POLITICAL PRISONERS IN INDIA

By

ARUN FERREIRA

(Nagpur Central Prison, Nagpur 440020)
September 2010.

Prepared for

Two Years Distance Learning Postgraduate Programme in Human Rights

At

Indian Institute of Human Rights,
A14-15-16, Paryavaran Complex, Saket - Maidangarhi Marg,
New Delhi- 110030.
“I remain innocent. A court cannot make an innocent man guilty. Any ruling founded on injustice is not justice. The righteous fight for life, liberty and for justice can only continue.”

(American political prisoner on death row since 1982, charged for killing a policeman as a member of the Black Panther Party)
## CONTENTS

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Page No</th>
</tr>
</thead>
<tbody>
<tr>
<td>List of tables and figures</td>
<td>2</td>
</tr>
<tr>
<td>Acknowledgement</td>
<td>11</td>
</tr>
<tr>
<td>Letter of the Guide</td>
<td>12</td>
</tr>
<tr>
<td>Chapter 1</td>
<td>13</td>
</tr>
<tr>
<td>• Introduction</td>
<td></td>
</tr>
<tr>
<td>• Need and importance of the Study</td>
<td></td>
</tr>
<tr>
<td>• Nature of the problem</td>
<td></td>
</tr>
<tr>
<td>• Sources of data collection</td>
<td></td>
</tr>
<tr>
<td>• Scope of the Study</td>
<td></td>
</tr>
<tr>
<td>Chapter 2</td>
<td>19</td>
</tr>
<tr>
<td>• Differential treatment and self perception of political prisoners</td>
<td></td>
</tr>
<tr>
<td>• Contention over definition of Political Prisoners</td>
<td></td>
</tr>
<tr>
<td>• The question of unconditional release</td>
<td></td>
</tr>
<tr>
<td>Chapter 3</td>
<td>34</td>
</tr>
<tr>
<td>• Review of literature: on struggle, treatment and conditions of Political Prisoners</td>
<td></td>
</tr>
<tr>
<td>Chapter 4</td>
<td>38</td>
</tr>
<tr>
<td>• Suggestions and conclusions</td>
<td></td>
</tr>
<tr>
<td>Appendices</td>
<td>41</td>
</tr>
<tr>
<td>Bobliography</td>
<td>54</td>
</tr>
</tbody>
</table>
Tables and Figures

Table I: Population in jails across the country at the end of 2007

Table II: List of some Indian laws & provisions commonly used on Political Prisoners

Table III: List of proscribed organisations according to the Unlawful Activities (Prevention) Act, 2008 (schedule)

Table IV: Pattern and principles of classification of political prisoners followed by various state governments during emergency (1975-77)
Table I

Population in jails across the country at the end of 2007

<table>
<thead>
<tr>
<th>NO</th>
<th>STATE/U TERRITORY</th>
<th>CONVICTS</th>
<th>UNDER TRIALS</th>
<th>DETENUES</th>
<th>OTHERS</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Andhra Pradesh</td>
<td>5559</td>
<td>9445</td>
<td>21</td>
<td>20</td>
<td>15045</td>
</tr>
<tr>
<td>2.</td>
<td>Arunachal Pradesh</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3.</td>
<td>Assam</td>
<td>3580</td>
<td>5090</td>
<td>35</td>
<td>0</td>
<td>8705</td>
</tr>
<tr>
<td>4.</td>
<td>Bihar</td>
<td>6266</td>
<td>33316</td>
<td>24</td>
<td>32</td>
<td>39638</td>
</tr>
<tr>
<td>5.</td>
<td>Chhattisgarh</td>
<td>4525</td>
<td>5899</td>
<td>0</td>
<td>27</td>
<td>10451</td>
</tr>
<tr>
<td>6.</td>
<td>Goa</td>
<td>147</td>
<td>219</td>
<td>0</td>
<td>0</td>
<td>366</td>
</tr>
<tr>
<td>7.</td>
<td>Gujarat</td>
<td>5069</td>
<td>5886</td>
<td>887</td>
<td>0</td>
<td>11842</td>
</tr>
<tr>
<td>8.</td>
<td>Haryana</td>
<td>4976</td>
<td>8117</td>
<td>0</td>
<td>0</td>
<td>13093</td>
</tr>
<tr>
<td>9.</td>
<td>Himachal Pradesh</td>
<td>875</td>
<td>560</td>
<td>0</td>
<td>0</td>
<td>1435</td>
</tr>
<tr>
<td>10.</td>
<td>Jammu &amp; Kashmir</td>
<td>292</td>
<td>1732</td>
<td>275</td>
<td>0</td>
<td>2299</td>
</tr>
<tr>
<td>11.</td>
<td>Jharkhand</td>
<td>5865</td>
<td>12063</td>
<td>6</td>
<td>2</td>
<td>17936</td>
</tr>
<tr>
<td>12.</td>
<td>Karnataka</td>
<td>3830</td>
<td>9046</td>
<td>10</td>
<td>166</td>
<td>13052</td>
</tr>
<tr>
<td>13.</td>
<td>Kerala</td>
<td>2916</td>
<td>3787</td>
<td>32</td>
<td>7</td>
<td>6742</td>
</tr>
<tr>
<td>14.</td>
<td>Madhya Pradesh</td>
<td>16313</td>
<td>16300</td>
<td>34</td>
<td>65</td>
<td>32712</td>
</tr>
<tr>
<td>15.</td>
<td>Maharashtra</td>
<td>9203</td>
<td>16537</td>
<td>152</td>
<td>0</td>
<td>25892</td>
</tr>
<tr>
<td>16.</td>
<td>Manipur</td>
<td>56</td>
<td>252</td>
<td>136</td>
<td>0</td>
<td>444</td>
</tr>
<tr>
<td>17.</td>
<td>Meghalaya</td>
<td>72</td>
<td>557</td>
<td>36</td>
<td>0</td>
<td>665</td>
</tr>
<tr>
<td>18.</td>
<td>Mizoram</td>
<td>306</td>
<td>635</td>
<td>0</td>
<td>0</td>
<td>941</td>
</tr>
<tr>
<td>19.</td>
<td>Nagaland</td>
<td>101</td>
<td>394</td>
<td>6</td>
<td>0</td>
<td>501</td>
</tr>
<tr>
<td>20.</td>
<td>Orissa</td>
<td>4345</td>
<td>11020</td>
<td>3</td>
<td>0</td>
<td>15368</td>
</tr>
<tr>
<td>21.</td>
<td>Punjab</td>
<td>4959</td>
<td>10981</td>
<td>16</td>
<td>16</td>
<td>15972</td>
</tr>
<tr>
<td>22.</td>
<td>Rajasthan</td>
<td>5870</td>
<td>8765</td>
<td>26</td>
<td>26</td>
<td>14687</td>
</tr>
<tr>
<td>23.</td>
<td>Sikkim</td>
<td>82</td>
<td>144</td>
<td>0</td>
<td>0</td>
<td>226</td>
</tr>
<tr>
<td>24.</td>
<td>Tamil Nadu</td>
<td>6382</td>
<td>9542</td>
<td>667</td>
<td>8</td>
<td>16599</td>
</tr>
<tr>
<td>25.</td>
<td>Tripura</td>
<td>813</td>
<td>503</td>
<td>1</td>
<td>0</td>
<td>1317</td>
</tr>
<tr>
<td>26.</td>
<td>Uttar Pradesh</td>
<td>19693</td>
<td>53992</td>
<td>2297</td>
<td>198</td>
<td>76180</td>
</tr>
<tr>
<td>27.</td>
<td>Uttarakhand</td>
<td>1048</td>
<td>1661</td>
<td>0</td>
<td>0</td>
<td>2709</td>
</tr>
<tr>
<td>28.</td>
<td>West Bengal</td>
<td>4345</td>
<td>13961</td>
<td>0</td>
<td>292</td>
<td>18598</td>
</tr>
<tr>
<td>29.</td>
<td>A &amp; Nicobar Islands</td>
<td>88</td>
<td>325</td>
<td>0</td>
<td>0</td>
<td>413</td>
</tr>
<tr>
<td>30.</td>
<td>Chandigarh</td>
<td>146</td>
<td>355</td>
<td>0</td>
<td>0</td>
<td>501</td>
</tr>
<tr>
<td>31.</td>
<td>D &amp; Nagar Haveli</td>
<td>0</td>
<td>28</td>
<td>0</td>
<td>0</td>
<td>28</td>
</tr>
<tr>
<td>32.</td>
<td>Daman &amp; Diu</td>
<td>10</td>
<td>56</td>
<td>0</td>
<td>0</td>
<td>66</td>
</tr>
<tr>
<td>33.</td>
<td>Delhi</td>
<td>2268</td>
<td>9314</td>
<td>23</td>
<td>0</td>
<td>11605</td>
</tr>
<tr>
<td>34.</td>
<td>Lakshadweep</td>
<td>3</td>
<td>11</td>
<td>0</td>
<td>8</td>
<td>22</td>
</tr>
<tr>
<td>35.</td>
<td>Puducherry</td>
<td>112</td>
<td>234</td>
<td>0</td>
<td>0</td>
<td>346</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>120115</td>
<td>250727</td>
<td>4687</td>
<td>867</td>
<td>376396</td>
</tr>
</tbody>
</table>

Source: http://ncrb.nic.in
Table II

List of some Indian laws and provisions commonly used on Political Prisoners

1. Section 121-124A (sedition) of Indian Penal Code (since 1870)
2. Regulation 111 of 1818 (Repealing and Amendment Act), 1897
3. Ingress into India Ordinance/Act, 1914
4. The Defence of India Act, 1915
5. Prevention of Seditious Meeting Act, 1911
6. Anarchical & Revolutionaries Crimes Act, 1919
7. Martial Law Ordinance, 1919
8. Rowlatt Act, 1920
10. The Armed Forces (Special Powers) Act, (AFSPA) 1958
11. Disturbed Areas Act, 1958
12. Preventive Detention Act, 1950
13. Defence of India (DIR), 1963
14. Unlawful Activities (Prevention) Act, 1967
15. Maintenance of Internal Securities Act (MISA), 1971
16. Disturbed Areas Special Courts Act, 1976
17. Public Safety Act, 1978
20. Terrorist & Disruptive Activities (Prevention) Act, (TADA) 1985

Special State laws

1. Assam Preventive Detention Act, 1980
3. Chhattisgarh Special Public Security Act, 2005
4. West Bengal Security Act
5. Tripura Security Act
6. Nagaland Security Regulation
7. Meghalaya Preventive Detention Act
Table III

List of proscribed organisations according to the Unlawful Activities (Prevention) Act, 2008 (schedule)

