsory education for the children till the age of fourteen, of promotion of the educational and economic interests of scheduled castes, scheduled tribes and other weaker sections, of raising the levels of nutrition and public health, of protection and
improvement of environment and safeguarding of forests and wild-life, of protection of monuments and places and objects of national importance, of separation of the executive from the judiciary, and of promotion of international peace and security.

Seen all together, the social welfare ideas embodied in the Directive Principles in Part IV outline the positive interventionist role that the Indian State had perceived for itself in 1950.

Part III and Part IV comprise the standard against which to evaluate the liberties and rights obtainable by the Indian citizen.

Rights also flow to the citizen from statutes such as the Penal Code and the Criminal Procedure Code.

Moreover India has since 1979 ratified the two Covenants of the United Nations Declaration of Human Rights made in December 10, 1948. These are the Covenants on the Civil and Political Rights and the Covenant on the Economic, Social and Cultural Rights by which the State declares its commitment towards those rights which are embodied in them.

Part III and Part IV of the Constitution constitute the yardstick against which the civil liberties groups measure the "shortfalls" of civil liberties and democratic rights of the Indian citizen. However they
do not hesitate to make a critique of the yardstick itself, and the preventive detention clause in Article 22 has come in for sharp criticism as it affords an avenue for restrictive legislation to be made by the executive and consequently leads to reduction of civil liberties. Similarly the provision for declaration of Emergency too permits a reduction of the liberties and rights of the citizen within the framework of the Constitution. Civil liberty groups see these two constitutional provisions as an intrinsic weakness of the Indian State and have criticised these clauses in some of their reports.

Part II

Citizens for Democracy

The Citizens for Democracy (CFD) came into existence in 1974 with the express objective of working to preserve, defend and strengthen democracy. It also aims to work for elimination of corruption in public life, bring electoral reform, work for protection of civil liberties. It's purpose is to strengthen the democratic fibre of the country. People's participation in the affairs of the state and political education of the people on issues of current importance is on its agenda. It is opposed to price-rise. It advocates working for a common Civil Code and emphasizes the
importance of a free and fearless press and aims at educating public opinion and building a society which is free of the pernicious influences of caste and untouchability.

The CFD aspires to work "for the attainment of the higher ideal of a comprehensive political, economic and social democracy". Founded under the leadership of Jaya Prakash Narayan, the Citizens for Democracy was inspired by the idea of Total Revolution which gives importance to the involvement, participation and responsibility of the grass-root level organisations to generate people's power. The CFD feels that through Total Revolution alone a comprehensive political, economic and social democracy can be realised by the Indian people.

In its long life-span of about nineteen years the Citizens for Democracy has been an active and motivated body. The variety of issues that it has taken up reveals the comprehensive interpretation it has made of its stated objectives. Thus issues ranging from electoral reform, civil liberties, issues of international affairs, education reform, rights of foreigners, decentralisation of state power, environment, communalism all are included the broad horizon of its understanding.
The methodology of treating these and the other issues picked up by the Citizens for Democracy, includes discussions upon them, fact finding and reporting on the issues, protest marches, rallies and dharnas to express resentment, concern or build public opinion, and the raising of issues as cases before the judiciary to demand its intervention. The setting up of Citizens groups such as people's committees and voters councils are seen as a means of political education as also a way of generation peoples power.

The organisation has generated written material in the form of studies, reports and memorandums. Its fact finding reports are published.

The CFD works through a National Executive Council and through State, Regional and Local Units. The CFD has its units at Delhi, Madhya Pradesh, Maharashtra, Andhra Pradesh, Bihar, Kerala, Haryana, Karnataka, West Bengal, Jammu and Kashmir, Uttar Pradesh, Orissa, Gujarat, Tamil Nadu and Rajasthan.

In 1979, the CFD began the publication of the Jantantra Samaj - a magazine in hindi, devoted to the cause of civil liberties. The journal served as a valuable medium for proliferation of ideas around civil liberties and democratic rights, as a forum for discussion and debate, and as a linkage with numerous activists spread across the country. Thus it carries
investigative reporting of contemporary political questions, helps in the dissemination of important materials on science, economy and international affairs. It carries too, reports on activities and Conventions of the CFD. There was also a column for citizens grievances in its pages.

However, because of financial and other reasons the journal has had to close down.

It was in the National Seminar organised by the CFD and held on 16-17 October, 1976, at the Constitution Club in New Delhi, that the movement was launched under the name of the Peoples' Union of Civil Liberties and Democratic Rights which would be conducted by a National Coordinating Committee.

The Citizens for Democracy has close relations with the PUCL. In fact, the Peoples Union for Civil Liberties and Democratic rights was created on 17 October 1976 to overcome the limitations imposed by those clauses of the Citizens for Democracy Constitution which restricts members of political parties being office bearers in the CFD, or the office bearers of political parties even acquiring the membership of the Citizens for Democracy. And again, when in 1980 the Peoples' Union for Civil Liberties became a membership organisation at New Delhi in November 180, the CFD played an active part in it.
The CFD has sketched an approximate division of responsibility with the PUCL:

The functioning of defending and promoting civil liberties, which was hitherto performed by the CFD, has been taken over by the PUCL, the CFD has been concentrating on its basic task which is to achieve a comprehensive political, economic and social democracy in the country through a process of peaceful Total Revolution.

The CFD has fraternal relations with the People's Union for Civil Liberties and also has a some common membership with it.

Some division of responsibility also appears to have been worked out between the two organisations.

Says the brochure of the CFD:

The function of defending and promoting civil liberties, which was hitherto performed by the CFD, has been taken over by the PUCL, the CFD playing a subsidiary role therein. After the formation of the PUCL, the CFD has been concentrating on its basic task which is to achieve a comprehensive political, economic and social democracy in the country through a process of peaceful Total Revolution.

However, as the track record of the CFD reveals this separation of responsibility between protesting civil rights violations and building democracy is not sharply or clearly maintained, and concern with civil liberties does form a part of the CFD agenda even after 1980, i.e., after the inception of PUCL. This will become apparent in the course of the discussion.
Very soon after its inception, in the period of Emergency, the CFD was called upon to play a momentous role in upholding civil liberties and in opposing the harsh conditions of the period.

On 12 October 1975, at Ahmedabad, an All India Civil Liberties Conference was held in which the declaration of the Emergency, detention of political leaders and imposition of press censorship was criticised. A resolution was passed calling the CFD members to organise local committees throughout India to provide legal assistance to political detenus and their families. Advocates who were members or supporters of the CFD, filed Writ Petitions in the High Courts in the country for the release of political prisoners and for improving the conditions of their detention.

Similarly Writ Petitions were also filed against orders of closure of newspapers and periodicals and against the forfeiting of printing presses during the Emergency.

The unlawful imposition of Section 144 of the Criminal Penal Code in Delhi and the prohibitory banning of public meetings was defied by holding public meetings at the Gandhi Peace Foundation. These were held after giving notice for the same to the police.
During the period of the Emergency itself a successful "Save the Constitution" meeting was held in Ahmedabad in 1 January 1976. A Tamil Nadu branch of the CFD was inaugurated in Madras. Several leading lights of the CFD were arrested during this period.

The CFD was active in opposing the undemocratic and restrictive amendments to the Constitution which were embodied in the 44th Constitution Amendment Bill. Taking advantage of Mrs. Gandhi's call for a nation-wide debate on the Amendment Bill suggested by the Committee under the Chairmanship of Shri Swaran Singh, the CFD organised meetings all over the country, pointing to the anti-democratic nature of the changes. The CFD also popularised alternative amendments suggested by a Committee appointed by Jaya Prakash Narayan under the Chairmanship of Shri M.C. Chagla.

Another outstanding achievement of the CFD in its early years was the investigation, by one of its committees into the 'encounter deaths' by the police in Andhra Pradesh.

In 1977, the CFD had taken up the issue of police brutalities. There had been frequent reports from time to time from various states of India such as Andhra Pradesh, West Bengal, Bihar, Orissa and Punjab, that "naxalites" had been killed in "encounters" with police. The CFD President, Jaya Prakash Narayan, set up a
Committee, specifically to investigate into these police - "naxalite" encounters in Andhra Pradesh.

The investigations were eye openers for the public, putting under the glare of publicity the truth of police brutality and high-handedness. An extremely significant story of proved police excesses was exposed by the investigative efforts of this Civil Liberties Committee of the CFD. This Committee, comprising of eminent public figures was set up under the Chairmanship of Justice Tarkunde by Citizens for Democracy to investigate the nature of the police encounters with naxalites from 1975 to 1977 (through the Emergency), in which the Andhra Police claimed that many Naxalites had died. The Committee of the CFD through investigations and through a study of some cases, published two Reports which established beyond doubt that these were in fact cold blooded murders of arrested activists by the Andhra Police. Upon pressure exerted by the Citizens for Democracy, the Vengal Rao government of Andhra Pradesh appointed the Bhargava Commission to inquire into the findings of the APCRC (Andhra Pradesh Civil Rights Committee) reports. K.G. Kannabiran and M.V. Ramamurty participated in the inquiry on behalf of the CFD. But the Bhargava Commission was ultimately non-productive. After several months of investigations, the A.P. Government made a rule that the Enquiry would henceforth be held in camera. The CFD sub-committee members
protested against this undemocratic procedure and decided to withdraw from the Enquiry. The result was that Mr. Justice Bhargava wound up the Commission work.

The CFD has been very active on the issue of Electoral Reforms. Soon after its inception, its President Jaya Prakash Narayan had appointed a committee to discuss electoral reforms. Its recommendations were made the basis of the opposition’s joint memorandum to the government on which discussions were to be held with the government. These discussions had been proposed by Mrs. Gandhi owing to the public interest generated in the Committee’s Report.

It will be of interest to study the terms of reference of the CFD Committee on Electoral Reforms and the recommendations of the Committee in order to appreciate their understanding of the issue as well as their solution to the perceived problem.

The terms of reference of the Committee were:

a. To study the present system and law of elections to the Union and State Legislatures with particular reference to:

1. The use of money power in Indian elections;
2. The misuse of official authority and machinery;
3. Other forms of corrupt practices;
4. The disparity between the popular vote secured and the number of seats obtained under the present system of election;
5. Defects in the existing electoral law and administrative machinery;

6. Delay in the disposal of election petitions; and,

b. To recommend appropriate measures of reform to secure free and fair elections so as to reflect accurately the popular will.

The recommendations it made in February 1975 touched issues such as the composition and working of the Election Commission, the misuse of Government power and official machinery, control of money power in elections, voting rights and election procedure, quick disposal of election disputes. It recommended a public discussion on the issue of proportional representation for elections to the Lok Sabha and State Legislatures.54

Another Committee known as the CFD Committee on Election Expenses was set up on 13 August 1977.55 In its report on 19 March 1978, the Committee recommended that a certain essential expenditure of every candidate in the Lok Sabha and State Assembly elections should be defrayed by the Government.56

Some other early investigations and studies of the CFD have been noteworthy. The CFD took the initiative of requesting Dr. J.P. Naik, the then Member-Secretary of the Indian Council of Social Science Research to prepare the frame-work for reform in the educational system. The policy made by Dr. J.P. Naik, was published
as a booklet by the CFD under the title "Education for our People".

The CFD has been desirous of having the Radio and the T.V. under non-official control in order to secure the independence of the media. 57

A significant effort in the field of civil liberties was made by the CFD in the case of protecting the civil liberties of the Dawoodi Bohras from the persecution of the priestly class which acted in the name of their High Priest or Head - the Syedna Saheb. 58

The Report of the Commission set up by the Citizens for Democracy 59 highlighted that there is large scale infringment of civil liberties and human rights of reformist Bohras at the hands of the priestly class and that those who fail to obey the orders of the Syedna Saheb and his Amils, and even in purely secular matters are subject to social boycott, mental torture and frequent physical assaults. A number of legislative measures were suggested in order to protect the civil rights of the reformist Bohras. 60

The issue of reform among the Bohra community has continued to be on the agenda of the CFD and its fraternal body the PUCL.

The CFD was a keen commentator on the role of the Janata Government in the post Emergency period, upon the subsequent fragmentation and fall of the Janata
experiment and upon the options before the people with the close of the Janata interregnum.

Thus in September 1978, after a conference CFD prepared a statement signed by 86 intellectuals in which they called for the revival of the 'spirit of 1977' and the implementation of the Janata Party Manifesto promises. CFD raised the issue of organisational elections within the Janata Party.

It may be relevant to examine in some detail the idea of Total Revolution which the CFD has seen as an important prong of its programme of promoting popular education and grass-roots organisation. The inspiration for this has been Jaya Prakash Narayan. However the Total Revolution idea has also found mention, even earlier than Jaya Prakash, in the writings of M.N. Roy who had spoken of the principle of Radical Humanism.

At the level of ideology, the Total Revolution idea indicates "a Total Revolution in which the democratic and humanist values of liberty, equality, fraternity will be actually realised in all aspects of life". 61

The avenue for this revolution will not be the capture of state power or political power:

but to educate the people in the basic values of democracy, to instil in each individual the spirit of self-reliance, and to increase their organised strength in such a way that power is decentralised and becomes vested in their hands. 62
Thus it is people, their representative and their councils and committees which are important. This arrangement would help and create a suitable environment for the successful advent of the Total Revolution. This would bring a sea-change in the social, political and cultural arena, eliminate corruption and usher in a period of moral regeneration.

As early as 24 April 1977, in an All India Conference, the CFD had called for the programme of popular education for building up grass-root organisations to generate people's power as the basis of "Indian democracy".

The Total Revolution idea is seen by the CFD as a long term programme based on the dissemination among the people, of the democratic values of equality, liberty and fraternity.

The total revolution idea is linked to a cultural change which will eliminate apathy, fatalism and mental slavery.

The revolution has to be attempted from below. The agents for change, the catalysts of the people, will be those individuals who have emancipated themselves from nations of casteism, communalism, fatalism, blind faith and orthodoxy.
The social activists, who are the vanguard of Total Revolution will attempt to set up people's action groups or Peoples Committees. Their objective will be to increase the people's spirit of self-reliance and propagate humanist democratic values. Apart from constructive activities such as education, health-care, improvement of agriculture, promotion of small-scale industry, these groups will attempt to eliminate social evils like casteism, communalism, sex-discrimination, dowry system, faith in godmen etc. These groups will also encourage the exploited sections to fight for their just economic demands such as equitable distribution of agricultural and urban land, minimum wages for agricultural labour, release of bonded labour, implementation of labour legislation, improvement of conditions of work of the urban and rural workers and the right of the adivasis to land and forest produce.