1. Babbar Khalsa International
2. Khalistan Commando Force
3. Khalistan Zindabad Force
4. International Sikh Youth Federation
5. Lashkar-e-Taiba/ Pasban-e-Ahle Hadis.
8. Hizb-ul-Mujahideen/Hizb-ul-Mujahideen Pir Panjal Regiment
9. Al-umar-Mujahideen
10. Jammu and Kashmir Islamic Front
11. United Liberation Front of Assam(ULFA)
12. National Democratic Front of Bodoland (NDFB)
13. People’s Liberation Army (PLA)
14. United National Liberation Front (UNLF)
15. People’s Revolutionary Party of Kangleipak (PREPAK)
16. Kangleipak Communist Party (KCP)
17. Kangleiyaol Kanba Lup (KYKL)
18. Manipur People’s Liberation Front (MPLF)
19. All Tripura Tiger Force
20. National Liberation Front of Tripura
21. Liberation Tigers of Tamil Eelam (LTTE)
22. Students Islamic Movement of India (SIMI)
23. Deendar Anjuman
24. Communist Party of India (Marxist-Leninist)- Peoples War, all its formations and Front Organisations
25. Maoist Communist Centre (MCC) all its formations and Front Organisations
26. Al Badr
27. Jamiat-ul-Mujahideen
28. Al-Qaida
29. Dukhtaran-e-Millat (DeM)
30. Tamil Nadu Liberation Army (TNLA)
31. Tamil National Retrieval Troops (TNRT)
32. Akhil Bharat Nepali Ekta Samaj (ABNES)
33.* Organisations listed in the schedule to the UN Prevention and Suppression of Terrorism (implementation of the Security Council Resolution) Order, 2007, made under section 2 of the United Nations (Security council) Act, 1947(43 of 1947) and amended from time to time
34. ** Communist Party of India (Maoist) and all its formations and front organisations

*Ins by Act 35 of 2008, sec 17
**Ins by Order of MHA, SO 1525(E) dated 22 June 2009, Gazette no. 954

- Source: Unlawful activities (Prevention) Act, 1967
Table IV

Patterns and principles of classification of political prisoners followed by various state governments during emergency (1975-77)

<table>
<thead>
<tr>
<th>State</th>
<th>Whether segregated from ordinary prisoners</th>
<th>Laws under which prisoner detained/arrested</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Andhra Pradesh</td>
<td>Yes (some of the C class detenus, mostly economic offenders were kept with ordinary prisoners)</td>
<td>MISA, DIR, COFEPOSA</td>
<td>Divided into A, B and C classes, C Class</td>
</tr>
<tr>
<td>Assam</td>
<td>Yes</td>
<td>n.a.</td>
<td>n.a.</td>
</tr>
<tr>
<td>Bihar</td>
<td>n.a.</td>
<td>n.a</td>
<td>n.a.</td>
</tr>
<tr>
<td>Gujarat</td>
<td>Yes (detenus only)</td>
<td>MISA and COFEPOSA</td>
<td>Class I and II</td>
</tr>
<tr>
<td>Haryana</td>
<td>Yes (detenus only)</td>
<td>MISA, DIR, COFEPOSA, etc</td>
<td>Not known</td>
</tr>
<tr>
<td>Himachal Pradesh</td>
<td>Yes (all prisoners arrested under different Emergency Laws were kept in separate wards)</td>
<td>DIR</td>
<td>Divided into B and C class</td>
</tr>
<tr>
<td>Karnataka</td>
<td>Yes (DIR prisoners kept with the ordinary under trials)</td>
<td>MISA, DIR, COFEPOSA</td>
<td>Divided into A and B class, Treated as ordinary under trials, Treated as separate class</td>
</tr>
<tr>
<td>Kerala</td>
<td>Yes (MISA detenus were accommodated in 3 Central jails and COFEPOSA detenus were kept in the Central jail at Trivandrum)</td>
<td>COFEPOSA, DIR</td>
<td>Treated as ordinary prisoners, Treated as under trials</td>
</tr>
<tr>
<td>Madhya Pradesh</td>
<td>Yes</td>
<td>MISA, Others arrested during Emergency</td>
<td>Divided into Class I and II, Divided into Special and ordinary class</td>
</tr>
<tr>
<td>Maharashtra</td>
<td>Yes</td>
<td>MISA, COFEPOSA, DIR</td>
<td>Divided into Class I and II (political detenus generally given Class I), Categorised as Class II, Treated as ordinary under trial prisoners while under trial and also after conviction</td>
</tr>
<tr>
<td>State</td>
<td>Detention Facility</td>
<td></td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>-------------------</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Manipur</td>
<td>No (kept with other prisoners but given better facilities)</td>
<td>MISA COFEPOSA</td>
<td>Classified A, B and C Class</td>
</tr>
<tr>
<td>Meghalaya</td>
<td>Yes</td>
<td>MISA/COFEPOSA</td>
<td>Divided into Class I and II</td>
</tr>
<tr>
<td>Nagaland</td>
<td>Yes</td>
<td>MISA/DIR</td>
<td>Not available</td>
</tr>
<tr>
<td>Orissa</td>
<td>Yes</td>
<td>MISA COFEPOSA</td>
<td>Categorised as S Class (treated as Class I)</td>
</tr>
<tr>
<td>Punjab</td>
<td>Yes</td>
<td>MISA/COFEPOSA</td>
<td>MPs and MLAs treated as Special Class and all other detainees treated Ordinary Class B Class (those awarded by Court) and Ordinary Class</td>
</tr>
<tr>
<td>Rajasthan</td>
<td>Yes (in some prisons it was not maintained due to overcrowding)</td>
<td>MISA COFEPOSA</td>
<td>Categorised as Class I, II and III (most of the detainees were categorised as B Class)</td>
</tr>
<tr>
<td>Sikkim</td>
<td></td>
<td>MISA</td>
<td>Transferred to Behrampur Central Jail</td>
</tr>
<tr>
<td>Tamil Nadu</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Tripura</td>
<td>Only high class detainees kept in separate wards</td>
<td>MISA/COFEPOSA/DIR</td>
<td>Categorised as C, B and A Class (only members of the registered political parties were given the highest class, i.e. Class C)</td>
</tr>
<tr>
<td>Uttar Pradesh</td>
<td>Yes</td>
<td>MISA COFEPOSA</td>
<td>Generally given Superior Class</td>
</tr>
<tr>
<td>West Bengal</td>
<td>Yes</td>
<td>MISA</td>
<td>Categorised as A, B and C Class</td>
</tr>
<tr>
<td>Andaman &amp; Nicobar Islands</td>
<td>Yes (MISA detainees accommodated on a separate floor)</td>
<td>MISA</td>
<td>Treated as Class II prisoners</td>
</tr>
<tr>
<td>Arunachal Pradesh</td>
<td>No jails</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Location</td>
<td>Accommodation Details</td>
<td>MISA/COFEPOSA/DIR Details</td>
<td>Class Treatment</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------------------------------------------------</td>
<td>---------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Chandigarh</td>
<td>Separate accommodation for MISA detenus</td>
<td>MISA/COFEPOSA/DIR</td>
<td>Only MLAs categorised as special class; others placed in ordinary class</td>
</tr>
<tr>
<td>Dadra &amp; Nagar Haveli</td>
<td>Yes</td>
<td>COFEPOSA</td>
<td>Treated as Class II prisoners</td>
</tr>
<tr>
<td>Delhi</td>
<td>na</td>
<td>na</td>
<td>na</td>
</tr>
<tr>
<td>Goa, Daman and Dui</td>
<td>Yes</td>
<td>MISA/COFEPOSA</td>
<td>Categorised into Class I and II</td>
</tr>
<tr>
<td>Lakshadweep</td>
<td>No arrests under MISA/COFEPOSA/DIR, etc</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Mizoram</td>
<td>Yes</td>
<td>MISA</td>
<td>Categorised into Class I and II</td>
</tr>
<tr>
<td>Puducherry</td>
<td>Yes (all MISA, COFEPOSA and DIR prisoners segregated)</td>
<td>MISA, COFEPOSA, DIR</td>
<td>Categorised into A, B and C Class Special category Treated like other under trial prisoners</td>
</tr>
</tbody>
</table>

na – not available
Source: Shah Commission of Inquiry, Third and Final Report, Delhi, 1978 as produced in 'Political Prisoners in India' by Ujjwal Kumar Singh, OXFORD University Press
Any study of this nature in prison would be impossible without help from both inside and outside the prison. Among those outside, my family, friends and well wishers contributed a lot in providing me with moral support, encouragement and material for this study. Whenever I required certain specific information, they were always willing and prompt in sending it. Friends in the civil rights movement have also kept me regularly updated with the happenings by providing me with internet downloads and articles/booklets which have been of immense help in this study. Although tradition calls that I should name in person such assistance, I will have to consciously avoid doing so. Given the circumstances, that I presently am in, any mention of such friends and well wishers names would definitely invite investigations by the anti-Naxal wing of the intelligence department. And, as in the case of Dr. Binayak Sen, such mention could lead to nothing short of their harassment. This is the sad state of Democracy in India, wherein even camaraderie, help and assistance in the cause of justice is construed 'abetment of terrorism'.

For this particular topic of my study, my experience in prison has been of enormous significance. Not only has the experience with the oppressive prison administration helped, but, moreover, it is the numerous interactions, discussions and heated debates with other political prisoners in the course of jail struggles which have helped the development of my understanding on this topic. The formulation of politically correct demands, conditions in other prisons, history and forms of jail struggles, etc, have been topics of discussion in our barracks or on our way to court. Among Maoist political prisoners K. Ashok Reddy, S Sridhar, Vernon Gonsalves, Vgs VG Chandramouli and many other unnameable inmates have contributed their opinions to this study. Many of whom have had many years in prison and political life with experiences to share.

Last, but not the least, I take this opportunity to thank those peoples' lawyers such as my guide, Adv P Sebastian, Adv Surendra Gadling, Adv Anil Kale, Adv Vinayak Kakade, Adv Maharukh Adenwala, Adv Susan Abraham and others whom have tirelessly endeavoured for the unconditional release of political prisoners like myself.
Letter of the Guide
Chapter 1

Introduction

The right to equality, the right to freedom of belief, conscience or religion and the right to freedom from discrimination on grounds of political or other opinion among other rights are considered fundamental to ‘human’ existence.