The Peoples Committees will thus be the instruments for generating people's power and also develop into repositories of that power.

The Total Revolution idea also carries within it the idea of a radical decentralisation of power and responsibility from the centre to the states, from the states to the District Panchayats, Block Panchayats and Gram Sabhas. Such power as will remain at the level of the Centre, the States, the districts, the blocks and the villages/towns will eventually be under the control of people's candidates. Thus effective political power
is with the people, and the democracy is a genuine one, organised from below.

In the economic sphere, there will be a decentralisation of planning and implementation, and the Panchayat, Block and District levels will play the key roles.

Emphasis will be on employment generation, and therefore, on labour intensive projects related to agriculture, road and school construction. Cooperatives will be the most acceptable pattern in production, distribution and exchange. Large-scale basic industry will be in the hands of suitable autonomous corporations. The entire economy, run on cooperative lines, will eliminate exploitation.

In 1981 the CFD, supported by the PUCL, began a programme of periodic conferences of the activists who are actively involved in work with the poor and the exploited, in order to popularise and clarify the idea of the total revolution. The conference was aimed to discuss their work and their problems.

However, on the practical side too the CFD has been keen to activate the process by which Total Revolution will become a reality since its very inception.

The idea of the voters councils has been raised on much of the writings and discussions of the Janatantra
Samaj. These have been seen as evidence of a mature democracy.

The voters' councils have been envisaged in all villages and towns mohallas. Their composition will be of impartial and emancipated individuals who are not members of any political party. Voters' Council of a constituency can help the people of that constituency to choose people's candidate assisting their elections and subsequently controlling their political actions in order to ensure salutary legislation, such as legislation for prevention of defections, legislation for setting up of Lok Ayukts, legislation for land ceiling or for electoral reform. The Voters' Councils can ensure accountability and exercise the right to recall which is a basic idea of the Total Revolution.

It is imagined that in course of time, the Peoples Committees may begin to work as Voters' Council. However, the expectation that the people's candidate will emanate from an aware Voters' Council has not been fulfilled yet.

However, while the notion of Voters' Council has not taken roots, the CFD has been actively participating in overseeing and observing elections in sensitive constituencies in order to ensure fairness of polling. It has been part of many "independent initiative" teams.
As early as 1981, the CFD published a report of a Fact-Finding Committee on the Garhwal By-Election.70

While today there has not emerged fully, a network of peoples committees as envisaged, nor yet a structure of district regional and provincial committees, however there certainly is apparent at the grass-root level a growing consciousness, a greater awareness. This has been made possible by various committed workers and organisations working for enhancing democracy.

In October 1986 at Bodh Gaya, the Sampoorna Kranti Manch was set up. This was to be a federating group of about 50-60 non-party organisations.71 committed to the idea of Total Revolution of Jaya Prakash Narayan, "to give a national thrust to the ground level responses of a variety of groups to the increasing marginalisation of the population".72

A smaller forum of this kind had been established by some groups working in Bihar in 198473 in order "to overcome the sense of isolation and fragmentation" and also to "revive the spirit of 1974".

The draft resolution passed in the meeting at Bodh Gaya in October 1986 which set up the National Total Revolution Front declared that they rejected "the violent insurrection of one section of left" and "recognised the failure of India's peaceful revolution through the ballot box".74
However the Sampoorna Kranti Manch or the Total Revolution Front could be sustained only till 1922 when in April it was formally withdrawn with the understanding that since the CFD was already actively working in the same area, the duplication could be avoided. However contradictions had appeared earlier in 1989 when some of the main activists were of the opinion that the Sampoorna Kranti Manch should convert itself into a political party. In fact, some of its members joined the Jan Morcha of V.P. Singh. However, another group had felt that the non-party nature of the formation should be retained.

On the side of structural change, the CFD, in its deliberations, has called for a rethinking on the prevailing patterns of federalism which has been conducive to centralisation. They would like limited powers to accrue to the centre, i.e., defence, foreign affairs, higher justice, finance, post and telegraph and communication. They are for the strengthening of panchayat bodies, the cooperative movement and for decentralisation of political powers and economic planning.

They have advocated the withdrawal of the Defamation Bill, and spoken in favour of the Radio and T.V. to be regulated by an autonomous institution.
They have deliberated on the falling standards of legal justice and offered constructive solutions.75

However, elections and electoral reforms, setting up of voters' council and independent judiciary are only a small though important part of CFD's comprehensive view of democracy. The lodestar of "comprehensive social, economic and political democracy" which directs the CFD, implicitly demands a cultural revolution, a renaissance which frees people from the strangle-hold of communalism, casteism, superstition and belief in divine intervention. Thus the cobwebs of feudalism have to be pushed aside. Several editorials76 of the Jantantra Samaj have been devoted to the issue. We may quote an extract:

... in our country, democracy has been perceived as handing over the task of solving one's problem to a handful of people. One gives them one's vote and the responsibility of the job. They become objects of worship, respect and reverence. The result is that between the elected representatives and the voters exists the traditional relationship of the king and his subject.77

In the Jantantra Samaj from time to time there have been articles written by the Lok Nayak, which act as inspirational pieces as well as help to unravel many of his relevant ideas.

Corruption and its relationship to elections and party politics has been a recurring concern for the CFD. Thus an All India Conference was called in Bangalore on 9-10 October 1982 to discuss this problem. This All
India Anti-Corruption Conference was held by the CFD in association with a number of like-minded organisations such as the PUCL, Sarva Seva Sangh, Vigil India Movement Hindustan Andolan, National People's Committee and Lok Sewak Sangh. The Conference recognised that the Central and State Governments were the focal point of corruption, and that the Voters' Council Movement in the country should impress upon the electorate the necessity of electing persons of integrity to the legislatures to ensure corruption free governments as far as possible.  

The CFD has closely involved itself with the issue of Communalism. It perceives it as a hindrance in a developing citizens' values. A report of the CFD Conference states:

CFD provides a forum to all such people who rise above caste and creeds and try to strengthen democratic values in the country.

It was closely involved in examining the communal violence that followed Mrs. Gandhi's assassination, and came up with a report entitled the "Truth about Delhi Violence."

In the wake of the demolition at Ayodhya the CFD held a public meeting on 15 December 1992 on the issue of Religion and Politics. Says the report:

There was general agreement among the participants about the urgent need to delink Religion and Politics.
In the CFD journal, *Jantantra Samaj*, from time to time articles have raised the issue of the essential meaning of development. The predominant point of view perceives development as an increase in GNP, and emphasises production over distribution. The CFD view on development, represented in an article is a comprehensive one emphasising an improvement in the social and political aspects of life as well. Thus true development would comprehend, on the political front, electoral reforms, setting up of Voters' Councils, appointment of the Lokpal, an anti-defection law and a code of ethics both for political parties and legislators. On the economic front, the notion of development would include land reforms, end of benami pattas, irrigation facilities and improved agricultural techniques for farmers. It would also include the right to work. On the social front, developmental priorities would include strict laws against social crimes, effective legislation against dowry, elimination of casteism, taxation of the property of religious trusts.

In the economic arena, CFD has been actively working towards giving "right to work" the position of a fundamental right in the Indian Constitution. An All India two day Conference was held on this issue in which ninety organisations were represented.
The CFD holds that it is the constitutional duty of the State to provide work and gainful employment to all the citizens and that governments and political parties have neglected this important task.

This right, the CFD feels, could be incorporated into the Constitution by means of a constitutional amendment.

Issues of nuclear energy (Kaiga Atomic Plant), environmental pollution, of protest against eucalyptus monoculture have been raised at their meetings.

Issues of bonded labour, shelter, conditions in slums and Jhuggi-jhoparis have been discussed in the columns of the Jantantra Samaj. In the various issues of the journal there is a mosaic picture of incidents of denial and violation of civil liberties and democratic rights. Reports from all over the country are reported. It may be relevant to quote a few of the hundreds of such reports — "Incident of Police Violence in Bihar Sharif — 26 March 1988" : Report of the Bihar PUCL; "A report on Balliapal", Orissa, "Mithai Kand" Ranikhet, "Neetra Heeno Par Lathicharge" "Repression of students of the Sadak Polytechnic, Keelakari District, Ramnathpuram".

They have been concerned with the issue of peace. Thus they have questioned high budgetary expenses on
arms. In April-May 1990, CFO, along with other organisations participated in a peace procession to counter-act and reduce a war hysteria, and appealed to leaders of India and Pakistan to avert a war.

The CFO had registered its protest against Soviet intervention in Afghanistan in 1979. CFO has also reacted to civil liberties denial across the borders and has been concerned with the civil liberties issues of people other than Indian citizens. In early years the CFO had in the context of the arrest of Iranian students protesting against the Shah of Iran, organised a discussion on the issue of "Civil Liberties and Democratic Rights of Foreign citizens in India".

They had also protested against the exile of the nobel Laureate Andre Sakharov from the erstwhile Soviet Union.

The Patna unit of the CFO is actively involved with the spread of the Total Revolution Front idea.

The Karnataka unit of the CFO involves itself with, among other issues, the environment issues around Karnataka. They have been active against the granting of land for eucalyptus culture to the Karnataka Pulpwood Limited - a Birla, Karnataka Government, joint venture. The CFO, along with other groups has supported the peasants' and villagers' protest in the districts of Shimoga, Dharwad, Belgaum, Chikmaglur, Hosan and North
Kannar), against this deprivation of land traditionally used for grazing, fuelwood etc. The Karnataka branch of the CFD was also active in protesting against the Kaiga Nuclear Plant.

In their efforts at political education, the CFD also brought out in its journal an unusual "Manifesto of the Voter". This was an outline of the expectations of a voter from an elected government in a democratic polity. Thus the voter was portrayed as upholding an anti-communal, anti-caste system which believed in peace, non-violence, service, self-discipline, people's power and decentralisation and in a politics which was linked with ethical values. 94

This concern of emphasising the people's expectations of the elected government is apparent in the twelve point Charter of Demand which the CFD had presented to the political parties on the eve of the 1989 elections. The Sampoorna Kranti Manch had joined the CFD in this. The idea was to vote only for those political parties who had incorporated these demands into their party manifestoes. A newly elected government, it was stated, must implement these within a period of eighteen months of assumption of office. 95

The CFD set up a commission to study reforms in the educational system. With the advent of elections in 1979, the CFD had used its journal to educate voters on
their rights, duties and responsibilities as voters. A nineteen item questionnaire was suggested upon which voter could examine the credentials and bona-fides of a vote-seeking candidate. These questions were diverse and served to discover not only the candidate's past record, expenditure for elections, future plans for the constituency, but also his viewpoint on issues such as emergency, defection, nepotism, casteism, communalism.

In 1980, a meeting had been organised in which the then Chief Election Commissioner was invited to speak on "Electoral Reforms for India". This address and discussion on reform was organised soon after the polls, based on the understanding that:

Despite a wide measure of agreement on the subject, the question of electoral reforms generally seems to come up only on the eve of a general election which the stock answer is that it is too late and that such ideas had better be postponed until "next time."

Let us turn our attention to the Charter of Demands made by CFD and the Sampoorna Kranti Manch. An examination and analysis of these demands highlight that they touch on the issue of civil liberties and the issue of the social, economic and political democracy which is the avowed objective of the CFD. Thus the concern for civil liberties is manifest in the demand for the repeal of the 59 Amendment and withdrawal of the Black laws such as the Terrorist Affected Areas (Special Courts)
Act, the Terrorist and Disruptive Activities (Prevention) Act and preventive detention laws — except where active insurgency has come to prevail.99

Their desire for an improvement in democracy is apparent when they ask for amendment of the Constitution 19(1)(a), to incorporate the right to information and freedom of the press.100

They called for the provision for adequate representation of women in legislatures, expressing their concern for social equality101 Another demand is for the economic betterment of the deprived sections. It calls for "a massive programme of house construction ... for ... the deprived sections."102 Demand 11 called for making the right to work a fundamental right103

Two demands concerned themselves with the issue of decentralisation. Demand 12 calls for decentralising power from the Centre to the States and further to Gram Panchayats, Mandal Samities, Zila Parishads and Municipalities. While demand 13 called for framing and implementation of plans at the level of Zila Parishads, Mandal samities and Gram Panchayats.

To prevent interference of executive into judicial affairs they called for the setting up of a high-power judicial committee to look into matters of appointment of the Chief Justice and Judges of the Supreme Court and into matters of transfer of High Court judges.104
Similarly to prevent executive and political interference they called for the Radio and the Television to be put under control of autonomous bodies. Appointment of directors to these would be made by a Committee comprising of the Chief Justice and leader of the Opposition and the Minister of Information and Broadcasting.

Concern about corruption in the country was apparent in the demand for the setting up of the Lok Pal and Lok Ayukt at the Centre and States respectively and calling for electoral reforms which would put a ceiling on election expenditure and auditing of funds of the political parties. Modifying privileges of the Parliament and State Legislatures so that they would be subject to fundamental rights, was another demand.

While the democratic rights and democratic environment as an important CFD concern, nevertheless, issues of civil liberties have been taken up. The Jantantra Samaj also carries in its columns, reports of other groups reporting on civil liberties denial – e.g., Police firing at Rallies India Magarwaragaon on January 1982.

The issue of civil liberties has been an important concern for the CFD. Issues of civil liberties denials, police firings etc. have been reported from time to time. They had also sent a
special fact finding team to study the Arwal police firing. 111

The CFD was earlier extremely active in a programme on Jail Reform and the CFD Jail Reforms Committee was also appointed the non-governmental inspectors of the Tihar jail by the Delhi Administration. 112

In the years after Emergency, the CFD had organised Sangharsh Samities of those displaced during the Emergency. They have actively opposed the 59th Amendment of the Constitution, starting a vigorous campaign against it and setting up an Emergency Virodhi Manch to educate people on the implications of the Amendment. 113

The CFD has reported upon the anti-Sikh riots in Bidar in 1988. 114 The condition in Punjab has been an important concern of the CFD. The CFD had reported on the anti-Sikh violence in Delhi in October-November 1984. The report was entitled "The Truth About Delhi Violence". Members had also courted arrest on the issue of the release of the Punjab prisoners at the Boat Club in November 1987. 115 In September 1985 the CFD had published a book on Punjab entitled "Report to the Nation: Operation in Punjab". This came in the wake of the army action during Blue Star operation in Punjab. They spoke of police atrocities and state terrorism having counter productive results and leading to the
growth of terrorism. This report had been banned by the Government.\footnote{116}

A subsequent report on Punjab of March 1989 has been authored by a four member team\footnote{117} entitled "Violence in Punjab". They had toured Amritsar, Gurdaspur and Batala and reported that Punjab was sandwiched between police and terrorist violence, and that the alienation in Punjab could partially be traced to the non-action against the culprits of the 1984 killings. They reported too that communal unity continued to prevail in the region and that there was no support for terrorism and called for elections.

The CFD has been part of a group which has brought out a report on Kashmir in 1990.\footnote{118} It is also a part of a forum called the "Coordination Committee on Kashmir" which was set up in September 1990. This group monitors and reports on human rights violations in Kashmir and desires to promote dialogue between the people of Jammu and Kashmir and the Government of India.\footnote{119}

Another report on Kashmir, after a five-day visit to the Valley between 20-25 May 1992, was brought out by the Coordination Committee on Kashmir.\footnote{120}

This reportage on police atrocities and para-military excesses in Punjab and Kashmir has drawn the
CFO Calon9 with other civil liberties groups, into a strained relationship with the State. Protesting along with other groups against a reported mass rape by armed forces in February 1991 in a border lying area of Kashmir, and the subsequent appointment, in June 1991, of a Press Council of India investigation group which gave the army a clean chit has created a piquant situation. While on the one hand it has embarrassed the civil liberties groups, it has given ground to the State to express sharper criticism of these groups for biased and irresponsible reporting.

However, the raison d'être of civil liberties groups is the critical and 'gad fly' role they play within the State.

From the discussion above it is apparent that the CFD is an active group - vocal not only on civil liberties issues but also consistently striving towards the outlined task of working "to preserve, defend and strengthen democracy in the country" and for "the attainment of the higher ideal of a comprehensive political economic and social democracy".
Part III

People's Union for Civil Liberties
People's Union for Democratic Rights

Earlier in this chapter we had briefly discussed the origin, and the context of the origin of the two civil liberties bodies — the People's Union for Civil Liberties and People's Union for Democratic Rights. We will now turn our attention to the pattern of their organisation and their Constitutions in order to discover their objectives and priorities. Their writings and activities will be closely examined to discuss the notion of social change that they envisage.

The Aims and Objectives which the People's Union for Civil Liberties has outlined in its Constitution are:

a. To uphold and promote by peaceful means, civil liberties and the democratic way of life throughout India;

b. To secure recognition to the principal [sic] of dignity of the individual;

c. To undertake a constant review of penal laws and criminal procedure with a view to bringing them in harmony with humane and liberal principles;

d. To work for the withdrawal and repeal of all repressive laws including preventive detention;

e. To encourage freedom of thought and defend the right of public dissent;
f. To ensure freedom of the press and independence of mass media like radio and television;
g. To secure the rule of law and independence of the judiciary;
h. To make legal aid available for the poor;
i. To make legal assistance available for the defence of civil liberties;
j. To work for the reform of the judicial system so as to remove inordinate delays, reduce heavy expenses, and eliminate inequities;
k. To bring about prison reform;
l. To expose police excesses and use of the third degree method;
m. To oppose discrimination on the grounds of religion, race, caste, sex or place of birth;
n. To combat social evils which encroach on civil liberties such as untouchability, casteism, and communalism;
o. To defend in particular the civil liberties of the weaker sections of society and women and children; and,
p. To do all acts and things that may be necessary, helpful, or incidental to the above aims and objects.

The PUCL has made attempts to have branches in every State. The Constitution speaks about the method of their formation and organisation and their financial links with the National PUCL.

The PUCL Constitution also permits groups and institutions to acquire its membership. It may be pertinent to point out that some membership of the PUCL and the Citizens for Democracy is common.
Members of Political Parties can be members of the PUCL in their individual capacity with some restrictions on their numerical strength. In fact, the very emergence of the PUCL and DR in October 1976 was to overcome the inability of members of political parties to acquire membership of the Citizens for Democracy.

The Constitution of the PUCL provides that no single party would have more than 10 per cent membership in the National or in the Executive Committee (and in the corresponding bodies at the State and local levels). The total number of political party representatives in these bodies should also not exceed 50 per cent. No party member can hold office, i.e., become President, Vice President, General Secretary, Treasurer of the PUCL or of any of its branches.

The PUCL has been bringing out a journal PUCL Bulletin since May 1981, which serves as the journal and mouthpiece of the civil liberties movement.

People’s Union for Democratic Rights (PUDR) traces its origin to the Delhi Unit of the People’s Union for Civil Liberties and Democratic Rights (PUCL & DR), set up in January 1977. We have earlier traced the process by which in November 1980, this group set up its identity as PUDR independent from the PUCL and DR.

This body does not aspire to a wide and vast organisational frame-work. It is primarily a Delhi-
based organisation. Its Constitution specifically states that it has no foreign funding, but draws support from donations, membership fees and from sale of literature. It does not permit organisational membership.

PUDR is conscious of the threat to civil liberties which emanate from the State in the form of draconian legislation which undercuts rights. Its Constitution states:

The need for the existence and strengthening of the organisation arises from the fact that there is no effective mechanism to defend the people when the state or its agencies violate the law. However, it is conscious that attack on the rights of the people can come from sources other than the state too. The reason for denial of rights can be "the social and structural roots of repression in the context of the iniquitous social order that prevails in the country". The PUDR sees as its "distinctive" approach, "a concern for the rights and liberties of the masses in the context of their socio-economic needs and political aspirations....".

An activist of PUDR, Aswini K Ray highlights the priorities of PUDR as an emphasis on the "social context of democratic rights, as apart from merely their constitutional significance."
The "Aims and Objectives" outlined for itself by the organisation cover the implementation of Fundamental Rights guaranteed by the Constitution, enforcement of Directive Principles of State Policy, building up public opinion towards the ratification and enforcement by the Indian Government, of the several United Nations documents and Covenants relating to Human Rights. The objectives also include "to defend and help democratic struggles against caste, class, community, ethnicity, religion and gender-based oppression."

The particular tasks, the PUDR outlines for itself are:

1. to work towards the repeal of all extraordinary and draconian legislations that violate the ethos of the Constitution and to defend victims of such legislations irrespective of their political religious and social faith.

2. to take up the assault on people by ruling powers including vested interests, communal and casteist forces and such other anti-people forces.

3. to protect the right to free expression and dissent.

4. to make the right to work, right to shelter, right to education, right to employment, right to living wage and right to live with dignity as part of the fundamental rights.

5. to build public opinion on these issues through investigation, courts, legislatures, media and such other legal democratic channels, help victims of these violations through these channels.

The main source of examining the PUDR perceptions towards rights, civil liberties, the role of the state, and the social-structural interdependencies within the
parameters of the state, are the periodical reports of the organisation.

However for PUCL, the periodic reports on denial of rights and liberties are further highlighted by the PUCL Bulletin which carries in its columns relevant reports, investigative articles, analytical articles, relevant court judgements, analysis of law and its implications for rights.

The PUCL Bulletin, apart from being a forum for discussion on civil liberties and related issues, also serves as a means of linking with PUCL units across the country. The latter regularly send their reports for publication. Discussions and resolutions of the National Convention are also published in the Bulletin. Civil liberty groupss scattered throughout the country, from time to time, submit their reports for wider dissemination. Thus the statements and reports of the APCLC (Andhra Pradesh), the Naga Students Federation and the Naga People's Movement for Human Rights, the Democratic Womens Forum, etc., have also been published. Reports are carried of people's protests as of civil liberties denial. In this way the PUCL Bulletin can be termed the voice of the civil liberties movement.

Further, the PUCL holds an annual lecture series in which eminent peoples with a civil libertarian bias are invited to speak. Each year it also gives an award of
Rs.20,000 for writings on Human Rights issues to committed and outstanding journalists.

The PUJDR has from time to time been holding Conventions on issues relating to civil liberties and rights. Papers are presented and discussed. Some of the important issues which have formed the subject of these Conventions have been Science, Culture and Democratic Rights, Legal System, Judiciary and Democratic Rights, Mines, Mechanisation and People, Mass Organisations and Democracy, Development and Democratic Rights.

Both the organisations have kept away from foreign funds or even government funding in order to ensure their independence and eliminate any pressure.

In their task of highlighting any onslaught on civil liberties, and in course of working towards their objective of protecting the civil liberties of the citizen, civil liberties organisations are extremely conscious that restrictive legislations that are being made by the State from time to time should not diminish the area or space permitted to the citizen within the State. While restriction of the orbit of civil liberties is constitutionally permissible under the Emergency Provisions of the Constitution, as well as under the "preventive detention" clauses of the Constitution, the groups have focussed upon and monitored the restrictions under such special
provisions. The role of the law enforcing agencies has also come in for criticism in the reports and discussions of the civil liberties groups.

It will be useful to first explore the nature of the criticism by these groups of preventive detention. This has been perceived as a restriction on citizens liberties. It has been seen as a non-liberal strain within the liberal Part III of the Indian Constitution.

Article 22 of Part III refers to "Protection against arrest and detention in certain cases" and discusses Preventive Detention. Preventive Detention finds mention both in the Union and the Concurrent List as items 9 and 3 respectively. In the Union List or List I, item 9 speaks of Preventive Detention for reasons connected with Defence, Foreign Affairs, or the Security of India. List III, or the Concurrent List, speaks of preventive detention for reasons concerned with the security of a State, the maintenance of public order, or the maintenance of supplies and services essential to the community. Preventive Detention is different from detention under normal laws, i.e., the Indian Penal Code (IPC) and the Criminal Penal Code (Cr.P.C.). Under the IPC and the Cr.P.C. people are arrested for having committed acts violative of law. Under preventive detention, however, persons are arrested on suspicion or probability of their violating law, i.e., in a preventive way. When an individual is
arrested under preventive detention article 22(1) and article 22(2) which form the vital component of individual liberty do not apply. According to article 22(1) no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by a legal practitioner of his choice; and according to article 22(2) every person who is arrested and detained in custody shall be produced before the nearest Magistrate within a period of 24 hours of such arrest. Article 22(4) further states that: No law providing for preventive detention shall authorise the detention of a person for a period longer than three months, but that this period can even be extended on the opinion of an Advisory Board, or if the provision of a law made by Parliament call for it.

The denial of articles 22(1) and 22(2) in case of arrest under Preventive Detention and the avenues of executive discretion which the preventive detention clause opens up, are looked upon with extreme suspicion by the civil liberty groups.

Civil liberty groups have pointed out that this article has been the basis of restrictive legislation on the part of the State. So that India has had Preventive Detention Laws continuously since 1950.
onwards, save for the short period between 1969 to 1971, when Mrs. Gandhi did not have the requisite majority in the Parliament to pass such an Act. Even the Janata Party which came to power on the tide of a strong critique of the violation of civil liberties during the Emergency had also attempted to press for such legislation.

In an article entitled "Indian Constitution and Civil Liberties" Mukhoty has documented that in December 1977 Charan Singh had attempted to move an amendment which would incorporate Preventive Detention into the Criminal Procedure Code and thus made it a part of the "ordinary" law of the land. Subsequently he had to withdraw it because of protest.

On 11 November 1978, Morarji Desai had advised Chief Ministers to enact Preventive Detention Laws in their States as they were essential for the maintenance of law and order. Even as Caretaker Prime Minister, Morarji Desai had passed a Preventive Detention Ordinance.132

The Civil Liberties groups have undertaken a close examination of some specific laws and acts, which have been seen as repressive. The objective of the reports is to educate public opinion not only on the law itself but also with regard to the subtle patterns in their usage and application by which they can be used to
delimit citizens freedom. For instance a report of the PUDR discussing some major anti-democratic laws says:

In the name of Punjab the government has amended the National Security Act. This amended version is applicable not only in Punjab but also all over the country. Since it closely follows a number of other laws introduced in Punjab, it has virtually gone unnoticed that this stricter NSA is being applied to the whole country.

It has further been pointed out:

Time and again such laws have come up with an ostensible purpose and have been used for entirely different purposes. If such a law is meant for smugglers, it is used against trade union leaders; when it is supposed to be against forest contractors it is used against poor tribals, and so on. It is this ostensible purpose that is projected so as to get public support for such laws. For instance the MISA was intended to be used against smugglers and all except one opposition party supported the enactment in the Parliament. Those very opposition leaders who had supported the law were arrested under MISA, during the Emergency.

Another report of the PUDR points out that the National Security Act 1980, provides for preventive detention of any citizen if the government is "satisfied with a view to preventing him from acting in any manner prejudicial to the security of the State or to the maintenance of public order".

In their report "Black Laws 1984-85", the PUCL has commented upon the Terrorist and Disruptionist Activities (Prevention) Act of 1985. Commentaries by V.M. Tarkunde and S. Sahay, Editor, Statesman, have been included along with the text of the Act.
the PUDR has commented upon the TADA in two reports "Are you a Terrorist?" and "Citizen's Guide to Rajiv Gandhi's India". The Terrorist and Disruptive Activities (Prevention) Act 1985 (subsequently extended to 1987 and then upto 1989 and then upto May 1993), has been critically explored. The main features of the TADA and the specific draconian features have been highlighted.

The "Black Laws 1984-85" also carries a discussion on the Black Laws passed in 1984, i.e. the Ordinance (later law), which served to amend to make more stringent, the already existing the National Security Act. It also includes the text of the Terrorist Affected Areas (Special Courts) Ordinance which later became law.

The ordinance made in 1984 (which subsequently became part of the National Security Act) has been discussed in the "Black Laws" Report to highlight how it contributed to the restriction of liberty of the Indian Citizen. It had further tightened the National Security Act by providing that even if a detention order is based on several grounds, it shall be assumed to have been made separately on each ground, so that the order of the detention will be valid even if only one of the several grounds on which it is based is free from any invalidity arising from vagueness, non-existence, irrelevance, staleness or any other reason.
Also the Ordinance made an amendment which said that after the expiry or evocation of a detention order, another detention order could be issued even if no fresh facts have arisen, provided that the total period of the detention does not exceed twelve months. 144

Sumanta Bannerjee comments on the nature of legislation:

It will be noted that each successive preventive detention law - starting from the days of the British regime - while incorporating provisions from the laws that preceded it, attempted to add new provisions that were more rigorous than the earlier ones ....

The Preventive Detention Act introduced by the Congress Government in 1950 authorized detention and imprisonment for one year without trial of persons suspected of being able to cause damage to the country’s defence, public order, etc. ....

The MISA which succeeded PDA, by an amendment in 1971, increased the period of detention to two years, and did away with the provision of an opinion from an Advisory Board on such detention (as provided by the earlier PDA).