Internationally, they have been codified in the universal Declaration of Human Rights (1948) and various other instruments such as the covenant Civil and Political Rights (1976). These civil rights have also been entrenched in Part III of the Constitution of India thus making their violation illegal and unconstitutional. Similarly, there are the positive, collective rights of people such as the right to self-determination, right to development, right to resist oppression by whatever means available, etc, along with the economic, social and cultural rights such as right to work, right to food, right to an honourable and decent subsistence, etc, which have also been recognized both internationally in various forums and also by the Civil Liberties and Democratic Rights (CL&DR) movement in India.

It is the irony of the oppressed masses that many a time in their struggle for the realisation of the latter mentioned collective and positive rights, the former mentioned civil liberties are blatantly violated by the State. The numerous exploited sections in India who are struggling against their exploitation, for a minimum standard of living or for a more just and democratic society have been arrested, incarcerated and denied liberty in the prisons. The subject matter of this Study is concerned with this irony of the oppressed, by virtue of them becoming ‘political prisoners’.

The CL&DR movement in India holds the State accountable to be primarily responsible for the protection and promotion of the rights of the people especially those who are oppressed and marginalised. Thus, when the State itself becomes the biggest violator of the rights of such oppressed sections, it is of grave concern for the human rights activists, irrespective of the ethnicity, gender, political beliefs or religion of the victims. This Study is an attempt to address such a concern. In 1961, an international campaign began, led by a group of lawyers, writers and publishers in London, calling for amnesty for such prisoners. The founder of this campaign, which came to be popularly known as Amnesty International (AI) rightly stated the underlying conviction behind such an initiative as encapsulated in the thought of Voltaire 1 - “I detest your views but am prepared to die for your right to express them.”

Need and importance of the Study

Ask any political activist or the common masses engaged in their daily struggle against oppression, and it would be clear that incarceration in the course of such struggles is very much a reality. It is common knowledge for them that the State threatens to, or resorts to, arrests as a method of ‘controlling and disciplining’ peoples’ struggles. However, this fact is fiercely denied by the State as it would damage its democratic credentials. No mention of the real political reasons for such arrests are available in official records. On the other hand, the CL&DR movement in India, in an attempt to expose this reality, has repeatedly organised fact finding investigations and published reports of such events. By documenting such cases of political incarcerations, as independent reports or in

1“The forgotten Prisoners” by AI’s founder Peter Benenson, London Observer, May 28, 1961
their bulletins, the various CL&DR organisations have sought to raise its importance by public awareness, mobilise support and pressurise the government. However, on this question of ‘political incarcerations’ and ‘political prisoners’ there is still much left to be done.

According to experts in this field, and civil rights activists, the number of political prisoners in India is huge. At a national level gathering of such individuals under the auspices of the Inaugural Conference of the ‘Committee for the Release of Political Prisoners’ in New Delhi (2008), the following observations came up² –

“…..Kashmiri political prisoners could be more than 10,000…..in various prisons all across India and Jammu & Kashmir....”
(Adv. M. Shafi Rishi, Bashir Ahmad Andrabi and Altaf Ahmad from J&K)

“......more than 2,000 cases were framed on the farmers of Nandigram. Thousands have been arrested from Kamtapur movement......”
(Chotan Das & Dr. Subhas Das Gupta from West Bengal)

“.........several hundreds of Maoist prisoners languishing in the prisons of this region.......”
(Ramodhar Singh, Convenor, Rajanitik Bandi Rihayi Samiti. Bihar & Jharkhand)

“........more than 300 people are facing criminal cases in Orrisa for rising against displacement....”
(Adv DP Mohanti and Adv Prashant Jena from Orissa)

“......there are 170 political prisoners present in Tamil Nadu prisons, whereas thousands of others are on bail but still facing serious charges.”
(Kesavan, Abdul Ghayyum and TSS Mani from Tamil Nadu)

Being myself lodged in a prison in Maharashtra, I have also had the opportunity to discuss such figures with other political prisoners. The number of such prisoners in Maharashtra prisons would roughly be around 200. Vgge Chandramouli (currently lodged at the Nagpur Central Prison) has spent quite some time in the jails of Chhattisgarh and Andhra Pradesh. K Ashok Reddy, another Maoist political prisoner, has also had some experience in the Andhra Pradesh prisons and was part of the historic prison struggle of 1994-95, when incarcerated then for his trade union activity. Both of them have estimated the present number of political prisoners in Chhattishgarh and Andhra Pradesh to be roughly around 1,000 and 250 respectively.

Now even if the conservative estimates of the afore mentioned figures are compared to the official statistics of the government regarding the total prison population³ (see Table I), it is shockingly evident that the numbers of political prisoners are quite significant. In areas of mass struggles they comprise the majority of the prison population. A blatant reality, tenaciously denied by the State!!

In terms of the prisoners themselves, some of the most committed, dedicated and selfless political activists have been incarcerated for their convictions and dreams of a just and democratic society. It is therefore of utmost need and importance that the CL&DR movement in India addresses this problem. Recently, a couple of organisations have been formed such as the Bandi Mukti Committee (West Bengal), Rajniti Bandi RehAYi Samiti (Bihar and Jharkand), Committee for the Release of

Political Prisoners (all India level) on the initiative of advocates, civil liberties and democratic rights activists, writers, teachers, workers, students, etc, and have made such an agenda their prime objective.

Due to such interventions and in the course of various deliberations, questions are being raised within the CL&DR movement regarding history of political prisoners, formulation of the concept and demands, what constitutes the uniqueness and speciality of political prisoner ‘status’, proper compilation of their numbers and data etc. This present Study attempts to take cognisance of this reality and dwell on some of the above mentioned questions.

Nature of the problem

In recent history, and especially after the 9/11 events, many democratic and struggling people throughout our country have been subjected to State repression. The then US President led ‘global war on terror’ has come to mean a war against peoples’ movements. Hundreds and thousands of such activists or supporters of such movements have been tortured, imprisoned or eliminated in false encounters. In almost every State of the country, struggles waged by the people for the fulfilment of their constitutionally guaranteed rights have met with such forms of ‘State terror’.

The alienated Kashmiris, Nagas, Assamese, Punjabi, Manipuris, Kamtapuris, Bodas, etc have been demanding for the right to self determination for decades. Some of these demands go way back to the transfer of power in 1947. In the absence of any fruitful resolution of their just grievances by the various governments, many such movements have taken up to arms and have even called for ‘Azadi’ (succession) from the Indian union. These States have become war zones with the government keen on using even military might to crush any such demand. A similar situation has developed in the forests of Central India. Faced with decades of oppression by the British and now the modern government, the tribals resident there, have organised themselves under the leadership of the Maoist party and have offered stiff resistance in the form of guerrilla warfare. Conditions of abject poverty and severe exploitation by the contractors, tribal elite and government officials have caused such rebellion.

Now, in the period of liberalization-privatization-globalization big corporate houses such as the Tatas, Essars, Vedantas ,etc, and their mining mafias have been given a free hand to loot the ore in these mineral rich areas. Nevertheless, resistance to such projects still continues and State violence has greatly increased. The government now calls this movement led by the Maoists the gravest ‘internal security threat’ and has now mounted a full scale aggressive offence to crush it.

In such a situation, any opposition to State rule or dissent is viewed as a threat, necessitating it to be persecuted and silenced. Thus increasing the number of politically motivated arrests, false encounters and disappearances. The democratic space for dissent has been minimised with this state repression.

However, of late, this situation has not remained restricted to the mere ‘fringes’ of our country and areas of armed struggle. The further plunder by MNCs or big corporate houses like those afore mentioned has caused more and more land to be ‘legally confiscated’ in the name of SEZs or big projects from the peasants or tribals, forcing their widespread displacement. Struggles against these ‘projects’ have broken out in hitherto ‘peaceful’ areas such as in Singur and Nandigram (W. Bengal), Kalinganagar, Niyamgiri (Orissa), etc. Further with decreasing government expenditure on social and
economic benefits for the marginalised sections, the cities and metropolitan areas too have become centres of struggles against price rise, unemployment, slum demolitions, retrenchment of workers, etc. These struggles, too, have faced state repression and many of its participants have been arrested, in total violation of their rights to expression and association.

Apart from these instances of suppressing peoples’ revolt by ‘law and order’ methods, the exploiting classes have also resorted to fascist attacks on religious and ethnic minorities. In the past couple of decades, it has been the Muslims and recently the Christians who have become victims of these attacks. While the perpetrators of these crimes of genocide such as Gujarat (2002) or Kandhamal (2008) have easily evaded imprisonment, many innocent Muslims on the other hand have been imprisoned merely on suspicion, as Bangladeshis or because they choose to organise themselves and defend themselves from attacks on their community. Today, thousands of such Muslims are incarcerated in the prisons across the country on the pretext of being ISI agents or anti-nationals. The legally functioning Students Islamic Movement of India (SIMI) has been banned and hundreds of its members or sympathisers have been arrested or falsely implicated in blast cases. Even while incarcerated they are denied the right to legal counsel by the whipped up anti-Muslim hysteria.

In this scheme of silencing those who dissent, the prison has become an important component. Tens of thousands of such struggling masses have been imprisoned because they dared to speak and act in the interest of the people, even if such acts would constitute ‘a crime’ as defined by the State. For political reasons, it is in the interest of the State to see that these proclaimed ‘enemies of the state’ or ‘terrorists’ be incarcerated under charges that appear to be ‘serious’ enough to justify prolonged imprisonment. For this purpose the Indian State has gone beyond its colonial legacy and has enacted several special legislations down the years (see Table II). By such legislations, the armed forces are provided with extraordinary powers and relaxed conditions to ‘effectively deal’ with insurgencies regardless of human rights norms, as in the case of Armed Forces (Special Powers) Act, Disturbed Areas Act, etc. Further, existing provisions for bail and examination of evidence are ‘amended’ so as to ensure incarceration and convictions as in the case of Terrorist and Disruptive Activities Act (TADA), Prevention of Terrorism Act (POTA), Maharashtra Control of Organised Crime Act ((MCOCA), etc. Such special laws not only aim to criminalise such movements as acts (read offences of terrorism but have also sought to criminalise a thought or intent. The POTA, and its replacement, ie the currently effective Unlawful Activities (Prevention) Act, 1967, (amended in 2004 and 2008) has declared a number of political organisations illegal and ‘terrorist’ and has defined membership or support of such organisations as ‘crimes’. Most of these ‘banned’ organisations are in the forefront of leading uncompromising peoples’ struggles against the State (see Table III). On this issue of proscribing organisations, the Peoples’ Union of Democratic Rights (PUDR) has rightly decried that “the political use of such laws (are) to snuff out ideological and political opposition, particularly those that seek to restructure the exploitative structures of the state, (and), its use against minorities, workers and dalits and against national struggles.”