Further amendments to the MISA in 1975 suspended the release of a detenu on bail, permitted the government to refuse the detenu an opportunity of making any representation to the government and provide any reasons for his arrest, and to make the Act non-justiciable.

The NSA went a step further by denying the detenu the right to represent his case through a lawyer before the Advisory Board and keeping the proceedings and report of the Board Confidential (Section 11-4). Section 14 allowed the authorities to make fresh detention orders against the detained persons on the expiry of the detention order. Under Section 16 of NSA, "No suit or other legal proceeding shall lie against the Central Government or a State Government and no suit, prosecution or other legal proceeding shall lie against any person, for anything in good faith done or intended
to be done in pursuance of this Act". Thus any redress under the common law of the land was prohibited under NSA.

But in this onward journey of increasing repression, the Terrorist Affected Areas (Special Courts) Act has outstripped the old colonial and post-independence laws...

The Special Courts, set up under the Act to try the offenders, will function virtually like military courts. They are empowered to try the offence "in a summary way" and all proceedings before them shall be conducted "in camera".

The Terrorist Affected Area (Special Courts) Act, has also been examined by PUCL and PUDR for its anti-liberty nature. The objective of the Act is to set up special courts in terrorist affected areas with the objective of holding in camera trials, in places other than the usual court room with the purpose of not disclosing the identity of the witnesses. One of the objectives is also speed in trying offences.

As is evident, the civil liberties groups have examined closely and then attempted to educate, through their reports how the arena of liberty may be "legitimately" restrained by the state, i.e. by working within the framework of law. Moreover through their reports they are able to wade through the technical jargon of law and explain the implications of legislation. Thus civil liberties groups have greatly helped in demystifying law.

Another special arena for investigation by the civil liberties group is the power that accrues to the
government and administration through the Disturbed Areas Acts. When a State or an area is declared "disturbed", the Armed Forces Special Powers Act comes into force. 148

Reports have pointed out the case with which such an Act may be enforced in any area. A PUDR report points out:

By a simple procedure of a proclamation through a gazette notification, the government can declare any area in any State as a "disturbed area". It is sufficient the Governor of the State or the Administrator of the Union Territory or the Central Government is of the opinion that the whole or part of the State, or Union Territory is in a disturbed or dangerous condition. No objective criteria are laid down to define what events or occurrences would justify such a declaration. 149

Another Report 150 points out that the Armed Force (Assam and Manipur) Special Powers Act 1972 says that subjective satisfaction of any authority (Governor, Administrator of a Union Territory or the Central Government) is required for declaring the area disturbed. No objective criteria is laid down. The notification cannot be reviewed. There is no role for the legislature. The Central Government can declare an area disturbed even if the State Government is not in favour. Currently the Armed Force (Special Power) Act is in force in Punjab, 151 Jammu and Kashmir, 152 and Assam, 153 and other north-east States. 154
Discussing the consequences of the Armed Forces (Assam and Manipur) Special Power Act 1972, the PUDR has highlighted the colossal powers that the administration derives: The civil authority is virtually replaced by the Armed Forces who enjoy wide power. Extra-ordinary powers accrue to the army (even to non-commissioned officers) for maintaining public order, such as of search without warrant, arrest even on suspicion, right to fire and use force after warning, etc. Citizens have no channel of redressal. Women suspects have no security against searches or detentions by male officers during the day or night.

The wide powers have provided opportunity for highhandedness on part of the executive agency, which has been documented in reports of the Civil Liberties Groups. A report of the PUDR, outlines the vast powers that accrue to the police under the Andhra Pradesh Suppression of Disturbances (APSD Act):

The APSD Act armed the police with sweeping and arbitrary powers. Under the Act certain non-cognisable offences became cognisable and non-bailable; offences such as robbery automatically invite the maximum penalty of ten years rigorous imprisonment. Certain offences, not normally warranting the death penalty may, under this Act lead to punishment by death. Any magistrate or police officer not below the rank of Sub-Inspector may fire upon or use force even to the causing of death against any person who is acting in contravention of any law or order for the time being in force in such an area prohibiting (a) the assembly of five or more persons or (b) the carrying of weapons or things capable of being used as weapons. The subjective satisfaction of the Sub-Inspector, moreover, is the sole criterion for shooting persons to death.
In the specific case of Andhra Pradesh, the Andhra Pradesh Suppression of Disturbance Act was, before the creation of Andhra Pradesh in 1956, known as the Madras Suppression of Disturbance Act and was implemented in Telengana to suppress communist activity. In 1969, the following areas were declared disturbed: seven taluqs in Srikakulam district, five taluqs in Khamman district, three taluqs in Warangal district and part of the Manthani taluq of Karimnagar district. In 1976, two taluqs of east Godavari district, in 1978 two taluqs of Karimnagar district and parts of Adilabad district were declared disturbed. 157

An article in the PUCL 158 documents the misuse of power under the Armed Forces (Special Powers) Act in the Senapati Area of Manipur. The consequence has been the filing of a Writ Petition in the Guwahati High Court by two civil libertarian lawyers, 159 on behalf of the Naga People’s Movement for Human Rights in October 1987, which calls, among other things, for clear guidelines which can ensure control of civilian authority upon misuse of power by the Army. It also challenges the constitutional validity of Section 6 of the AFSP Act which disallows filing a case against crimes of security officials without securing permission of the Central Government.
The gross misuse of power and high-handedness of the police gave rise to the "Chintapalli Arson case", in 1987 which was brought before the Indian People Human Rights Tribunal. The Tribunal indicted the police which had systematically and wilfully burned down the tribal hamlets in the Chintapalli Agency Area in the Vishakapatnam district. The objective was to punish the tribals in order to stop them from practising shifting agriculture and from harbouring "Naxalites".

The civil liberties groups were trenchant in their criticism of the fifty nineth Constitutional Amendment. In order to facilitate the application of Emergency in Punjab, Article 352 of the Constitution was amended in its application to the State of Punjab, so as to include "internal disturbance", as one of the grounds on which the integrity of India may be threatened. They pointed out in their Reports that the term "internal disturbance" had been removed from the Constitution as a consequence of an electoral promise of the Janata Party, "in order to safeguard democratic institutions in the country from being usurped by authoritarian tendencies." Moreover the 59 Amendment would suspend even Article 21 which guarantees the "Protection of Life and Liberty (Only Article 20 would remain inviolable)."
Apart from the content of laws the groups have also been conscious of the method frequently used for making important legislation. Often the government attempts to legislate through Ordinances. This is perceived by these groups as an undemocratic activity which whittles down the authority of elected bodies. This, even more so, when far reaching Ordinances are promulgated very close to the commencement of the Parliament Session. 164

Apart from highlighting the authoritarian legislation which limits the orbit of the citizen's liberty, and thus building up public opinion by educating the citizen, an important aspect of the concern of the civil liberties groups is to publicise any arbitrariness of the State, and its law enforcing agency - the police.

The exercise of police power needs to be perceived as a two-edged sword - without the police the opportunity to utilize civil liberties would diminish, nevertheless the police, commanding the legitimate use of force, can pose a potential threat to civil liberties.

The legitimate use of force at their command has been restrained by laws and regulations which outline the arenas of their power. These are the Indian Police Act 1861, the Indian Penal Code 1860, Code of Criminal Procedure of 1898 (amended in 1978), the Indian Evidence
Act, the Jail Manuals and the Police Manuals, etc.

Despite these restrictions, the police still enjoy a considerable degree of power. The draconian legislations, examined earlier, increase executive and police discretion by removing the procedural and judicial safeguards which exist to protect the individual.

The controversial issue of police encounters had been raised initially by the CFD Civil Rights Committee in the Post-Emergency period, however, it is an important concern of the PUCL and the PUDR as well.

Clarifying the use of the term "encounters" which the Police often use, an article in a *PUCL Bulletin* clarifies:

It initially implied an armed confrontation where fire was exchanged and in the ensuing shooting people were killed. Since the seventies, it represents in most cases, the taking into custody of an individual or group, torture and subsequent murder. The death generally occurs as a result of brutal torture or stage-managed extermination in an appropriate area. An official press release then elaborately outlines a confrontation and encounter when the police fire in self-defence.

The groups have also discovered in course of their investigation that suppression of Naxalite activity is often a handy excuse for police repression. A report analyses:

The licence to kill was given initially to suppress the Naxalite movement. The Policemen were promised promotions and rewards .... Prompted by such
licence and inspired by the rewards, the policemen began killing anyone and then branded them as Naxalites. 51 such "dreaded Naxalites" killed in encounters remain unnamed and unidentified while their killers got all the promised rewards.

A PUDR document attempts to reveal the truth about the police "encounters". Its report states:

Of the 185 people killed in encounters only 90 people were underground activists. That is to say, that only in these latter cases the theoretical possibility of a genuine encounter exists .... The remaining 95 people were all ordinary peasants, tribals and miners from Singareni Coal belt.

The issue of encounter deaths of so-called "Naxalites" by the police was enlarged by an article in the PUCL Bulletin which pointed out that social activists and inconvenient journalists too were being conveniently eliminated by the police under the guise of the so-called "encounters" with "dacoits" in some parts of Uttar Pradesh. The stigma attached to dacoitry, and the fear psychosis which dacoits generate, serve as a handy excuse for the police.

Police atrocities and denial of civil liberties have been highlighted at various place in the PUCL Bulletin. Thus the police atrocities upon the fisherfolk at Nadukuppan in Tamil Nadu, in course of their displacement in pursuance of a World Bank supported beautification drive in the city, is covered and reported. Another report throws light on the police-highhandedness in Thanjavur district against the
cadres of the Indian People's Front. A report has recounted the incident of the hand-cuffing by the police of a Chief Judicial Magistrate at Nandiad District in Gujarat - an action which threatens the dignity and independence of the Judiciary.

The Civil rights groups are extremely wary of and vigilant against the power and authority which the police command over the citizens in their custody. Protection of the rights of the undertrial is a very important arena of concern for the civil liberty activists. The dictum that an accused is to be presumed innocent unless he is proved guilty, is an important concern of the civil rights groups.

Many of their reports document cases of torture in police custody. Their reports have industriously traced cases of police frame-ups, of mysterious deaths, disappearances and even suicides, in police custody. They point out that more often deaths, disappearances and suicides are the stock excuses given for deaths by torture. Other stock reasons given for death in the police lock-up are illness, cardiac failure injuries received prior to arrest, etc.

The PUCL Bulletin has also reported police custody violence and custody deaths from time to time. See for instance, reports: "Bihar, A Report on the Death in Police Custody of Yogendra Chandra of Patna." See
Civil liberty groups have also pointed to a connection between poverty and police custody. The undertrial who is poor economically is likely to face greater torture and cruelty since he does not have the wherewithal to obtain bail. A report points out that the people who die in police custody are often poor labourers, domestic servants, hawkers, slum dwellers, and those who live in rehabilitation colonies. Says a report:

"... it is the social and economic vulnerability of the victims which provide the context for torture and death." 177

In fact, the PUDR has made an empirical study of the socio-economic backgrounds of 48 custodial deaths and found:

By and large these are the people marginalised by the economy and in some cases by the polity. The continuous process of generating destitutes at its margins, is part of the process of development. If, by chance, these people come into contact with the police mechanism, then they become 'criminals' to be tortured and killed. It is the 'value' of the murderer and the 'worthlessness' of the murdered that govern the response of the powers that be. Thus the social roots of the custodial deaths lie beyond the custody. 178

The civil liberties groups have made it a point to report on police firings as these are clear cases of use of state power violative of civil liberties. In course
of investigation, other facets of oppression may be thrown up. Significant reports are the Banjhi Report 179 on police firing on adivasis, the report on the Arwal Police firing 180 and the report on the arson by the police against the tribals in Chintapalli in the Godavari Agency Area in Andhra Pradesh 181. We will point to one salient report.

The case of Banjhi firing in which 15 adivasis were killed, is linked up with a murder of an Adivasi in which a non-tribal was a suspect, and with a long series of actions in which the police appeared supportive of non-tribals against the tribals' demands of investigation of the case. The facts and the backdrop analysed in the report, highlight the police - non-tribal collusion as well as pattern of economic exploitation by the latter in the daily life of the tribals.

The perception that poverty is linked with the denial of civil rights has been visible in many of these reports. This perception is apparent also in their documentation of some cases of police firings. Whether it is Banjhi, or Arwal or Chintapalli the victims of the violence have been the poorest. Let us examine these briefly. However it must be pointed out that these cases have been selected by us from among a vast array of reports of a similar nature documented by the civil liberty groups. 182
Apart from commenting on how the state perpetrates the denial of civil liberties largely upon the poor, the civil liberty groups have also documented, through their reports, the patterns and processes by which the state works against the poor through its development policies. The slant of the entire development process tends to militate against the interests, and often the very survival of the very poor. Large-scale dams, river valley projects, heavy industry, road construction, mining and irrigation projects, mechanisation, etc., generally perceived as indicators of development, adversely affect the interests, and very often the very survival of the poor of the area.

Thus the PUDR Report on Baliapat focuses on how the setting up of a Nuclear Missile Testing Range takes away the right of the local resident community to lead their economically viable, well settled existence. This displacement of a community to make place of what may be perceived as an (aggressive) concomitant of development, undercuts the local people's right to their livelihood and perhaps even survival.

Instances of reports documenting displacement under pressure of development may be multiplied. The Subernarekha multipurpose development project in Chotanagpur, Bihar, has contributed to displacement land alienation and deforestation. Also the Bodhghat
project on River Indravati is estimated to submerge 13,783 hectares and effect 42 villages.¹⁸⁵

The PUDR Report on Bastar highlights the displacement that will come in the wake of development projects. Says the Bastar Report,

In the period between 1956-81, a total of 1,25,483 hectares of forest was transferred to various development projects.¹⁸⁶

Even the mining projects, situated as they are primarily in forest areas, serve to displace people—especially substantial tribal populations. Forests are destroyed and people are disrupted.¹⁸⁷

Apart from displacement as a consequence of construction of dams, river-water projects, heavy industry and mining, there are also the closely related consequences of ecological degradation, destruction of forests and of the opening of avenues for the easy commercialisation of forests. These work in complex, but interdependent ways on the life of the local populace.

Specifically in the case of mining, the ecological impact may be seen as being related to the dumping of waste, increase in toxicity in land and water, consequent reduction in land fertility, problem of waterlogging, silting, lowering of water table in the area, the drying up of wells, etc. The weather cycle is
effected and flood-drought cycle is generated. On the social plane the impact may be thus perceived.

Loss of land has obvious implications for cultivation .... Water pollution causes water-borne diseases. Air pollution and sound pollution cause chest, eye and ear diseases.

But even if the people accept the social costs of having a mine or industry or project in their midst, there is no guarantee that the jobs created will be given to the tribal folk or the forest dweller. It is reported that:

The colonial bias of administration condemns them to menial contract jobs of a casual nature and prefers people from the plains area for the better jobs. Almost all of our heavy industries are situated in the tribal areas, but an overwhelming majority of their workers are non-tribals. This conscious policy noted by almost every report of the Scheduled Castes and Tribes Commissioner is an important reason for the deterioration of the economic life of the tribals.

That little or no advantages accrue to the local populace from having a large-scale mining or another developmental project in their midst is illustrated by the following statement:

Almost all of the output from these mines is exported to Japan and the unit is India's largest foreign exchange earning unit.

However, apart from documenting the symptoms of adverse development policies, civil liberty groups have in their reports, questioned the anti-poor bias which is inherent in the development policies, and which often
militates against the survival of the poor. The critique of the forest policy, well documented in the PUDR Report "The Undeclared Civil War",* raises such questions on the fundamental contradictions which inhere in the policy— the contradiction between the survival rights of the poor, dependent on forests and the commercial interests also dependent on forests.

Says the PUDR reports:

"It is the kind of development process which the government chooses that determines the intensity of exploitation and destruction of forests and the deterioration of the life of forest people".*

And,

"It should be noted, however, that the 'public benefit'— a term which echoes in all forest policy resolutions — is an euphemism for commercial interests".**

The consequent depletion of the forests naturally has an impact on local life. Ironically, the stringency of forest laws which have continually placed greater restraints upon the local people's right over forest and forest produce, appear to be based on the premise, and project the notion that, the depletion of the forests may be linked with predatory demands of the denizens of the forests.***

The PUDR Report "The Undeclared Civil War", attempts to right this erroneous notion. The report also points out that the social forestry programmes of
the government are a poor substitute for the rich natural forests which have been cut to accommodate the interests of commerce, or to set up heavy industry, irrigation projects and mining operations. Moreover, much of the social forestry operations are often undertaken with an eye to commercial interests.

This report has also highlighted the close dependence of the tribals or the forest dwellers lifestyle on the environment. In the absence of available and continuous employment from any other source, and sometimes in order to supplement his income and often to survive in the lean season when there is no agriculture or any available employment, the denizen of the forest does encroach on the forests despite access to them having been prohibited to him by law. This creates patterns of exploitation and dominance between the local forest dweller and the forest personnel.

The forest dweller begins to be perceived as predatory or as an exploitative encroacher on the forest, without placing in context his survival need, or his traditional economic dependence on the forests.

In course of their reports, the civil liberty groups have documented how rules may be interpreted to suit the commercial interests. An interesting example is provided by the PUDR report on a land struggle in the terai area of Uttar Pradesh. The report points to an
interesting anomaly that 90 per cent of the land in district is classified as reserved forests in which the people have no right. But reserved forest are also exploitable forests. Consequently forest have been felled and planted with useful species like eucalyptus, teak and khair. Also large tracts of the forest area are being made available to a paper mill. 198

Reports of the civil liberties groups also document the exploitation and corruption, by which the rights of the forest people are often compromised. Thus the report on "The Banjhi Massacre" points out:

Though the Santhal Parganas Tenancy Act prohibits sale and gifting of land in the Santhal Parganas, a sizeable portion of it is in the illegal occupation of the moneylenders and other 'outsiders' in almost every village in the full knowledge of government officials. 199

How patterns of prevailing social and economic hierarchies, mediate upon the utilisation of rights is amply documented in the incidents and cases which have been reported in the Bihar reports. The frequent incidence of violence 200 often explained in terms of caste-war, and police intervention, and firings to meet the problem, the appearance of caste senas 201 on the Bihar scene, the mobilisation of peasants around mass organisations which are fronts of the CPI (ML) and other radical groups, are the features of present-day Bihar which one can derive from the various reports of the civil liberties groups on Bihar. 202
These reports have also analysed the issue of denial of rights of the poor by the rich, and the unique situation in which the police finds itself supporting the interests of the richer class, in the light of (a) the caste-structure which prevails in Bihar; (b) land ownership patterns vis-a-vis castes which existed prior to the Zamindari Abolition Act (1950); (c) the alteration in caste-land ownership pattern which emanated after the Act; and, (d) the changes which have come in the wake of the state-inspired Green Revolution Programme.

These reports of the civil liberties groups have greatly facilitated understanding of the ground realities of the situation in which the denial of rights is located. They point out that there may not be a consistent rich class - upper caste versus poor class - low caste tension. The divide and tension may be between high-caste and middle caste, or middle caste and lower caste, and the higher caste may not always be the richer class in the former case. Thus what passes of as caste violence in the press reports may have strong class or economic issue at the heart of it.

In a report "And Quiet Flows the Ganga" the PUDR has pointed out that social contradictions surface when the substantial labour demand is not fully mediated by impersonal market mechanisms. The tendency of landlords
to perceive labour arrangements in a feudal framework of traditional dependence influences payment of low wages even to those who are solely wage-labourers and outside the customary ties of dependence.205

Thus documentation in the ambit of Bihar has tremendously widened and deepened the understanding of the importance of context in the perception of rights.

The Bihar reports have pointed out that exploitation and repression of the poorer classes is being challenged and met by the appearance of some mass organisations related to the CPI (ML) and other radical groups206 and front organisations who have encouraged the poor to become assertive on issues such as minimum wages, seizing control of land being held in surplus of ceiling, or of land which is declared by government as common land (gair mazarua)207 but continues in the illegal occupation of the landlords, or on the control of diara land, as well as on the issue of harassment of their women folk.

The reports point out that the police tend to intervene in the interests of the richer classes with the objective of maintaining status quo in political and economic power. The unrestrained functioning of these Senas also indicates their tolerance by the State. In fact in some places the police and the armed Senas have collaborated the eliminate peasant activists.
The report referring to the agencies of State authority: police, administration, etc., states:

The most disturbing element in this picture is that these agencies have implicitly or explicitly collaborated with the private organizations of vested interests to suppress the poor. The policy on the part of the State cannot be viewed as accidental.\(^{208}\)

In their report on Assam, the PUDR has outlined a pattern of regional exploitation:

The continuous linear exploitation of highly visible resources, cultural specificities and social history are among the factors that over the years sustained the feeling of neglect by the centre that is woven into the question of identity in Assam. This widely shared perception informs the backdrop to the rise to dominance of the United Liberation Front of Assam.\(^{209}\)

In their report, there is also documentation of the struggles which are being waged, by many of these marginalised groups. The reports analyse the background and the immediate and the general causes within which the struggle is located. The struggle or protest action is seen as a critique of the State policy.\(^{210}\) Struggle is not seen as creating merely a law and order issue, nor is it seen in isolation but as a corollary to poverty, marginalisation and loss of perceived rights, etc.

The Bastar report points to the tribal protest against the pine monoculture, i.e. a protest against a governmental policy which is perceived as adverse to the livelihood and interests of the tribals.\(^{211}\)
It also reports the resistance of the local populace to the Bodhghat dam project to be constructed upon the Indravati.

Also, their documentation on struggle has highlighted the linkage between deprivation and struggle. Issues which have built up feelings of resentment and struggle are more or less similar in different parts of the country, apart from a few regional variances vis-à-vis nature of economy. Thus issues on which differences are perceived, and on which the poor may range themselves against the richer class or the landlord class, will usually be—nonpayment of minimum wages, continuance of bonded labour, denial of a fair wage (as for tendu leaf collection), acquiring of control by the local landlords or mahajans, of governmental financial sources of aid and welfare schemes such as canal, building, schools, roads, etc., usury, and the abuse by dominant/powerful classes of the women folk of the poorer classes.

Struggle may also be directed against State behaviour of denying the poor populace of their fishing rights by the government auctioning of rivers and ponds, over which the tribals enjoyed traditional rights, or by declaring agricultural land as reserve forest, and thus creating land hunger and deprivation, denying access to them of forest produce.
which is linked to their livelihood, forcing the poor to become a poacher.

Sometimes struggle has to be waged to take possession of rights which the government may have granted but is unable to provide, e.g., the redistribution to the poor of land possessed in excess of ceiling, or the redistribution of 
aair mazarua land which remains in illegal control of the big landlords.219

That some of these struggles have been supported by organisational and mobilisational activity of radical groups has also been documented in the reports of these civil liberties groups. The activity of fringe groups and front organisations of the CPI (ML) such as BPKS or MKSS in mobilising groups to assert themselves to struggle for their rights has been documented.220

Similarly in areas of Andhra Pradesh, the People's War Group has been able to support people in their struggle for fair wages for tendu collection as well as for the workers of Singareni Collieries, and in protests around government protection of arrack sale. Their "people's courts" grant them "justice" against oppression and exploitation variously perceived - excessive extortion, or suppression, or against non-implementation by officers of development schemes.221
Similarly the activities of the Rajasthan Kisan Union have been able to create a feeling of self-esteem and self-assertion among the tribals who have been continuously subject to usury, and denial of forest rights. 222

The Bastar tribals have been mobilised under the Adivasi Kisan Mazdoor Sangathan (AKMS) which is the front organisation of the CPI (ML) Peoples' War Group. 223

In keeping with their concern for the rights of the weak, the groups have been concerned about the denial of social and democratic rights of women and about the backward social position of women. In a report entitled "Inside the Family", 224 the PUDR has attempted to trace the root of women's secondary position. Women's issues have been raised in the PUCL Bulletin too from time to time. The PUCL Bulletin serialised a report on "Conditions of Women in Bombay Jails", conducted under Dr (Ms) A.S. Desai, which highlighted the inadequate arrangement for the provision of legal assistance to women prisoners. 225 Also serialised is the Report of the National Expert Committee on Women Prisoners set up under the Chairmanship of Justice Krishna Iyer in order to identify the gaps and drawbacks of existing facilities and services and evolve a more humane policy to women offenders. 226
The rape case of Gunta Behn is reported in the PUCL Journal. The issue of Sati at Deorala, the subsequent legislation at Rajasthan were discussed.

The Muslim Women (Protection on the Rights of Divorce) Act has been critically reviewed and seen as going against equal rights for Muslim women, as well as against Directive Principles.

Another area which has attracted the attention of the civil liberty groups has been the examination of the ill-effects and hazards of the rayon mills at Nagda (M.P.), upon the life and health of the workers.

Deaths reported from a Mental Asylum at Ranchi have led to a close examination of the conditions there. One report has analysed and commented upon the Reservation issue.

Analytical articles on a diverse range of subjects are featured in the PUCL Bulletin, highlighting the different aspects that may be incorporated into the issue of civil liberties and democratic rights. Thus an article might discuss "Religious Freedom Under Our Constitution and Social Reform", "Conditioning the Child's Mind: An Analysis of School Text Books", or "Child Prostitution".

Periodically the PUCL has excerpted Documents, Declarations and Reports of the United Nations.
appears like the reiteration of the ideals from which the civil liberties draw their sustenance.

From time to time the reports of the Amnesty International on India are excerpted. \textsuperscript{235}

In the columns of the PUCL, there is often a discussion on any legislation which is perceived as delimiting citizens liberties or rights. There was for example, a critical discussion on a controversial piece of legislation called the Indian Postal Bill, \textsuperscript{236} or on the Pre-censorship Bill of Tamil Nadu. Discussion on legislation may take shape of proposed legislations or legislative drafts, e.g., on a bill proposing to protect the rights of domestic workers. \textsuperscript{237}

Part IV

An Analysis of the Tasks of the CFD, PUCL and PUDR

What can be derived from the literature that the PUCL, PUDR and CFD have generated through their investigation and reports?

Essentially, the material generated throws light on a problematic - a situation of denial of civil liberties and democratic rights of citizens. The denial may come from diverse sources - from State power, and the high-handedness in the implementation of State power; from
the exercise of power of the rich class over the poorer
groups, from the exercise of caste dominance of the
higher upon the lower, from the prevalence and
application and exercise of power or dominance over
women in diverse backdrops (within a family, at a
workplace, inside police lock up or custody).

Reports indicate that in most situations there is a
complex interplay of forces, and civil liberties and
rights may be denied by one or even more centres of
power, i.e. by the State, or by the richer class, or by
the dominant caste or by patriarchal power. Thus there
may be layers of oppression. While custodial excesses
against a poor dalit peasant may be understood as
oppression, the custodial excesses against a poor dalit
female peasant may point to an even deeper level of
oppression.

The denial of liberty and rights may flow also from
the States developmental policies which serve to
increase poverty and immiserisation, restrict employment
opportunities and living options which are available.

These groups have examined issues closely, studied
complex linkages and interdependencies.

The issues they have taken up concern the denial
of civil liberties to individuals, or groups. They have
taken up the problem of a region in its regional
specificity and uniqueness (such as Assam and Bihar), or have discussed specific issues such as the environment, mining and mechanisation policy or the forest policy. They have also documented peoples struggles.

The reports of these groups contribute towards wider publicity of issues and make their contribution towards generating consciousness among the citizen. The reports attempt to fill the reader in, not only on the facts of the immediate issue, but also with facts on related and background issues which highlight and establish some interlinkages and interdependencies. This goes a long way to help the public develop a critical understanding of the issues at hand, and prevents it from being confounded or stymied by technical and sophisticated information which the established interests may attempt to put forward as explanations or excuses.

We will take up only two examples from the whole gamut of material to highlight some of the points made above, especially with regard to the details and inter-linkages.

In the Bastar Report, an attempt is made to relate the present day tribal in his historical, social and cultural specificity with the modern development processes, governmental programmes and state machinery. Sharpness and immediacy in the report is brought through
data on population, earnings, forest cover, etc. from
government reports and commissions.

Similarly the discussion on the forest policy in
the report by the PUDR, is furnished with
governmental statistics and data of several years from
"Development of Forestry and Forest Produce: Country
Profiles" of the Government of India as well as several
years' reports of the National Commission on
Agriculture. The environment question with which the
life of the tribal is uniquely interlinked is brought
out with the help of adding a note "National Forests
versus Commercial Forests", brought out by Kalpvriksha-
a Delhi based environment agency.

Thus spreading information about events, issues and
policies which militate against the civil liberties of
the citizen, specially the poor are the very rationale
of the existence of these civil liberties organisations
as public groups. Their insight is:

"Lack of information about repression is part of
the scheme of repression itself ...".