Once arrested and put into prison, the stigmatization and persecution of such a political rebel continues. Such jails become centres of torture and the rights of the now imprisoned rebel are denied or compromised on the pretext of security. Any remaining spirit of rebellion or self respect is now sought to be crushed in the prisons’ daily humiliating conditions. Such an activist or individual is continuously kept in prolonged incarceration by implicating him/her in numerous cases under special laws or by re-arresting after acquittals in earlier cases or by forcing convictions through

---

4PUDR booklet on Unlawful Activities (Prevention) Act, www.pudr.org
fabrication of evidence or by denial of bail given the stringent provisions of these special laws. It is in this stigmatization process of being branded as ‘criminal’ or ‘terrorist’ that such a prisoner forcefully reasserts the true political reasons of his/her incarceration and his/her legitimate struggle by demanding the recognition of ‘political prisoner-hood’ and struggles for the same. True to his/her political nature, such a political prisoner also mobilizes opinion within and outside the prisons for reform in the oppressive prison conditions. This present study is an attempt to examine the concept of ‘political prisoner-hood’ in India in its historical and its afore mentioned socio-political context and formulate relevant demands from the CL&DR perspective.

Sources of data collection

Being incarcerated myself, presents a unique problem of data collection for a study on ‘Political Prisoners’. Experience of over three years as a ‘political prisoner’ gives one ample scope to study the various methods of treatment vis-a-vis such prisoners meted out by the detaining State and also offers many opportunities for sharing such experiences with other such prisoners. Though such interactions are rich and include discussions of conditions in other prisons, they are many a time unexpected and conducted without the knowledge of the authorities, making it impossible to record the same in the form of questionnaires and surveys. Authoritarian prison practice of the officials makes them highly sensitive to any written record of their oppressive conditions and such would be easily confiscated during the routine searches. Hence, though this study has synthesized many such experiences of political prisoners, it lacks such a presentation in a questionnaire format.

Further, deprived of the freedom of movement due to the fact of incarceration, it would be impossible to interview experts in this field or visit other institutions for surveys. In the compilation and study of the history of political prisoners, I have mainly relied on ‘Political Prisoners In India’ by Ujjwas Kumar Singh, Oxford University Press, 2001. This book was gifted by the author himself when he came to visit the ‘political prisoners’ of the Nagpur Central Prison, as part of a fact finding team of the ‘Co-ordination of Democratic Rights Organisations’. The said book being well researched, amply satisfied my needs for information on the treatment of Political Prisoners, especially during the British times.

For contemporary developments, I have relied on a number of fact finding reports and articles that appeared in the publications of various CL&DR organisations. In the scrutiny of such reports one gets a sense of the method used by the State to arrest such political opponents, the special laws invoked thereon and the differential treatment given during their incarceration. The biggest problem of data collection faced in this present study, is the total silence of the government on this issue. Since, the State officially denies their existence in its records; their numbers cannot be ascertained from the same. The closest tabulation of such numbers by the ‘National Crime Records Bureau’ is in its figures of those incarcerated under special and local laws (SLL). However, to consider such figures as equivalent to those of political prisoners would be highly erroneous. This task is of profound importance and many CL&DR organisations, have taken it upon themselves to compile such a data-bank. In essence the present study is a compilation and synthesis of various experiences of political prisoners along with historical discussions and debates regarding their prisoner-hood.

\(^5\)Dr Binayak Sen, arrested in 2007, under the Chhattisgarh Special Public Security Act (CSPSA) was denied bail for almost 2 years; see ‘Through the lens of National Security’, PUDR publication, January 2008
Scope of the Study

The aforementioned limitations of data collection and source material have had its influence on the scope of this present Study. While the issue of ‘Political Prisoners’ is a wide topic dealing with historical, theoretical, legal and practical constructs, this present Study has attempted to touch on parts of these aspects. The kernel of this Study consists of three sections and elaborated in Chapter 2.

Firstly, I have attempted to place before the reader the reality of the differential treatment of political prisoners. By historical examples from colonial times, one can easily observe that this ‘special or separate’ treatment of Political Prisoners by the detaining government basically arose from their class needs and compulsions. In their perception of this threat to the rule, there was a need to segregate them from ordinary prisoners so as to contain their potential political influence. In times of popular mass upsurges a need also arose to offer such Political Prisoners certain facilities and preferential treatment apart from the ordinary so as to win over their elite, stem off prison unrest and minimise society's sympathy for them. Similarly, the struggle for recognition of ‘political prisoner-hood’ evolved from the prisoners and their supporters as a method of rejection of their ‘criminalization’ as branded by the State. It thus evolved as a counter to the State sponsored nomenclature of ‘criminals’, ‘terrorists’, ‘anti-nationals’ etc. History has also shown that struggles for this demand were inevitably tied up with the struggles for improvement of general prison conditions.

The second section, deals with the contentious issue of definition. In the struggle between the oppressed and the oppressors, the ‘have-nots and the haves’, the exploited and the exploiters, it is only but natural that this struggle will manifest itself in the realm of ‘political prisoner-hood’ terminology. The modern States’ position on both these above mentioned issues, ie ‘differential treatment’ and ‘terminology’ has been of denial, as formal acceptance of ‘political prisoner-hood’ would question the very foundations of democracy. Such issues are best officially denied yet secretly condoned.

The third section, deals with the formulation of the central demands for political prisoners, ie their unconditional release or fair trial. This is a challenge for the CL&DR movement especially since the formulation of such demands emanates from a correct construction of the definition which ought to relate to the socio-political reality.

In Chapter 3, I have mainly examined the various documentations done by the CL&DR organisations on the arrest/detention of such Political Prisoners and on the present prison conditions wherein they have been incarcerated. As earlier mentioned, this is an extremely vast area and hence such an examination cannot claim to be exhaustive and comprehensive.

Finally, as a conclusion to this Study, I have put forth various demands on the question of ‘political prison-hood’, which have also been raised time and again by the Political Prisoners themselves and the CL&DR movement. Some suggestions also deal with the necessity and tasks of a campaign for the unconditional release of Political Prisoners.
Chapter 2

Differential treatment and self perception of Political Prisoners

The detaining State has always sought to treat Political Prisoners differently and as a separate category. Whether explicit or implied, such a treatment was due to the compulsions of the government recognising the threat it faced due to such prisoners. During colonial rule in India vivid expressions for this category of Political Prisoners were used. At the turn of the 20th century, terms such as ‘seditionist’, ‘conspiracy case prisoners’, ‘raj kaidi’, ‘state prisoner’ and ‘political prisoner’ were used. And by the 1920s, expressions such as ‘detenu’, ‘security prisoner’, ‘superior class’ or ‘class A/B/C’ came into usage. After 1947 much of the colonial terminology still remained in prison administration with the usage of categories such as ‘class A/B/C’, ‘satyagrahi’ or ‘detenu’.

A common thread running through these explicit or masked recognition of Political Prisoners was the need to suppress and contain their political ideology and also deal ‘effectively’ to their needs considering their potential to wage struggles and mobilize support. These compulsions came up time and again in prison administration.

Compulsions of the detaining government for separate classification

Right from the British rule, this need for separate classification was based on the need to contain and restrict the spread of the ideologies of such prisoners and also force them into ‘reforming’ and following the ‘straight path’. With such an objective to contain these ‘dangerous’ ideologies, political prisoners were kept segregated, secluded and isolated from the general mass of prisoners. This principle was theorised by the Britisher, Reginald Craddock, as the need for a ‘septic tank’ wherein such prisoners were to be isolated to ‘keep the poisonous gas within the tank and ensure the safe custody of those emitting it’.

During the British rule such seclusion was practised through various methods. One of them being the ‘transportation’ of such ‘dangerous’ prisoners to far off detention facilities such as the Andaman and Nicobar Islands. In the brutal conditions of the cellular prisons of the Andamans, staunch nationalists and revolutionaries were incarcerated for years on end in total isolation and solitude. Even there, proposals were made to differentiate such prisoners from the rest by special marks on their clothing eg. a large ‘S’ sewn in coloured cloth on the front and back denoting ‘seditionist’ or ‘C’ indicating them as ‘conspiracy prisoners’, etc. Instances of such special treatment, have been well documented in the memoirs of political prisoners who were incarcerated in the Andaman prisons such as Bhai Parmanad, VD Savarkar, Trailokya Nath Chakraborty, Bijoy Kumar Sinha, etc.

As the number of such dissenters began to grow with the growth of the freedom struggle, it became impractical for the British to send all such threats to the ‘Kalapani’ prisons of Andaman and Nicobar. Hence the colonial government began setting up separate barracks or separate jails on the mainland itself based on the ‘septic tank’ principle of segregation. In 1917, the government of Bihar and Orissa converted the Hazaribagh Jail into the first ‘political prison’. Special structural alterations

\footnote{In an Amendment to the Prisons Act, 1894, the Maharashtra government enacted the Prisons (Maharashtra Amendment) Act,2000, which introduces a classification of ‘satyagrahis’ defined as unconvicted criminal prisoners having participated in non-violent public agitation}

\footnote{Home Department, Political Branch of Government of India, Sept 1918, Source - “Political Prisoners in India”- Ujjwal Kumar Singh, pg. 43}
were made in the Hazaibagh prison to provide cellular accommodation for 200 or more ‘seditionist’ prisoners. Among the seditionist incarcerated were the Sikh prisoners of the Lahore Conspiracy Case. Another such step was taken in 1940, ie during the Second World War. The Deoli Camp Jail was reopened to confine the most dangerous classes of ‘security prisoners’, particularly communists and other revolutionaries for whom it would be difficult for the British to provide ‘separate’ accommodation in their jails in view of the possibility of a mass civil disobedience movement. Obviously all these proposals and measures to isolate and seclude political prisoners were shrouded under the excuse of establishing ‘an asylum of a different order from a jail’, ie an institution to bring these prisoners back to the straight path.

Such a separate and differential treatment of political prisoners further stirred up their demand for recognition of their ‘unique’ political status and also became a centre for mobilising struggles to improve jail conditions. The historic hunger strike in 1929 of the Hindustan Socialist Republican Association (HSRA), including Bhagat Singh and B.K Dutt and the Lahore Conspiracy Case prisoners bore evidence to this fact. The strike which commenced on the demand for recognition of political prisoner-hood, also focussed on basic requirements of diet, labour, reading and association. With the death of Jatin Das on the 64th day, the hunger strike gained mass support sparking similar strikes in other prisons and demonstrations throughout the country. Similarly, with the advent of the Second World War and an increase in ‘Satyagrahi’ and other political prisoners, then termed as ‘Security prisoners’ the prison became a new arena of the anti-colonial struggle. Treatment of political prisoners in the face of such jail struggles now attracted international attention and adversely influenced public opinion, thus compelling the British government to offer concessions to them and offering them ‘preferential status’ on par with European prisoners. Recognising this potential of political prisoners to lead struggles which easily garnered public support, the detaining government was compelled to treat them ‘specially’. Realizing this fact the U.P. government in 1950 had expressed the opinion that ‘political prisoners deserve special treatment. They must be handled tactfully and as courteously as possible."

In the post 1947 period, the new rulers continued this policy of segregated and differential treatment of political prisoners. Like their colonial predecessors, political ‘enemies of the state’ were either eliminated in false encounters or incarcerated under harsh conditions. Special laws have been enacted to criminalise their acts or intent thus legally sanctioning such incarceration. The ‘septic tank’ principle still continued as the basis for their secluded and segregated treatment. Even today, in most prisons of the country such political opponents are being confined in cellular structures secluded from the general prisoners. In States and areas where their vast numbers make it impossible to provide cellular confinement for each such prisoner, they are nevertheless kept in a separate barrack segregated from the rest. The same British era logic of containing their ‘dangerous ideas’ continues to influence prison administration. In Maharashtra, like many other states, Maoist or Islamic political prisoners are lodged in cellular confinement in high security or separate yards, isolated from the rest of the prison population. The Inspector General (prisons) of Maharashtra, who is the administrative head of all the prisons in the state, issued directions dated 11 July, 2007, to the various Jail Superintendents, laying down a set of rules for such differential treatment of ‘Naxalite’ prisoners (see the English translation as APPENDIX ‘A’). What follows from these directions, is the ‘official’ sanction to keep such political prisoners secluded and ‘make arrangements’ to smoothen police interference and surveillance in prison administration. Almost

---

8 Recommendations concerning emergency measure for confinement of revolutionary terrorist prisoners, Rowlatt Committee/Sedition Committee, 1918. Source: ‘Political Prisoners of India’ – (ibid) pg. 42
9 Home Department, Jail Branch of GOI, 1950, regarding jail disturbances in the Benares Central Jail by women communist detenus, Source: ‘Political Prisoners of India’ – (ibid) pg. 224
similar to rules set up by the British regarding seclusion and police interference in interviews & correspondence of political prisoners\textsuperscript{10}. Further, like the colonial times, ‘Naxalite’ undertrials in Vidharbha are to wear prison uniforms with green arm bands sewn on to distinctively indicate their political allegiance.

The demand of recognition of ‘political prisoner-hood’

Historically, political prisoners have always demanded the recognition of their distinctiveness vis-à-vis ordinary prisoners as a method of asserting the moral and political legitimacy of their struggle or beliefs for which they have been incarcerated. By raising the demand of recognition of political prison-hood they seek to assert the selfless and pro-people reasons of their ‘acts’ for which they are incarcerated. They seek to expose the hollowness of the States’ laws that consider these selfless & pro-people ‘acts’ as ‘offences’. They seek to expose the States’ brand of democracy that suppresses political dissent and imprisons its political opponents. These political requirements have been the primary reasons behind the demand for political prisoner-hood. During the British rule, the Nationalists and especially the Revolutionaries like Bhagat Singh used this demand as a method of propagating their politics. Politics which had been banned by the State could be easily propagated by such prisoners who are already condemned in the eyes of the law. Even during the mass incarceration of political opponents during the Emergency (1975-1977), this demand was raised to expose the authoritarian and undemocratic character of the government. Presently activists of peoples’ movements incarcerated similarly are continuously raising this demand, in order to assert the legitimacy of their political struggle and also expose before society the suppression leashed by the government.

Related to this political need for propaganda, political prisoners continued their struggles against the oppressive state even behind bars. The new conditions were used as a rallying point to expose jail conditions. Thus, the prison became another area of struggle and the political prisoner its Vanguard, as expressed in a Communist Party document - “........Jail is also a sector of the battlefront. The government adopts the policy of class differentiation, inflicting physical and mental torture and hardships, etc. precisely to fight its own class war, to frighten, break or wreck vengeance on the ever growing number of class-war prisoners and thereby weaken the movement outside as well. The class war prisoners have to fight this policy from inside the jails tooth and nail.....”\textsuperscript{11}

The essence of jail struggles and the question of preferential treatment

In India, the demand for recognition for the status of political prisoners developed during the British rule as a demand for the same superior classification conferred on European prisoners. At that time, there existed broadly two classes of prisoners- the Europeans and the ordinary natives. This differential treatment was raised by political prisoners who, with their anti-colonial consciousness perceived this practice as an extension of the oppressive British rule. Thus, through the demand for recognition of ‘political prisoner status’, such prisoners sought to further the anti-colonial, anti-racial struggle in the prison itself and demand to be treated on par with Europeans. This was one of the points brought to the notice of Sup’dt of Central Jail, Lahore, in a memorandum dated 10\textsuperscript{th} July, 1929, of B.K. Dutt, Bhagat Singh’s co-accused in the Assembly Bomb Case. Realising this could become a flash-point of prison unrest, the British government was quick to offer political prisoners

\textsuperscript{10}Section 10 of the ‘Revised Rules for the Treatment of Political Prisoners in Jails, Other than Convicts except where specially stated’, Poll (special), 1918. Source: ‘Political Prisoners in India’ (ibid)

\textsuperscript{11}Notes on the Bombay Hunger Strike’ dated 25 September, 1949, in M.B. Rao, (CPI) Documents of the History, Vol. VII., pg. 598; Source: ‘Political Prisoners in India’ pg. 220
the 'special status' similar to Europeans while the remaining general Indian prisoners were still in a subordinate class. This privileged status found some support with the elites of the anti-colonial movement and helped the British in dividing the movement. (This aspect is discussed in detail, further on). For example Pandit Madan Mohan Malaviya, a member of the Nationalist Party made a proposal that all political prisoners irrespective of their social status should be placed in Class A, meant for Europeans. Nevertheless, the revolutionary and egalitarian trend in the anti-colonial movement opposed the revised classification and instead called for an overall improvement in the general standard of living in jails, by stating - “...Is this the way of removing the causes of dissatisfaction or rather intensifying them?......Are the reforms that are demanded of a nature of luxury? ....Are they not the bare necessities of life according to the most moderate standard of living?......Nobody commits offences simply to come to jail....To say that motive cannot be ascertained in political cases is a hypocritical assertion.”

Thus, broadly speaking, the demand for political prisoner 'status' had a strong anti-racial, democratic undercurrent, rather than the desire for privileged or superior status. The desire for 'the bare necessities of life' to be provided to all prisoners was a strong component of these jail struggles.

Armed with a higher political consciousness, conviction in social change and a strong sense of organisation and struggle, the political prisoner became the natural Vanguard in this struggle for the 'bare necessities of life' in the prisons. In this regard, the historical strike of the political prisoners in Andhra Pradesh is worth mentioning. Initiated by the 'Naxalites', in various jails of Andhra Pradesh, on 26 December, 1994, this hunger strike, managed to mobilise ordinary prisoners especially lifers on their own demands. The strikers raised 11 political demands and 43 demands relating to the callous conditions of the jail. Among the political demands were lifting the ban on Naxalite parties, recognising Naxalite prisoners as political prisoners, lifting of conspiracy cases and release of political prisoners. Some of the demands out of the 43 jail demands included the 'bare necessities' such as introduction of inside interviews, improving educational, medical and sports facilities in jails, restoring Advisory Boards for release of life convicts, release of convicts who complete 10 years, ensuring police escort on court dates, wage increase for employed prisoners, etc. This struggle was also able to rally the CL&DR movement and the general public in Andhra Pradesh around its demands. A solidarity committee was formed in the first phase of this struggle and in the second phase a Joint Action Committee for Democratic Rights (JACDR) was formed with 31 mass organisations, civil-liberties organisations and democratic intellectuals. The JACDR intervened on the behalf of the prisoners in talks with the state government which although orally agreeing to many of the demands raised, backtracked later.

The call to struggle by political prisoners also emanates from the need to assert their solidarity. It seeks to provide an answer to the policies of the state of dividing and separating political prisoners in barracks, prisons and States across the country. This call for united struggle is an expression of their like mindedness and collective unity. This desire for unity among such prisoners has also been manifested in the demands for association (eg. LCC Hunger Strike of 1929) or in demands for a common barrack ( eg. A.P. Hunger strike of 1994-1995) or in relay strikes and solidarity protests

---

12 Official letter dated 14 February, 1930, on the revision of jail rules, Source: 'Political Prisoners in India”, pg. 135
13 Petition dated 28 January, 1930, by the undertrials of Lahore Conspiracy Case in protest against the criterion of ‘status'; Source: 'Political Prisoners in India’, pg. 137
covering various prisons. This rich tradition of waging simultaneous struggles as an expression of unity is still continued in the prisons across the country.\(^{15}\) Such struggles are discussed in Chapter 3.

A secondary trend that evolved in the struggle for recognition of political prison-hood was to demand such a 'status' as a means for acquiring privileges while in prison. In periods of heightened mass movements or severe authoritarian rule, wherein, a large number of the struggling masses were detained, an elite section of such political prisoners sought recognition of their 'status' to secure special treatment and benefits while in jail. During the Non Co-operation Movement (1920-1922), Civil Disobedience Movement (1930-31 and 1932-34), Quit India Movement (1942) and Emergency (1975-77). As the numbers of such prisoners grew and also included elite sections who were temporarily displaced from power, this trend gained prominence. The detaining authority, by encouraging such a trend was keen to 'buy-off' these elites or leaders in order to isolate and distance them from the ordinary prisoners. During British rule, a 'superior' classification was legally given to accommodate European, Anglo Indian and Indian prisoners whose 'social status, education and habit of life were accustomed to a superior mode of living.' In a critique of the privileged treatment that these superior prisoners of the 'Political Prison' of Hazaribagh were given, Ramavirksha Benipuri mentions such prisoners getting 'bed, mattress, pillow, mosquito net, table, chair, shelf, milk, bread, basmati rice, kheer, meat, fish etc. While the subordinate 'C' class prisoners stayed in horrendous conditions.\(^{17}\)

This secondary trend has been and is being encouraged by prison authorities as a method of 'buying off' the potential Vanguard of prison struggles. Special barracks or prisons for political prisoners also facilitate this devious motive, so as to alienate the potential leader from the ordinary prisoners. Thus, such secluded barracks not only restrict the contamination of dangerous ideas, but also helps in 'contaminating' an elite among them to forsake the path of struggle.