And,

"The struggles of the poor and the oppressed, like
their economic and social lives, are as a rule
marginalised and pushed into obscurity. They do
not make the headline ...".

The reports of these groups have tried to unravel
the perils and anguish of poverty from the romance and
peace usually associated with the lives of tribals or forest people. States a report:

"To outsiders it appears that the adivasis are in perfect harmony with nature. But hard labour in adverse terrain is no harmony. Cruel poverty has no romance in it."

The report comments on the distance created between the urban based ruling elite and the tribals:

"Alternately these adivasis and their practices have also become the basis for condescension and patriarchal attitudes of the ruling elite. To them the adivasis are innocents in need of enlightenment from the benevolent establishment. But in fact they are intelligent beings with tremendous fortitude who survive the difficult geo-economic terrain."

The approach of the three civil liberties groups is sensitive sympathetic and perceptive. This is evident in their reporting. We quote one statement:

The experience of these adivasis with the legal system is heart-rending ... In cases like TADA, it is not easy to get bail. But even if they are granted bail, they are usually unable to provide sureties. Ironically the surety demanded is patta, the lack of which has driven them to the path of struggle. So they remain in jail for months, even years.

Similarly in the case of the Citizens for Democracy the motivating ideal of Total Revolution believes in "generating people's power an arrangement which will favour the poorer sections. The People's Committees on their agenda too are required to give representation to the weaker and poorer sections. The CFD is no believer that the harbingers of Total Revolution "will spring
from the upper classes in the country". They believe that:

"... it is indeed more likely that freedom loving and morally inspired individuals will come from the comparatively more educated sections of the exploited masses, than from the upper classes".

Their consistent demand for the "right to work" to be incorporated in the Indian Constitution can specifically be seen as evidence of their concern with the poor and unemployed.

While many reports of the PUDR and many articles in the PUCL Bulletin have a pro-poor bias or leaning, some reports and articles concentrate their attention on the specific problems faced by poor sections of society. Thus the PUCL has taken up the issue of the problems of the unorganised sector labourers recognising that:

"While the Equal Remuneration Act or the Payment of the Minimum Wages Act do exist, these labourers, because of the nature of their employment (bonded, contract, casual, migrant), hardly have access to them".

And,

"With the established trade unions being equally apathetic to their existence and their exploitation, they seem to be destined to struggle alone and anonymously. Needless to say, they cry for our help".

Similarly, the PUDR has also a report dealing with the conditions of the unorganised sector workers.
Reporting on slum eviction and discussion on the right to shelter has been evident in the reporting and documentation. Moreover civil liberties groups have pitched their strength on the side of the poor. They may be termed as being "activist on the side of the poor". This has been done by some conscious steps and positive interventions on the part of the PUCL and PUDR.

Thus while the very act of reporting on instances of denial of civil liberties may be seen as a conscious act of intervention with the intent of upholding civil liberties and democratic rights of a citizen (more specially as we have seen earlier, of the poorer and weaker citizen), the PUCL and PUDR and CFD have made other, more conscious interventions with the objective of making rights available for citizens. The following steps may be seen in this light:

1. Role in pressurising the government to react on the issue of the 1984 Sikh riots,
2. Role in moving the judiciary and the consequences of the Asiad case, and,
3. The setting up of the Indian People's Human Rights Tribunal.

Let us examine these in some detail.

In the Delhi Riots 1984 issue, the civil liberties groups have played an important part, not only in documenting facets of the carnage which had touched
other cities of India as well, but also in maintaining a persistent pressure upon the authorities so that the issue did not die in the absence of a follow up. In the immediate aftermath of the riots, the civil liberty groups undertook a careful piecing together of evidence to reconstruct the grim events of the period. They also identified some guilty individuals.

The Report, "Who are the Guilty?", was an excellent instance of co-operation between the PUCL (Delhi) and the PUDR. The CFD also came out with a report, "Truth About Delhi Violence". The groups continued to demand the setting up of a Commission of Enquiry which was conceded after 6 months. Subsequently they brought out a critique on the Mishra Commission Report and have kept a vigilant eye on the tortuous procedures which sprang from that report. Last year on the anniversary of the carnage the PUDR published a pamphlet.

The CFD states in its Reports on Punjab (1989) that some of the alienation of the people of Punjab sprang from the State's failure to punish the guilty of the 1984 riots.

From discussions spread over these many years, and many reports later, some important facts have been highlighted, which have a bearing upon the issue of people's liberties. That in the immediate period
following Mrs Gandhi's death, the Indian State appeared to have gone by default, jettisoning its responsibility for law and order in the country - thus restricting the right to life of many citizens.

Also that the eventual appointing of the R.N. Mishra Commission was done only when Sikh public opinion and political parties made the appointment of such a commission, a condition for the Rajiv-Longowal talks.253

The complex procedures set in motion are a commentary on the slow process of law and justice in India.254

However the contribution of the civil liberties groups lies in the initiative they have exhibited in keeping the issue of the 1984 Riots in the public mind and the governmental files.

The civil liberties groups have been successful in discovering a novel and imaginative way to expand the scope and degree of freedom available to the poorer sections. They have attempted to move the law courts on behalf of the poorer and exploited groups in order to secure, through the judiciary their due legal and constitutional rights which are denied to them by the powerful groups, and often even by the State.

A case was filed by the PUDR in the Supreme Court against the Delhi administration drawing attention to
the large scale violation by the Delhi Administration of several labour laws in course of the construction work being done in preparation for the Asiad. Thus Asiad construction workers were being denied many rights which the State guaranteed under acts such as the Minimum Wages Act 1948, Employment of Children Act 1970, Equal Remuneration Act 1976, Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1977, Contract Labour (Regulation and Abolition) Act 1970.255

This petition was filed by the PUDR on the basis of a report of a fact finding team of the PUDR which visited the sites in July-August 1981, which documented the exploitation of over one lakh workers who had been employed by government agencies and contractors. A letter of the PUDR President accompanied this report.

The Court not only took cognisance of this letter as a writ petition but it also appointed an Ombudsman to study and report on the conditions of the labourers. It also gave directions to the Union Government, the Delhi Administration and the Delhi Development Authority to ensure the payment of minimum wages and provision of other facilities to the workers under various laws.

The case256 which became well known as the Asiad Labour case raised some important questions of law. It also served as a pioneering, path-breaking case which
opened the avenue of "public interest litigation", in order to not only draw the court's attention, but also to seek relief from conditions of grave oppression or exploitation, denial of legal and constitutional rights of the poorest sections.

The legal issue of locus standi—of the people moving the law courts in the interest of another group, came up in this case. The court interpreted it widely and in a manner sympathetic to the interests of the poorest sections. This gave evidence of the Supreme Court adopting a pro-poor stance.

Also, according to Gobind Mukhoty:

Though initially, the Court allowed only a taxpayer to challenge the work of a public authority like a Municipality, now the Court is allowing an Organisation like PUDR or even an individual locus standi when a class or section of people's interests is affected. Not only that, the Supreme Court has allowed, and is allowing even a letter to be treated as a Writ Petition, when that letter refers to intolerable suffering of the poor and mute sections of the society because of non-implementation of welfare legislations by callous and indifferent administration.

It has often been said that this interpretation of the Supreme Court helped initiate a "silent revolution" in that such cases would work to make available the legal and constitutional rights of the poor, whose rights, because of their timidity and non-assertion, are often compromised by the rich and powerful.
However perceptively, Baxi has also pointed towards the inherent limitation of SAL in the prevailing environment:

The court is augmenting its support base and moral authority in the nation at a time when other institutions of governance are facing a legitimation crisis. In the process, like all political institutions, the court promises more than it could deliver and is severely exposed to the dynamics of disenchantment.

But despite the limitation, the role of public interest litigation remains a significant method, pioneered by PUDR, to attempt to expand the scope of rights of the marginalised groups.

However the activists of the civil liberties groups see this facet of their work as meaningful and significant.

In fact, in recent times this ability of the democratic rights organisations to take up legal work has quietly become part of the very rationale of their existence.

People's Union for Democratic Rights has also taken up cases of victimisation of union leaders in magnesite mines of Pithoragarh, U.P. (1986), contract labour in Meghatuburu iron ore mines of South Bihar (1983).

Other cases taken up by PUDR include one of 100 terminated workers of Bokaro Steel Plant (1984), 100 retrenched workers of irrigation department at Rohtas, in Bihar (1984), retrenched workers of a television

In another instance the PUDR filed a writ petition before the Supreme Court on the death of a wage labourer who had died as a result of police violence, praying to the Court "to direct the State to suspend the SHO, Inderpuri and pay adequate compensation to the victim".

Another report mentions that the PUDR has filed a petition in the Supreme Court challenging the constitutional validity of the Andhra Pradesh Suppression of Disturbances Act.

There are some instances of how the Human Rights Organisations have through the judiciary been able to get incremental advantage for the citizens. The CFD moved the Court in order to secure the release of the National Police Commission Report, which had been submitted to the government in 1977.

The issue of Army atrocities against Nagas in the Senapati district of Manipur has been taken up in the form of a petition by two individuals with close links with civil liberties groups.

The PUCL branch at Padrauna (U.P.) has challenged, through a writ petition in the Supreme Court, the
environmental pollution being cause by the Padrauna branch of the Cawnpur Sugar Works Limited. 267

The PUCL has in March 1991 moved a writ petition challenging some provisions of the Indian Telegraphs Act 1885 which are being used for telephone tapping. The petition points out that Article 5(2) of the Act is violative of Articles 14, 19 and 21. 268

The judgement delivered by Justice Bhagwati in the case of Shilpa Barsa versus the State of Maharashtra, regarding custodial violence to women prisoners in the police lock-up at Bombay, moved as a public litigation, has resulted in certain directives and guidelines for the police and the magistrates for the protection of the rights of the undertrial. 269

The PUCL and YUVA filed a writ petition in the Bombay High Court on behalf of twenty stone breakers for torture in police custody in which one Jadish Chavan had died. The Court ordered a CID Inquiry into the case and awarded a sum of Rs.3000 to each of the twenty persons and Rs.5000 to PUCL and YUVA as costs. 270

Occasionally, the civil liberties groups are able to wrest some advantages specifically for the poorer sections they work with. Thus in a public interest, the President of the Rajdhani Basti Bashinda Kalyan Sangh was able to secure from the Orissa High Court compensation for the eviction of slum dwellers in
Bhubaneshwar. The court further directed that there be made arrangements for their 'permanent' settlement as well as for a state-scheme for low cost housing.\textsuperscript{271}

Dissemination of this kind of information through the columns of the PUCL Bulletin, greatly helps to increase civil liberties consciousness.

The close association of these groups with the civil liberties issues helps to sharpen their focus upon specific lacunae in law. Justice Sachar has also raised in his paper the issue of a consistent specific rule of state's accountability in case of unlawful detention.

There is no specific law as such in India. Sometime in gross cases the courts may as an adhoc measure, grant compensation. But that is very rare. The law, in this regard, is the out-moded one of filing of suit for damages against the state which in the prevailing position of law are difficult to succeed. This aspect certainly requires the attention of Human Rights activists.\textsuperscript{272}

This will serve to reduce State high-handedness, and strengthen the people's civil liberties.

Another invention attempted by the Voluntary Organisations concerned with civil liberties issues is evident in the setting up, in 1987, of the Indian People's Human Rights Commission with the Indian People's Human Rights Tribunal. The objective of this is to examine cases of gross violation of the civil liberties of the people and give the Tribunal's
judgement on the issue. The judgements are unenforceable because the Commission and the Tribunal do not have the sanction of the State behind them. But they will definitely have moral validity and sanction, and help to shape public opinion against violation of human rights in the country.  

It must be pointed out that this is not a PUCL or a PUDR or a CFD initiated effort either singly or jointly. It is the initiative of "a group of human rights activists [who] felt the need for doing something positive to take the fight for human rights to a higher plane."  

However the contribution made by the PUCL, PUDR and CFD in creating a climate favourable for the civil rights discussions should be seen as their contribution towards the establishment of such an institutional mechanism towards enforcing civil liberties. Moreover, some of the members of the Human Rights Commission have been related to the PUCL. Also the cases taken up by the Indian People's Human Rights Tribunal have been examined by the PUDR and PUCL also. Thus the Commission and Tribunal may be seen as an intervention in which the PUDR and PUCL have also had a stake.  

The model adopted by the Commission is that of the International War Crimes Tribunal set up by Bertrand Russel, Sartre and others during the Vietnam War. That
Tribunal had tried President Johnson and General William Westmoreland, the Chief of the American Army in Vietnam, for war crimes. The Tribunal tried them in absentia in Paris because they refused to accept the jurisdiction of the Tribunal. Various persons and bodies produced evidence before the Tribunal about the genocidal acts committed by the USA in Vietnam on the basis of which the Tribunal pronounced a judgement against the US war in Vietnam. This Tribunal is today known as the 'Permanent People's Tribunal'.

The Indian People's Human Rights Tribunal to date has taken up three cases of systematic violation of civil liberties: the Arwal firing in Bihar, in 1986, the Chintapalli arson case of 1987 and the Meerut Riots of 1987. In all three it has came out with a clear indictment of the State.

Says the IPHRC Report on Arwal:

This brutal and indiscriminate firing was mainly the result of the statement of guidelines issued on April 6, 1986, for the police to treat the agitations arising out of imbalanced economic structure of the society as purely 'law and order' problems and to "ensure more positive forward policing".

The two member Tribunal set up by the Indian People's Human Rights Commission to investigate into the facts relating to the widespread riots that took place in Meerut in May 1987 and into the violation of human rights found that:
It was the PAC and the police who appear to have been responsible for the atrocities that were committed ... and the terror that was let loose in Meerut on those two days .... The victims were mainly Muslims .... It was the doing of those who were entrusted with the task of protecting law and order....

In the case of arson at Chintapalli (also part of the Godavari Agency of Andhra Pradesh which has been declared disturbed), the population, largely tribal, was subject to the ire of the police between March and May 1987, because they were suspected to be protecting naxalites, and also on the ground that their shifting agriculture practice encroached on government's reserve forest area.

Two statements made by the Indian People's Human Rights Tribunal are significant as indictment of the police as well as a comment upon the nature of the prevailing system. Thus:

Protests and struggles for bringing about social changes which are only natural in an inequitable system are invariably met by the authorities violently resulting in violation of the dignity and rights of individuals.

And,

Under the garb of putting down extremist violence the police cannot take law into their own hands and systematically violate the basic rights of an individual or group of people....