However, this trend has been repeatedly opposed by the majority and especially the egalitarian and revolutionary ones. During the Second World War, the issue against classification was raised by the detenus in Deoli Prison and proved a major rallying point. Prisoners of other provinces, like the communist and Congress prisoners of the Agra Central Jail expressed their solidarity with the Deoli detenus by going on a hunger strike too. In another such instance among many, Acharya Narendra Deo, a 'security prisoner' at the Agra Central Jail gave up the privilege of being treated as Class I prisoner, stating that the policy of classification was contrary to his convictions.\(^{18}\) During the Naxalbari Revolt too, i.e. the late 1960s, the political prisoners of CPI (ML) consciously did not demand for political prisoner status, since at that time such status had come to be associated with privileges of what was known as Division I or Class A category, allotted to prisoners belonging to the higher social strata.\(^{19}\)

In essence, the issue of political prisoners has always been a significant and sensitive one for the detaining state. The state through its 'septic tank' policies of excluding the political prisoner sought and still seeks to isolate them from the ordinary prisoners. It sought and still seeks to buy off an elite section among them by giving them a privileged 'status' as a guarantee against potential unrest. An

\(^{15}\)The Committee for the Release of Political Prisoners, announced in 2009 to commemorate throughout the country, 13 September i.e. the day of Jatin Das' martyrdom as the day of the Political Prisoner

\(^{16}\)Confidential letter dated 19 February, 1930, from C. W. Gwyne, Joint Secretary, GOI to all local governments and administrations, Source: 'Political Prisoners of India', pg. 135

\(^{17}\)Ramavirksha Benipuri, Mujhe Yaad Hai, Allahabad, 1979; Source: 'Political Prisoners of India' pg 141

\(^{18}\)'Political Prisoners in India', pg. 183

\(^{19}\)ibid, pg. 229
example of such seclusion and 'special' treatment during Emergency (1975-77) practised by the various State Governments is tabulated in TABLE IV. On the other hand, such prisoners had raised and still raise the demand for the recognition of political prisoner status, not for acquiring a few privileges, but for asserting the legitimacy of their struggle expressing solidarity and for the betterment of prison conditions. Thus, although differential treatment of political prisoners is an undeniable reality, the necessity for doing so differs drastically between the state and the rebels. These contending class requirements are the basis of the various contesting definitions of political prisoners which is examined in the next section.

**Contestation over definition of ‘Political Prisoners’**

In popular usage, the term 'political prisoner' denotes a person who is incarcerated for the 'political' nature of his 'crime'. The two key words are 'political' and 'crime', with both the detaining state and the incarcerated rebels defining them for their own needs as seen in the earlier section. This contentious issue is the essence of the struggle between the state and the rebels. The state depicts the challenges to its power as ‘crimes’ so as to undermine their ‘political’ motives. On the other hand, individuals or groups who contest state authority consider their acts , legitimate and as part of their political struggle against state oppression. These opposing positions are the crux of the contest over the definition of 'political prisoner-hood' which has historically dominated this discourse.

In the course of the history of class struggle, as the State represented the dominant ruling and exploiting classes, all sections that rebelled consciously or spontaneously against it were thrown into prison. Prisons became an essential component of the coercive State apparatus - a mechanism for maintaining class rule and keeping the oppressed sections in submission. It became the necessity of the ruling class to project those challenging its power as ‘criminals’ in order to discredit them and ensure public sanction for their persecution. By this 'criminalisation' of the acts of the rebels or those political opponents of the State, it declared their acts of fighting against State oppression as 'offences' against the State. This process of branding political acts of such rebels as criminal 'offences' was commented by Michel Foucault - “.....social conflicts, class struggles and political confrontations, armed revolts....prompted those in power to treat political misdemeanours in the same way as ordinary crimes in order to discredit them. Little by little an image was built up of an enemy of society who can equally be a revolutionary or a murderer, since after all, revolutionaries do sometimes kill"\(^{20}\).

In this process of discrediting rebellion, the State brands such political opponents as ‘criminals’, ‘mass murderers’, ‘enemies of the society’, ‘anti-nationals’ or as ‘terrorists’. Historically, this practice has continued in India, be it during the colonial era or post 1947 period. Currently, especially after the 9/11 incidents , it has become ‘fashionable’ for the ruling classes to use the term ‘terrorist’ as a method of stigmatising all such political challengers. On the other hand, history has also shown that the rebels, by emphasizing the political nature of their incarceration as different from criminals, have sought to out rightly reject this process of discrediting. They have sought to reject this branding of their acts as criminal by reasserting its pro-people and selfless motive. They have sought to raise the recognition of political prisoner hood in order to project themselves as revolutionaries, freedom fighters, or peoples’ activists and reject the government’s labels of ‘criminals’ or ‘terrorists’. Thus the contest over the definition of political prisoners is part of the overall struggle between the state and its political challengers, in the realm of nomenclature. This present section deals with the historical

---

\(^{20}\) Michel Foucault, ‘The Dangerous Individual’, in Lawrence D. Kritzman (ed.) ,Michel Foucault, Politics, Philosophy, Culture; Interviews and other writings, 1977-84, New York, 1990. pg.142; Source : ibid. pg. 13
references of contending definitions by the detaining state and also by the rebels. Lastly, I will attempt to construct the CL&DR perspective concerning the understanding of political prisoner hood and the attempts made by various CL&DR organisations in this direction.

Formulations by the State

(i) During British Rule:

In India, the concept of offences against the state came about in the process of codification of Penal laws during the early 19th century. The Indian Penal Code (1860) was first drafted by the law commission headed by Macaulay in 1837. The enacted IPC has a special chapter as 'Offences against the State', and though the initial draft contained a clause dealing with sedition, it was not included and added only 10 years later as Section 124A. The sections of this chapter allowed all acts, opinions and peoples' movements that challenged State oppression to be construed as acts and opinions attempting or abetting to 'wage war' against the State as 'crimes'. It was these sections which were initially used by the British to incarcerate the revolutionaries, Nationalists or even Satyagrahis like Mahatma Gandhi. With such enactments the first attempts to define political prisoners by the colonial government were made in purely legal terms i.e. those prisoners charged under sections comprising of offences against the State or under Special Acts as the Seditious Meetings Act and the Indian Criminal Law Amendment Act, 1908.21

At home too, the British had problems in dealing with the various political opponents such as the Jacobins, Chartists, Fenians, Suffragettes, Conscientious objectors and Communists, from time to time. In the early 20th Century, Suffragettes in prison began demanding for recognition of political status and resorted to hunger strikes. It was at such a time, that Winston Churchill, the then Home Secretary attempted to define a political offender as one who had committed an offence with a distinct political objective involving no moral turpitude. Such a definition attempted to define a political offender not by legal charges under which he/she was incarcerated, but rather by the motive of the act. Definitions based on the motive of the act were occasionally used even in the prison administration of India. The CP and Berai Prisons (Amendment) Act, 1939, for instance defined 'political activity' as that ‘undertaken with a political motive and which does not involve the use of any but technical force or violence to person or property.’22

During the second World war and the promulgation of the Defence of India Act, political prisoners earlier known as ‘Rajkaidi’ (State prisoners) began to be now called ‘security prisoners’. In the context of the war, this new expression considered security of the country as primary without mentioning the political motive of the ‘offence’. Thus communists who were engaged in ‘preparations for the overthrow of the existing Government...... [Under] the conditions by the war’ were to be ‘looked upon as traitors whose activities were of direct

21Telegram dated 22 December, 1921, from the secretary GOI, Home Department to the Governments of Madras, Bihar and Orissa, Central Provinces, Assam and Burma. Source: (ibid) pg. 86
22After the resignation of the Congress Ministry, the British government repealed this Act, thus restoring the system of classification and reverting to ordinary status all prisoners who had come to be treated as political under the Act of 1939. Source: (ibid) pg. 155
assistance to the enemy\textsuperscript{23}; and hence were considered a threat to the ‘security’ of the country.

Thus during the British rule, political prisoners were explicitly categorised on the basis of their legal charges/ laws of incarceration or at times on the basis of the ‘motive’ of the crime or even based on the immediate concerns of ‘security’ of the country.

(ii) Change around 1947

The contest over the definition of ‘political’, entered a new phase with the assumption of power by the Congress in several ministries under the Government of India Act, 1935, and culminated in the transfer of power to the native elites in 1947. Throughout this period, which witnessed the Second World War and a quantitative rise in the Nationalist struggle, the number of persons incarcerated as political prisoners grew immensely. Many of them belonged to the elite, who had even tasted a share of power in the provincial ministries. This elite section vocally put forth the demand of the release of political prisoners as a condition for support during the war and for a privileged status distinctively apart from that of ordinary prisoners. Thus, their interpretation of the term ‘political’ as ‘Nationalist’ grew in popularity and became part of social consciousness during this period. The transfer of power in 1935 and to a greater degree in 1947 to this native elite class was without disturbing the socio-economic relations throughout the country. It was in the interest of this elite class who still maintained links with the colonial and feudal powers to maintain the status quo. Politics that served this class interest such as the 'Nationalism', ‘Nation-Building’ were considered legitimate. While the politics of peasant and labour movements or communist movements such as Telegana struggle, or communal or regional movements which threatened the status quo were termed as ‘economic’, ‘divisive’ and ‘anti-national’. It is therefore, not surprising that the newly formed Congress government refused to recognise as political prisoners, activists of such struggles or peasant leaders like Rahul Sankrityayan, who himself twice resorted to long hunger strikes in jail in order to obtain political prisoner status for jailed kisan activists.\textsuperscript{24}

It is with these ‘newly found’ class interests, that the Nehru government identified the three ‘enemies’ of the nation as the Communal Organisation, the Communist Party of India and the Labour Bodies. Those associated to such movements such as the Telegana struggle, or labour movements or movements demanding independence and refusing to join the Indian Union such as Kashmir, Nagas, Manipuris etc. were incarcerated. As in the case of Sankrityayan, they too raised the demand of recognition as ‘political prisoners’. During the interim government itself, there were demands for the inclusion as well as proposals to exclude persons 'connected with communal, religious or labour movements' from the definition of political prisoners. Finally in January, 1948, Sardar Vallabhai Patel, the Home Minister, concluded this debate of political prisoners as it was ‘hardly worthwhile’ to be pursued further and held that ‘it be dropped’.\textsuperscript{25}

\textsuperscript{23} ‘Memorandum on the Treatment of Security Prisoners’, Home Department, Political (Internal) Branch, of the Government Of India. Source: (ibid) pg.160
\textsuperscript{24} Sankrityayan was charged after the Amvari Satyagraha, under IPC sections143 (participating in illegal assembly) & 379 (theft of sugarcane). For details see Sankrityayan, Meri Jeevan Yatra, Vol. II, Allahabad, 1950. Source: ‘Political Prisoners in India’ pg.151
\textsuperscript{25}Notes in the Home Department dated 9 January, 1948, during deliberations on the subject of treatment of political prisoners. Source: ‘Political Prisoner of India’ pg.195
This enforced silence on the question of political prisoners, that commenced from the transfer of power persisted until the Emergency (1975-76). The mass imprisonment of political opponents be it the right-wing or leftist parties during the Emergency; along with a resurgence of the CL&DR movement post-Emergency helped in breaking the silence. Presently, secessionist movements such as Kashmiri, Assamese, Naga, Manipuri, Punjabi etc. along with the Maoist movements, social movements against displacement, caste etc. or the CL&DR movement too have raised demands for political prisoner hood for their incarcerated colleagues. While the modern state refuses to accept this status and considers them ‘anti-nationals’, or ‘terrorists’; the rebels, by demanding ‘political prisoner hood’ continues to out rightly reject this ‘criminalization’ of their legitimate movement.

Voice of those incarcerated.

As mentioned above, organisations and movements challenging the State authority have held those incarcerated for such political activity as ‘political prisoners’ and have upheld their selfless motives and sacrifice. An attempt to inculcate a respect for them in the eyes of the masses, rather than the scorn that an ordinary criminal faces. This has been an international phenomena, especially in countries of autocratic rule, mass struggles or national liberation movements. In countries such as the USA and the European ones, many anti-racial, anti-capitalist or anti-imperialist or anarchist activists have been incarcerated and demand political prisoner hood. (See APPENDIX ‘B’). Movements fighting for national liberation such as Tibet, Chechnya, Basque, Tamil etc. have also demanded such status. Members of organisations and individuals incarcerated for their struggle against autocratic and dictatorial regimes such as Mayanmar, Iran, China etc. have gained much international support especially due to the propaganda of western powers. In third world countries such as Afghanistan, Iraq or other Latin American, Asian or African countries where imperialism and feudal oppression has led to the growth of guerrilla movements and armed resistance, people sympathetic or participant in these movements have been arrested in thousands. Recognition of their political prisoner-hood for most such prisoners means nothing more than demanding to be treated as a human being.

In India too, the incarcerated rebels have sought to define the term ‘political prisoner’ so as to justify and decriminalise their actions and legitimise their struggle. In 1994, Naxalites imprisoned in the jails of Andhra Pradesh proposed that ‘activists of all revolutionary parties, who [were] in jails as undertrial prisoners and convicts, should be recognised as political prisoners.’26 Similarly leading organisations and bodies of movements demanding ‘azadi’ from India such as Kashmir, Assam, Manipur, Nagas etc. have called for the unconditional release of their political prisoners. In a recent declaration of 5 conditions for ending the unrest in Kashmir, the Hurriyat leader, Syed Ali Shah Geelani announced among other things, that “the government must immediately and unconditionally release all the youths and political prisoners and withdraw cases against youths pending in courts for the last two decades.”27 This voice for the recognition of political prisoner hood is most strong from the prisons itself. However such voices are least heard and seldom carried by the mainstream media. Chapter 3 attempts to bridge this gap by examining some struggle reports of such prisoners and the conditions of their incarceration.

27Geelani sets conditions for ending Valley stir’ – Indian Express, 1 September,2010
The contest over definition – a challenge for the CL&DR movement

In this contest between the State and the forces that challenge its authority, it is important that the CL&DR activists correctly formulates the definition of political prisoner-hood. Such a definition should capture the present socio-political reality and also influence the purpose for which it is to be used. For the CL&DR movement this purpose is for the protection of various individuals and collective rights especially of the marginalised and oppressed sections. The right to freedom of conscience and expression, right to equality before law, the right against discrimination based on one’s political views, the peoples’ right to self-determination, right to development, right to assembly and association and among other rights, the right to struggle against oppression and tyranny by whatever means available are all at stake. In this endeavour, for the protection of CL&DR, one should be prepared that such formulations are bound to have a ‘value-scope’ as elaborated by Professor Randhir Singh - “In a class divided exploitative society like ours, all worthwhile thinking 'is', inevitably as it were, political and partisan. In such a society, on all important issues in philosophy as in real life, neutrality is an illusion. Here, everything said or done or left unsaid or undone helps one side or the other. And so it is with the issues of terrorism and democratic right........Indeed all of us, 'the illiterate' and 'the educated', the academic and the scholar, the intellectual and the journalist, the democratic rights activist and his critic, need to answer a question 'Where do you speak from?', 'Whose philosopher you really are?'.....”

Hence in the formulation of the definition of 'political prisoner-hood' one should not aim for the mirage of neutrality. Since in doing so one may merely choose the mid-position between two contentious issues without ascertaining whether it confirms with reality and represents those whose rights are violated. While generally accepting the existence of 'Political Prisoners' the debate in the CL&DR movement mainly concerns the encompassing scope of the formulation and also revolves around some contentious issues such as violence, non-violence etc. Encompassing scope of the formulation means the restrictiveness or broadness of the definition. Too restrictive a term would not properly represent reality and too broad a definition would also incorrectly appeal for amnesty for those occasionally arrested for facilitating oppression such as crimes of Genocide, Fascism etc. Below is an attempt to examine the various discourses concerning these issues in the formulation of the definition.

(i) The violence v/s non-violence discourse

While all CL&DR organisations have unanimously condemned and opposed state violence, the same is not true regarding the violence of those oppressed, challenging state authority. Some have condemned such violence too, while others prefer to remain silent on grounds that such violence is a mere reaction to that practised by the State and hence it is state violence that needs to be primarily targeted. Amnesty International (AI) is one of the organisations that represent the former trend and have specifically coined the term of ‘Prisoners of Conscience’ to denote those persons who 'are imprisoned, detained or otherwise physically restricted by reasons of their political, religious or other consciously held belief or by reason of their ethnic origin, sex, colour or language provided that they have not used or advocated violence.' AI demands their unconditional release. This distinction among Political Prisoners according to AI is based on the advocacy violence in either thought or deed. Its broader term of 'Political

---

Prisoners' are based on those cases which 'have a significant political element: whether [in] the motivation of the prisoner's acts, the acts in themselves, or the motivation of the authorities. For such prisoners AI has campaigned for their 'fair trial' and for the cessation of their torture and 'disappearances'.

Similar to the AI definition on 'Prisoners of Conscience', many other individuals and organisations in the CL&DR movement consider the use of violent forms by the rebels as the prime criterion for deciding the legitimacy of their struggle and hence endowment of political prisoner-hood. However, such a line of argument is unreasonable. Humans are essentially peaceful beings. It is only when the oppressed among them are faced with the unjustifiable & mighty violence of the oppressors backed by the state, that they take up to arms. The compulsion of such rebels to resort to violence is not a subjective desire, but rather because they are left with no other viable option as a means of resistance. The recent developments in the struggles of Lalgarh, stone pelters of Kashmir or anti 'encounter deaths' protests in Manipur have shown that these struggles commenced essentially through peaceful methods such as non-cooperation, economic blockades or Civil disobedience. However the State’s immediate reaction was violent and hundreds of such protesters were either arrested or shot indiscriminately at. Thus, it is the violence of the State that was unreasonable, unjustified and illegitimate and not that of the rebels. This is the socio-political reality in which the oppressed masses struggle and cannot be disregarded by the CL&DR movement.

On this question of whether a civil rights body advocating the demand of political prisoners should condemn or support the violence perpetrated by the movements they are associated with, the ‘Bandi Mukti Committee’ (West Bengal) had a thorough debate in 2005. While opinions existed that the committee should formally condemn or uphold such acts, another opinion held that the committee should not conform to any ideology and therefore should remain non-committal on this issue. The debate was resolved in favour of the latter view. A similar position was taken by the 'Committee for the Release of Political prisoners' (CRPP) at its inaugural conference at New Delhi by declaring:

"The CRPP doesn't take any position or express opinion on the ideology of and the path adopted by any political party or organisation that a Political Prisoner belongs to. It doesn't support or oppose the ideology and methods of struggle in relation to violence or non-violence of any Political Prisoner's political /social/communitarian organisation/party." [see APPENDIX 'C']

(ii) The 'pro-oppressed' discourse

Popular definitions of political prisoners like the afore mentioned AI one, have held the 'political reason of incarceration' as its basis. Such broad formulations naturally evolve from the right to freedom of opinion and right against discrimination based on one’s political beliefs. However, they fail to focus on the aspect of political persecution due to participation or alignment with the forces against oppression and exploitation. Such popular definitions also incorrectly include those State actors, State sponsored forces or political groups who are occasionally incarcerated and have facilitated oppression.

30 Amnesty International Handbook, Amnesty International Publication (undated)
31 Amit Bhattacharya, 'State Repression in West Bengal, A Study', Human Rights in India, Setu Prakashani, 2009, pg. 253
32 Committee for the release of Political Prisoners, 'The Arrested', Vol.1, No.1, July-August 2008, pg.10
In India, there are quite a number of such forces who have objectively aligned with the oppressors or seek to further intensify oppression, but are nevertheless imprisoned by the State. Among them are groups such as Abhinav Bharat (accused in the Malegaon 2008 blast case), Sanathan Sanstha (accused in the Thane and Goa blasts), RSS, VHP, Pramod Muthalik’s Ram Sene etc. who have acted in accordance to their aggressive Hindutva agenda. These forces have many a time enjoyed patronage from a section of the ruling powers, but have also suffered incarcerations due to the compulsions and internal contradictions of those in power. Draconian laws such as Unlawful Activities (Prevention) Act (UAPA) or Maharashtra Control of Organised Crime Act (MCOCA) have been invoked on them (as is the case in Maharashtra). At face value, these socio-political and cultural religious formations appear to work in the interests of the ‘majority’. However, their acts are primarily anti-people in character as they objectively intensify social oppression by dividing the oppressed masses and by attacking religious minorities such as Muslims and Christians and those progressive sections of dalits, women etc. They represent the forces seeking genocide, fascism and other ‘crimes against humanity’. On the other hand, there are private ‘armies’ of feudal oppressors (eg. Ranvir Sena, Sunlight Sena etc.) or the counter insurgency gangs (such as Salwa Judum in Chhattisgarh, SULFA in Assam, ‘surrendered’ militants in Kashmir etc.) who are being used by the State to attack, terrorize and commit atrocities on the people so as to crush genuine mass movements. Due to the strong social base and pro people character of these mass movements such as private ‘armies’ and gangs are easily recognised by the oppressed sections as ‘enemies of the people’.