What then are the conclusions we can draw from this comprehensive examination of the working of the civil liberties group? It might be useful perhaps to
underline that the detailed documentation of denial of rights and liberties in their different regional and cultural specificities, in the form of reports and micro-studies offer a mosaic pattern that comments on the nature of the state. It is highlighted as possessing arbitrary tendencies and as possessing a pro-rich bias.

The perception of the civil liberties groups is that there is violence endemic in the structures—social and political. This independently and often combined with state violence serves to restrict the civil and democratic rights of the citizen.

A major outcome of these reports is the highlighting of relationship of denial of civil and democratic rights with poverty—highlighting poverty as the major structural constraint to liberty and rights. The corollary is that elimination of poverty will result in greater availability of rights.

But the issue of poverty removal has to be seen not independently, but as linked with other policy choices as of industrialisation, forest policy, irrigation and mining, i.e. development per se. Thus removal of poverty will not result from greater government 'effort' to remove it, or by an additional input of resources or by an additional poverty alleviation programme—but development policy should first comprehend the basic
requirements of the poorest and then accommodate them in the plans. The lacunae noted in their reports—displacement, ecological degradation; conflict between government rights and people's right over forests, to be dealt with effectively, require not a piecemeal treatment, but have to be seen in the total integrated frame.

They offer the valuable insight that the denial of basic rights leads to increasing resentment and finally struggles.

They have the implicit suggestion that there has to be a social transformation. They have worked towards this objective and have used the available means of redress to work for change, i.e. creating public opinion for moving towards a system more conscious of civil liberties, pressuring the state through publicity and reporting of cases of denial of rights and liberties, forcing the state to appoint commissions of inquiry for investigating denial of civil liberties, taking up the initiative for investigating denials—e.g., the Indian Peoples Human Rights Commission and Tribunal, and at times moving the judiciary in a creative manner in order to increase the area of freedom given to a citizen, e.g. through public interest litigation.
NOTES


2. The Naxalite Movement began in the Naxalbari area of Darjeeling district in West Bengal. They began their struggle in March 1967 by organising village communities to seize lands and initiate an armed revolution. The rebellion in the Srikakulam district (Andhra Pradesh), was a self styled Maoist Movement aimed at the immediate overthrow of State Power in the year 1968. The Srikakulam Movement was of a longer duration and involved greater violence than the movement in Naxalbari. Police action was able to curb the struggles in both areas. Says Leslie Calman: "But Srikakulam, coming soon as it did, after the Naxalabari struggle posed a greater threat to the government than its armed strength would indicate. These eruptions to violence indicated that the government’s legitimacy was not unquestioned. To regain its legitimacy, the government had to suppress the movement with violence and regain its monopoly on the legitimate use of force and it had to take steps to correct the economic and political conditions that led to the disequilibrium". See, Leslie J. Calman, Protest in Democratic India: Authority’s Response to Challenge (London: Westview Press, 1985), p. 19. For a close examination of the Naxalbari Struggle, see, Manoranjan Mohanty, Revolutionary Violence: A Study of Maoist Movement in India (New Delhi: Sterling, 1977), and Mohan Ram, Maoism in India (New Delhi: Vikas, 1971).

3. A political movement rocked Gujarat between January to March 1974. This was spearheaded by the student community. The Navnirman Yuvak Samiti, comprising largely of students was set up at Ahmedabad. Other Navnirman Samitis were set up in other towns too. The objectives of this movement ranged from

4. Jaya Prakash Narayan's mass movement was agitational and confrontational and aimed at reconstruction. Initially the idea was to boycott the administration from the block level upwards until the district. MLAs asked to resign and there was to be a boycott of colleges and their closure. There was to be a parallel government. This would be self government and self management in the truest sense and would render an unresponsive administration really and truly unnecessary to the people. Chattra Sangharsh Samitis and Jan Sangharsh Samitis were to be the nucleus of the political organisation of the future.

As J.P. explained, "... the goal to which we wish to take our movement is Sarvodaya, for which society has to be changed radically. So we have called it Total Revolution. Vinobaji also once used the term Total Revolution. The purpose of our movement is both internal and external change, changing the entire social frame from within and also from the outside, individuals as well as institutions... The struggle began with four objectives, namely eradication of corruption, high prices, unemployment and radical changes in education. None of the evils against which the movement is aimed can be removed without radical change in the whole society. The objectives may be limited in character, but they cannot be achieved without an all-round revolution - political, economic, social, educational, moral and cultural". See, Brahmanand, ed., JP: Towards Total Revolution: Why Total Revolution? (Bombay: Popular Prakashan, 1978), Vol.4, pp.115-117.


8. Smitu Kothari points out that these groups bore the disadvantage, not only of being "fragmented and sectarian" but also suffered from "a failure to join issues specially the political with the socio-economic", op.cit., p.2.


Also, "Such groups existed even in the 50s and early 60s but they functioned sporadically. The first consistently active groups fighting for constitutionally granted rights came into existence in the early 70s when the Centre gave the go ahead to States to use any method to crush the growing Naxalite movement ... Mass arrests and torture was commonplace, and soon Committees were formed to fight for political prisoner status to those arrested to campaign against police torture on them and for their release, to spread information on the economic reasons for the Naxalite Struggle and also on other such struggles then being carried on, like the railway strike in 1974. Among the earliest of these groups were the OPDR in A.P. in 1973, the APDR in West Bengal in 1972, the Release of Political Prisoners Samiti in Calcutta, the APDR in Bombay in 1972, the APCLC in 1973". See, Jyoti Punwani, "The Real Opposition", in A.R. Desai, ed., Expanding Governmental Lawlessness ..., op.cit., p. 296.


15. Smitu Kothari, "An Interview with V.M. Tarkunde", Lokayan (Delhi), No.5, 4/5, p.113.

17. Ibid.

18. At the advice of Jaya Prakash Narayan, the People's Union of Civil Liberties and Democratic Rights was initially started in 1976 as a movement and not as a membership organisation, in order to avoid duplication with the pre-existing Citizens for Democracy. The movement was to be conducted by a National Coordinating Committee which would form suitable co-ordinating committees at the State and local levels. However, it was transformed into a membership organisation at an All-India Civil Liberties Conference held in New Delhi on November 22-23, 1980.

19. Kothari, op.cit., p.3.


23. Ibid.


25. The Report 'Who are the Guilty', brought out in October 1984, jointly by the two organisations is an excellent consequence of their joint efforts. It was followed up in May 1987 by "Justice Denied : A Critique on the Report of the Mishra Commission set up after the 1984 Riots".


An activist of the PUCL, Shri Inder Mohan expressed the view that given the vastness of the task before the civil liberties organisations, the growth in numbers of such bodies would be a welcome thing. Interview with the Researcher.
28. According to Article 37 of Part IV of the Indian Constitution, "The provisions contained in this part shall not be enforceable by any Court ...".

29. According to Chinappa Reddy J, "The difference between the fundamental rights and directive principles lies in this, that Fundamental Rights are primarily aimed at assuring political freedom to the citizens by protecting them from excessive State action, while Directive Principles are aimed at securing social and economic freedom by appropriate State action. The Fundamental Rights are intended to foster the ideal of a political democracy and to prevent the establishment of authoritarian rule but they are of no value unless they can be enforced by resort to courts. So they are made justiciable. However it is also evident that notwithstanding their great importance, the Directive Principles cannot in the very nature of things be enforced in a court of law. But, it does not mean that Directive Principles are less important than fundamental rights or that they are not binding on the various organisations of the State".


30. Ibid., p.29.
31. Ibid., p.29.
32. Article 39A.
33. Article 40.
34. Article 44.
35. Article 45.
36. Article 46.
37. Article 47.
38. Article 48A.
39. Article 49.
40. Article 50.
41. Article 51.
42. Citizens for Democracy, *Purpose and Programme*, not dated, p.1


45. In a Conference in 1977 the CFD decided to launch a movement for the formation of People's Committees.

46. The CFD studies and the reports of its committees and commissions are published from time to time. There are other educative publications too, such as C.T. Daru's *Democracy and the Indian Constitution*, R.L. Nigam's *ABC of Democracy* (in Hindi).


52. Committee members were Sarvashri V.M. Tarkunde, M.R. Masani, P.G. Mavlankar (M.P.), A.G. Noorani, Prof. K.D. Desai and EPW deCosta (Convenor).

53. CFD, *Purpose and Programmes*, p.4.

54. *Ibid.*, p.4. Electoral Reforms have continued to be the concern of the CFD and have found mention in the Charter of Demands submitted by the CFD, and the Rashtriya Sampoorna Kranti Manch to the Political Parties on the eve of the 1989 elections.

55. Its members were Sarvashri V.M. Tarkunde, M.R. Masani, P.G. Mavlankar (M.P.), Surendra Mohan (M.P.) and Prof. K.D. Desai, Member Secretary.
56. CFD, *Purpose and Programmes*, p. 9. This issue has continued to remain an issue of concern for the CFD and has found mention in the *Charter of Demands* submitted to Political Parties before the 1989 Elections.

57. When the Janata Government brought out the Prasar Bharati Bill in sharp contrast to the recommendations of the Verghese Committee, the CFD members submitted a memorandum to the Joint Select Committee of Parliament on 14 June 1979, protesting against the provisions of the Bill in so far as they departed from the Verghese Committee Report, *Ibid.*, p. 12.

The issue of autonomy of the media found mention in the CFD, *Sampoorna Kranti Manch, Charter of Demands* to Political Parties on the eve of the 1989 Elections.

58. This request was made to the CFD by some reformist members of the Dawoodi Bohra Community, *Ibid.*, p. 11.

The Dawoodi Bohras are a part of the Shia Sect of the Muslim Community whose total population is around 1 million.

59. The Commission consisted of Shri N.P. Nathwani, M.P., Dr. Aloo Dastur, Dr. Alam Khundmiri, Dr. Moin Shakir and Shri C.T. Daru. Shri V.M. Tarkunde was later coopted to the Commission. However, Dr. Aloo Dastur had to give up her membership because of her appointment to the Minorities Commission of the Government of India, *Ibid.*, p. 11.

60. *Ibid.*, p. 11


67. Activists' Conference organised by PUCL and CFD held on 29-30 December 1981 at Hyderabad.


70. Members of the team were Bashiruddin Ahmed, Ajit Bhattacharya, B.G. Verghese. It has also participated in other initiatives such as one to oversee the Banka by-election in Bihar.

71. Participants on the Sampoorna Kranti Manch who had been working towards this idea were organisations such as Rashtriya Lok Samiti, Sampoorna Kranti Yuva Sangam, Swarajya Sangam, Samta Yuvjan Sabha, Samta Sangathan, Santa Andolan, Jan Sangharsh Vahini, Sarva Seva Sangh, Radical Humanist Association, Chattra Yuva Sangharsh Vahini, Gandhi Shanti Pratishthan, See, "Movement for Total Revolution", PUCL Bulletin, November-December 1985, pp. 10-11 & 13.


73. These included among others the Chattra Yuva Sangharsh Samiti, Sarva Seva Sangh, Lok Samiti, Samta, Yuvjan Sabha and Mazdoor Kisan Samiti. See, Ibid.

74. Bakshi, op.cit.

75. The CFD, in its Annual Conference in Cuttak, in 1988 suggested that political interference in making high judicial appointments for the High and Supreme Courts may be avoided by setting up a high-power committee including 5 senior judges along with the Ministers of Law and Justice and the leader of the Opposition in the Lok Sabha. See Report on Conference.


77. Editorial Prajatantra, Jantantra Samaj, This has been translated from Hindi.

78. CFD Purpose and Programmes, p. 15.

80. Public meeting by CFD against demolition in Ayodhya, See, CFD Newsletter, 2 January 1993.


83. The Employment Guarantee Scheme of the Maharashtra Government is held out as a partial solution and as a model to other states.

84. CFD has reiterated that nuclear power production is detrimental to environment and human life.


93. Along with CFD, the other groups are the Mannu Rakshana Koota and Save the Western Ghat Movement. See Jantantra Samaj, February, March, April, 1989.


96. Jantantra Samaj, October 1979

97. See booklet, Electoral Reforms for India, published by Voters' Council and CFD, which is an address delivered by Shri S.L. Shakdher, Chief Election Commissioner, on 26 September 1990 in Delhi.
98. 2nd Demand
99. 3rd Demand
100. 4th Demand
101. 9th Demand
102. 14th Demand
103. 11th Demand
104. 6th Demand
105. 1st Demand
106. 10th Demand
107. 8th Demand
108. 7th Demand
109. 5th Demand
116. This book was authored by Amiya Rao, Sunil Bhattacharya, Aurobindo Ghose, Tejinder Singh and N.D. Pancholi, Justice Tarkunde wrote the Foreword. The Book released on 9 September 1985, was banned the next day. Its publisher and printer were arrested and subsequently bailed. See, "Judiciary is not a Rubber Stamp", PUCL Bulletin, Nos.45 & 46, November, December, 1985, pp.4-7.
117. Members of the team were Justice Tarkunde, Sulochna Shikhare, Tejinder Singh Ahuja. This has been

118. Other Organisations were the PUCL, the Radical Humanist Association and the Manav Ekta Abhiyan. The report was entitled "Report on Human Rights Situation in the Kashmir Valley", 20-25 May 1992.

119. It has so far submitted six periodic reports nd held a two-day seminar on the issue and organised a rally. See, Coordination Committee on Kashmir: Summary of Report, 26-30 October 1992.


121. The editorial of the PUCL Bulletin, No.110 of May 1991 entitled "A Shameful Act" criticised this reported incident of mass rape of 23 women at Kunan Poshpara, a village in the district of Kupwara.


126. Ibid., p.1.

127. Ibid., p.1.


130. However, from time to time they have had criticism as being 'foreign-funded', 'foreign-hand' or even "CIA agents". See, "PUCL, PUDR are CIA Agents", PUCL Bulletin, August 1985, No.42, p.17.

131. Gobind Mukhoty comments, "Throughout India's independent history taking advantages of extraordinary Articles of the Constitution, the rulers, in the Union as well as the States, have passed various Acts, curtailing civil liberties completely. Innumerable such Acts and Ordinances have been passed, e.g., the P.D. Act (1950) ...., the Defence of India Rules (1962), West Bengal Prevention of Foreign Activities Act 1970, Maintenance of Internal Security Act 1971 (placed in the 9th Schedule, the Sanctum Sanctorum of the Indian Constitution), Preventive Detention Acts and Ordinances in Jammu & Kashmir, Madhya Pradesh, Bihar, Andhra Pradesh, Gujarat and recently Maharashtra. On 22 September 1980, the President has promulgated the National Security Ordinance ostensibly to detain any person to prevent him from acting against the defence or security of the country. Its scope of mischief according to Preventive Detention Act watchers is much wider than that of the dreaded MISA....". See Gobind Mukhoty, "Indian Constitution and Civil Liberties", in A.K. Desai, ed., *Violation of Democratic Rights in India*, Vol.1, (Bombay: Popular Prakashan, 1986), p.81

Mukhoty has earlier served as President of the People's Union of Democratic Rights.

132. This ordinance had some extremely illiberal features. Comments Mukhoty, "... under section 8(2) the authorities did not have to give the ground of detention to the person detained on the plea that such disclosure was against public interest; and under section 14(2) the revocation or expiry of the detention order did not bar the making of a fresh detention order against the same person when 'fresh' facts had arisen after the date of revocation or expiry". *Ibid.*, p.81.

133. Are you a Terrorist? PUDR, July, 1984. Mohan Ram makes the same point: "Likewise the Maintenance of the Internal Security Act, passed by the Parliament on the firm assurance by the government
that it would not be used to suppress legitimate struggles of the people and was needed to meet the situation created by an external factor (Bangladesh crisis), was used as the main instrument of the Emergency. Mohan Ram, "Civil Rights Situation in India", A.R. Desai, ed., Violation of Democratic Rights in India, op.cit., p.94.


139. "The Terrorist and Disruptionist Activities (Prevention) Act 1985 seeks to:

a. provide for deterrent punishments for terrorist acts and disruptive activities;

b. confer on the Central Government adequate powers to make such rules as may be necessary and expedient for the prevention of, and for coping with, terrorist acts and disruptive activities;

c. provide for the constitution of Designated Courts for the speedy and expeditious trials of offences under the proposed legislation ....

From the statement of Objects and Reasons of the Terrorist and Disruptive Activities (Prevention) Act 1985. Quoted in "Blacklaws", PUCL (Delhi), op.cit, p.10.

140. The Report, "Black-Laws 1984-85", of PUCL, of June 1985 is a republication of an older Report by the same name. This has enabled them to include the newer legislation of 1985. The earlier report covered not only the texts of the ordinances of 1984, but also an entire report of the PUDR "Black-Laws and the People: An enquiry into the functioning of the 1984 Black-Laws in Punjab". Also, included are extracts from the Rowlatt Act, and Gandhi's letter on the Rowlatt Bills.


143. This is now SA of the National Security Act, inserted by NSA (second Amendment) Act, 1984. Ibid.

144. This change has been made in 14(2) of the National Security Act, by the NSA (second Amendment) Act, 1984. Ibid.


146. PUCL has discussed it "Black Laws", op.cit., and PUDR in "Citizen's Guide ...", op.cit.

147. Sumanta Bannerjee comments: "The Terrorist Affected Areas (Special Courts) Act passed by the Indian Parliament recently, not only carries on the infamous tradition of the Rowlatt Act, and the Bengal Suppression of Terrorist Outrages Act and a host of similar legislations enacted in India during the British regime, but has also chiselled the repressive provisions in such a manner as to plug the loopholes that might have been left in the older Acts". Bannerjee, Ibid., p.226.


152. In Jammu and Kashmir the Armed Forces (Special Power Act) was imposed in August 1990.


156. Ibid., pp.610-619.

157. Ibid., p.584.

Note a small item in a report "Godavari Agency : On the Repression Against Tribals in Andhra Pradesh", PUDR (Delhi), August 1987, which states, "A petition filed by the PUDR challenging the constitutional validity of the Act is pending before the Supreme Court for almost a decade now.


159. The lawyers are Nandita Haksar and Kotishwar Singh.


161. "Mr Clean’s Black Bill", PUDR (Delhi), and "Samvidhan Ka 59 Sanshadhan : Tanashhee Ka Ek Shadiyantra", PUCL (Bihar), 1988.

162. "Mr Clean’s Black Bill", PUDR (Delhi).

164. The Ordinance on "Terrorist Affected Areas (Special Courts) Ordinance was passed on 14 July 1984, ten days before the Parliament was due to meet. See "Black Laws", PUCL, op. cit., p.61.


165. The term "encounter" has been termed "a unique contribution of the police in India to the vocabulary of human rights". See PUCL Bulletin, March-April 1982, p.9.

166. "Civil Rights under NTR Regime", PUDR (Delhi), September 1989, p.4 and also "Press, Para-military and People", PUDR (Delhi), 1992.

167. "Civil Rights under NTR Regime", PUDR (Delhi), September 1989, p.3.

It may be relevant to quote from "Press, Paramilitary and the People, PUDR (Delhi), 1991, that encounter deaths which were 51 in 1989, 19 in 1990, increased to 106 in 1992. These figures are compiled by the Andhra Pradesh Civil Liberties Committe.


170. PUCL Bulletin, No.66.

171. PUCL Bulletin, No.92.

172. For documentation of police atrocities in Andhra Pradesh, Karnataka, Madhya Pradesh, Assam, Bengal, Rajasthan and Delhi, compiled by a variety of civil liberty activist individuals and civil liberty groups. See, A.R. Desai, op. cit., pp.262-271 and pp.283-293. Some Reports of the PUCL and PUDR are also included in this.


178. Ibid., p.10.


180. 21 people were reported to have died. See, "Report of the Indian People's Human Rights Tribunal Report on the Arwal Massacre", IPHRC Publication (Delhi), 30 July 1987.


182. Some others randomly chosen are: "Police Firing at Budge-Budge", PUCL (Calcutta); "Gentlemen Farmers of the Terai: A Report on the Struggle for Land and State Repression in Nainital", PUDR (Delhi), 1989; "Bastar: Ek Muthbed Ki Jaanch", PUDR (Madhya Pradesh), CPDR (Nagpur), PUDR (Delhi), June 1985.


186. Ibid., p.5.

188. Ibid., p.ii.


190. This reference is to the iron ore mines which began functioning in 1968. See, "Bastar: Development and Democracy", PUCL (Madhya Pradesh), April 1989, p.5.

191. Ibid., p.5.


193. The recognition of the traditional dependence of the forest people on the forests is being systematically reduced. Whereas in 1865, the Government Forest Act spoke of the existing rights of the communities, the India's Forest Act, 1927 referred to rights and privileges of persons, the 1952 forest policy spoke of rights and concessions. See, Ibid., pp.4-7.

194. Ibid., p.5. Also, "In general all these so-called afforestation programmes aim at satisfying the paper, resin and wood industries at the cost of forest produce necessary for the local population", p.26.

195. The PUDR report points out, "While the commercial needs of private interests have been held as the 'inevitable requirements of the development process', the meagre food and shelter requirements of the tribals have been treated as the chief reason for the destruction of forests", Ibid., p.3.

196. States the Bastar Report of the PUCL (Madhya Pradesh), "But having been left with no other option, they 'encroach' upon the forest, bringing it under cultivation with the help of their axes, or they just go hunting in the lean seasons". "Bastar: Development and Democracy", op.cit., p.3.

197. When government declares cultivable land as forests, when government prohibits the collection of forest produce, and makes laws to this effect—these kinds of acts prohibited by law do not actually prevent the people from indulging in them. Instead the law becomes an instrument of
corruption, harassment and intimidation for the forest officials. See, Ibid., p.13.


A PUDR Report, "Bitter Harvest", of August 1992 fixes the number of those killed by police to 34, to those killed by private militia at 113, and those killed by peasant movement at 44 in the six months period between January 1992 to June 1992.

This list is a compilation from newspaper reports and does not claim to be comprehensive, however the reports do indicate to the level of violence in Bihar. Also see, "Violence in Bihar", An Investigative Report of the Bihar, PUCL Bulletin, No.100, July 1990, pp.47-73.

201. Some of the Senas are Bhumi Sena (of the Kurmis in Patna and Gaya), Bhumi Brahmashri Sena (of the Bhumihars in Gaya), the Kuwar Sena of the Rajputs, the Lorik Sena of the Yadavs, Rajput Sena in Palamau, and the Sunlight Sena also in Palamau. There is the Khetriya Kisan Manch of Nalanda and the Pragatisheel Kisan Sangh of Bhojpur.


204. "Even clear cases of organised labourers getting killed by their landlords are described merely as "atrocities on Harijans", Unfortunately even the media helps this process by its distorted reporting. "And Quiet Flows the Ganga", op.cit., p.5.

206. The mass organisations are the Jan Suraksha Sangharsh Manch (JSSM) and Krantikari Kisan Sangathan (KKS) associated with the Maoist Communist Centre (MCC), the Mazdoor Kisan Mukti Morcha (MKMM) and the Lok Sangram Morcha (LSM) affiliated to the CPI (ML) Party Unit; and Bihar Pradesh Kisan Sabha and the Indian People's Front (IPF), which is affiliated with the CPI (ML) Liberation. (The MKMM is the resurrected form of the Mazdoor Kisan Sangram Samiti (MKSS) which was banned following the Arwal Carnage in 1986. See Bitter Harvest, PUDR, 1992, p.15.

207. Gair Mazara land technically belongs to the government. It is land for community use for purposes such as grazing, collecting fodder and holding temporary markets, etc. However, powerful erstwhile zamindars had been able to acquire de facto control of tracts of common land and had often leased them out. The administration had in the face of the power of the landlords as well as some litigation, been unable to recover or redistribute this land. See, "Bitter Harvest", op.cit., 1992, p.10.


210. In most cases, the perspective is pro-poor and sympathetic. It may be suggested that their's is a "subaltern" perspective.


212. See, PUDR Reports on Bihar. Also, "Bastar: Development and Democracy", PUCL (Madhya Pradesh), 1989; "Bastar: Ek Mutbhed Ke Jaanch", June 1985, PUCL (Madhya Pradesh), CPDR (Nagpur), PUDR (Delhi) and "Koel Ke Kinare", PUDR (Delhi), 1990.


214. See, Report on "Banjhi Massacre ....", PUCL (Bihar) (undated) and "Disturbed Areas ....", Ibid.
215. Ibid. Also see, A.P. : Press, Paramilitary and People PUDR (Delhi), 1992.


217. "Banjhi Massacres ....", op.cit.


220. Ibid.


225. PUCL Bulletin, Nos.64 & 65, July & August 1987

226. PUCL Bulletin, Nos.70-75, January-June 1978. The Justice Iyer Committee Report even formulated a special code and proposed that the police should avoid arresting and detaining women as far as possible because of their vulnerability and special role in the family. Women prisoners today constitute only 2.6 per cent of the total prison population and the code suggests that simple imprisonment, which accounts for 95 per cent of the convictions against women should be abolished. Further, no sentence under three month duration should be imposed upon women and female detenus should be guarded by female police officers. Every State should have at least one separate prison for women, it was stressed.

It is relevant to note that the PUCL carried the Report of the Mulla Committee on Jail Reforms. See, PUCL Bulletin, July-November 1983, pp.5-13.


240. "And Quiet Flows the Ganga", PUDR (Delhi), September, 1983.

241. Ibid. Also the PUCL with its monthly Bulletin (and earlier the Jantantra Samaj of the CFD), has made a major contribution in the dissemination of information about civil liberties denials.


243. Ibid., p.25.
244. Ibid., p. 18.


248. See the question raised by the CFD, for example, "Jhuggi-Jhonpri Ki Samasya Kyon? Kya?, Jantantra Samaj, No. 79, July 1985, p. 7. And, "Jasola Vihar: Demolitions in South Delhi", PUDR (Delhi), August 1979; "Shelter and Development - National Policy and International Commitments", PUCL Bulletin, No. 118, January 1992, pp. 5-7: "The Shunned and the Shunted", PUCL Bulletin, No. 28, January 1984, pp. 5-16. The Bombay PUCL had petitioned the Supreme Court against the eviction of pavement-dwellers by the authorities. It argued for policies which would ensure an adequate supply of basic shelter in a planned manner which would then preclude the possibility of vast numbers of people having to devise their own shelter problems.


252. See discussion on CFD.


254. The R.N. Mishra Committee gave rise to the Ahooja Committee (to estimate numbers killed in the carnage) and the A.K. Bannerji-M.L. Jain Committee (to recommend registration and monitor investigation of cases) and the Dalip Kumar Kapur and Kusum Lata Mittal Committee (to probe the conduct of the police). The Mishra Commission had found 19 Congressmen guilty. However, cases have been initiated in a few instances and are tied in the labyrinth of procedure. The Mittal Committee
made recommendations for action against some police officials. However, indicted officials have obtained a stay order.


256. People's Union for Democratic Rights Vs Union of India (1982), 3, SCC, 235.

257. Upendra Baxi points out that the term "public interest" litigation is copied from America which has a background related to civic participation in governmental decision-making. In India, in the backdrop of the task of opposing governmental might and upholding the rights of the poor, the term "social action litigation" is more relevant. See, article, "Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India", IV Annual Convention of the People's Union for Democratic Rights, September 21, 1985, pp.2-3.

258. The doctrine of *locus standi* was inherited from the Anglo Saxon system of jurisprudence. This doctrine requires that only the person who has suffered a legal wrong or legal injury can go to court for redress and no one else can file for action on his behalf.


260. In "Tall Chimney, Dark Shadows", PUDR (Delhi), June 1991, the limitations of the *locus standi* are hinted at. "The locus standi too is currently proving more useful as an instrument of intercorporate rivalry than for people's struggles", See inside back cover.


264. See, "Godavari Agency .....". op. cit., PUDR.

266. Kotishwar Singh is an Organising Secretary of the PUCL, and Nandita Haksar is affiliated to the PUDR.


268. Article 5(2) states that on the occurrence of any public emergency, or in the interest of public safety, the Central Government or a State Government may, if satisfied that it is necessary or expedient to do so .... direct that any message to or from any person or any class of persons, or relating to any particular subject, brought for transmission by, or transmitted, or received by telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the government making the order ....". See, "Phone Tapping", PUCL Bulletin, No.109, pp.4-5 & 13.

269. These reiterated the rights of the undertrial such as application for bail, information to family or friends about arrest, information to the legal-aid committee for free legal aid, separate lock-ups for women and interrogation in presence of women police officers. The judgement directed specially nominated city sessions judges to made periodic visits to the lock up. It also directed magistrates to specifically inquire from arrested persons about any torture or maltreatment. "Important Supreme Court Directive on Undertrial Prisoners", PUCL Bulletin, No.62, May 1987, pp.6-7 and "Exceptions from the Judgement of Justice Bhagwati", PUCL Bulletin, No.65, August 1987, pp.10-11.


274. Ibid., p.315.


279. Ibid., p.18.