The formulation of the ‘Committee for the Release of Political prisoners’ (CRPP) attempts to address these complex issues. It proposes a pro-people, pro-oppressed orientation as a basis for a definition so as to exclude the above mentioned ‘anti-people’ forces. It held that:

"...........Persons who have been arrested or detained for partaking in struggles of political, social and economic significance in favour of exploited classes and oppressed castes/communities, in whatever form, and were guided not by selfish interest, but by definite political views or ideologies irrespective of the charges that the State have put on them, should be considered political prisoners."[34]

[see APPENDIX‘C’]

In the concrete conditions of India wherein the State has come to represent the interests of pro-imperialist, big business and landed houses; numerous struggles are being waged by the oppressed peoples’, classes and social sections. The above formulation would include those imprisoned for their association or participation in such struggles viz. those of the Kashmiris, Nagas, Punjabi, Assamese, Bodos, Manipuris, Kamtapuris etc. who have been fighting for their right to self determination; the struggles of those adivasis, peasants or other sections who are fighting against this State oppression as Maoists or labelled as Maoists; struggles of those

---

[33] It can be argued that some Islamic groups currently persecuted by the Indian State have similar fundamentalist and sectarian ideologies and hence they too should not be considered as ‘political prisoners’. Such logic seeks to incorrectly reduce the criterion for ‘political prisoner-hood’ nearly according to ideology, thus killing its very purpose. As in the case of any political force/group, one would have to ask the fundamental question, whether the political agenda of such a group objectively facilitates/intensifies social oppression or whether it objectively becomes a medium of mobilizing the oppressed and voicing their grievances against social oppression. In the case of the afore mentioned Islamic groups the latter, rather the former has been shown to be generally true.

against the pro-imperialist, pro big business house ‘development’ of Special Economic Zones (SEZs), mega-projects or mass displacements; struggles waged in factories, slums, colleges, cities, towns etc. against the policies of Liberalization-Privatization-Globalization; struggles of women and oppressed castes especially dalits against patriarchy and the brahminical social order; and resistance of religious minorities like Muslims, Christians etc. Against the growing Hindutva Fascists attacks. A similar though simpler definition has been put forth by the ‘Bandi Mukti Committee’, as “those arrested for committing ‘offences’ not out of any self interest, but out of doing good to the people.”

(ii) The ‘Prisoners of War’ (POW) discourse

Internationally, the question of political prisoner-hood was very much equated with that of Prisoners of War (POW). American anti-imperialist political prisoners such as Marilyn Buck, David Gilbert and Laura Whitehorn have used the term POW along with that of political prisoners. Organisations advocating the cause of political prisoners in America such as the Jericho Movement have used it similarly (see Appendix ‘B’). Even the Irish Republican Army (IRA) political prisoners have claimed POW status. Comparatively, in India, throughout the history of the political prisoners struggle there has been rare mention about equating it with POW status. Jayaprakash Narayan in a defence against the practise of torturing dissidents had equated them to POWs, as a guarantee of ‘certain rights’. He had held that;

“A political revolutionary may be executed for his offence when found guilty by the established law, but he may not be put to torture for the extraction of information....... A prisoner of War has certain rights and immunities which civilized society scrupulously respects.”

In fact, the Geneva Convention relative to the Treatment of Prisoners of War (1949) defines Prisoners of War (POW) among other things to include those imprisoned as armed insurgents who are members of militias or organised resistance movements operating in the territory of the State Party. (Article 4 of the Convention, see Appendix ‘D’) Presently in India, there exists many such armed insurgencies such as those in Kashmir, Assam, Nagaland etc. or those under the leadership of Maoists. Hence those political prisoners detained for their involvement in such armed movements are likely to claim POW status. During its inaugural conference the CRPP passed a resolution that “persons arrested on both sides [of the Maoist conflict] the movements and the State security forces - should be treated properly as human beings and be regarded as ‘prisoners of war’ in accordance with the Geneva Convention to which India is a signatory.”

On the question of unconditional release

Linked with the definition of ‘Political Prisoners’ is the formulation of demands for them. It is thus only natural that contentious definitions have given rise to contentious demands regarding their

36 Letter by Jayaprakash Narayan to the Home Secretary, Government Of India, cited in ‘Political Prisoners of India’, pg. 190
incarceration. The detaining state demands persecution of such persons who they consider as ‘criminals’, ‘terrorists’ or ‘enemies of the State’ so as to indefinitely incarcerate, isolate them from society or annihilate them in an attempt to crush the ‘political threat’ they pose. On the other hand, dissenting and challenging forces have sought to recognise their ‘political prisoner-hood’ as a method of exposing the anti-democratic nature of the State, legitimising their struggle and demanding their unconditional release. Peoples’ movements such as those of the Kashmiris along with other armed struggles such as those of the Maoists, Assamese, Nagas etc. have raised this demand in the course of their struggle. However, like the demand for the recognition of their political status, the success of the demand for their unconditional release is tied up with the legitimacy and compulsions of those in power as counter posed to the popularity and strength of the challenging forces. It is this tussle that has dominated the history of political prisoners in India, and at times of mass struggles or compulsions of the state it has led to the release of many such prisoners.

During the British rule, this demand for their release was especially raised during the time of the two World Wars. In a petition dated 3rd October 1914 to the Chief Commissioner, Andaman and Nicobar Islands, V.D. Savarkar appealed for a ‘general release’ of all political prisoners. Similarly during the Second World War, many provincial governments considered the demand of releasing all political prisoners unconditionally, if the Congress or other Nationalist forces helped the Government’s war effort. This position of strength of the Congress led national movement and weakness of the British government was used to full advantage during the elections of the provincial ministries, to demand the release of political prisoners. This strength of the peoples’ movement and weakness of the State once again brought success to this demand after the Emergency (1975-77). During this 20 month period, hundreds of thousands of political opponents were sent to jail. The new Janata Party Government which came into power in 1977 was compelled to withdraw all cases and free political prisoners under popular pressure irrespective of whether they still upheld the path of armed struggle or not. Even during the process of writing this present study, one observes this power play at work. Faced with repeated mass demonstrations for ‘Azadi’ in the Kashmir valley building up throughout 2010, the Central and J&K governments are considering the release of hundreds of ‘political prisoners’ arrested for ‘stone pelting’ as part of a Id-ul-fitr package to win over the disgruntled Kashmiris (Indian Express, 8 September 2010)

The Position of CL&DR Organisations

Like the definition of ‘political prisoners’, the demand for their unconditional release has been a much debated topic within the CL&DR movement. As earlier mentioned ‘Amnesty International’ calls for the unconditional release, only for the restrictive category of ‘Prisoners of Conscience’, whereas it demands ‘fair trial’ and freedom from torture for all remaining ‘political prisoners’. With a growing number of such prisoners especially during the past decades, this question has once again gained importance within the CL&DR movement. The Bandi Mukti Committee (West Bengal) experienced and documented one such debate. In 2002, an opinion was expressed in the committee that the ‘proper and impartial trial’ of political prisoners was an appropriate demand and not their unconditional release. In the discussion that followed, detailed theoretical and practical points were raised as reasons for the committees’ stand for the

---

38 In a recent interview, before his murder on 2nd July 2010, CPI (Maoist) spokesperson Azad, had held that the Maoist party had placed in front of the Government three main demands for any peace talks. The third among them was cessation of ‘illegal detention and torture’ and ‘immediate release’ of their comrades. (Hindu, 14 April 2010)

39 Bipan Chandra, ‘India’s Struggle for Independence’. Source: ‘Political Prisoners in India’, pg.145
unconditional release of all political prisoners (as considered by them). Points were raised in terms of the history of such a demand of peoples’ struggles since British times. It was also held that the State sought to project ‘armed struggles’ as undemocratic and thus justify repression. However, it held that history had ‘shown time and again that armed struggles can have a democratic character’ such as the slave revolt under Sparticus (73-71 B.C.), the peasant war in Germany under Thomas Munzer (1523-25), the Great Revolt of 1857 or the armed struggles of Surya Sen and Bhagat Singh’. Theoretically, it also raised the right to freedom of belief and expression and challenged the States authority to ‘arrest persons for political beliefs and activities not in conformity with ideology and path sanctioned by it’. While being non-committal to opposing or supporting the violence practised by those incarcerated if any, the committee held that ‘people are generally peace-loving’ and historically have taken to arms only as the last resort. As a practical reason for such a demand, the committee maintained that political prisoners are often implicated ‘in a large number of cases’. In such a situation, being released on bail in all cases is an economic impossibility. And, even if bail was granted in all cases, it would be practically impossible to comply to the conditions of bail which would demand attending the court or police station daily. Therefore, in such conditions of ‘economic hardships, physical distress and psychological trauma’ expectations of a ‘fair trial’ were questioned by the Bandi Mukti Committee.40

Similar debates were held at the all India level after the formation of the ‘Committee for the Release of Political Prisoners’ (2008). The PUDR which played an important role in the formation of the CRPP, had in a note titled, ‘The Demands Of the Civil Rights Movement’, proposed ‘for the release of all those who are demanding a just and democratic India’. The Human Rights Forum (HRF) while challenging this definition also raised questions about the appropriateness of the call for ‘unconditional release’ for ALL political prisoners, and demanded that ‘penal law should be (made) sensitive to the social and other circumstance of the offence committed in the course of political movements’ and punishments should be decided accordingly.41 However, the CRPP maintained this demand following ‘the legacy of the movements’ that demanded the same, right from British colonial times to the events of Emergency (1975-77). (see APPENDIX ‘C’)

The demand for unconditional release also emanates from the POW discourse on political prisoners, wherein such prisoners are seen to be incarcerated mainly due to the ‘hostilities’ between the two powers engaging in ‘war’. In the case of our country it is the State and the organised resistance movements or militias operating within its territory. The release of such POWs is linked up to the end of hostilities between the warring parties. It is therefore reasonable that the release of such prisoners be part of the demand advocated by the CL&DR movement for the just, humane peaceful resolution of such ‘hostilities’. The Geneva Convention relative to the Treatment of Prisoners of War, section II, Article 18, calls for the release and repatriation ‘without delay’ of prisoners of war ‘after the cessation of active hostilities.’

41 Note by ‘Human Rights Forum’ dated 27 August 2008, as a reply to discussions held at the Mumbai meeting of CRPP
Chapter 3

Review of literature on struggles, treatment and conditions of political prisoners

As mentioned earlier, political prisoners have waged various struggles in prison for the recognition of their status and as resistance against the oppressive and torturous conditions of their incarceration. The struggles have taken on many forms including that of Hunger Strikes ‘whereby prisoners attempt to assert complete control over their bodies’. Right from the moment of their arrest, illegal detention, torture or violations in prison, the mainstream media carries little, especially since most of them are mere commoners. If at all the media takes interest, it is in the furtherance of the propaganda put forth by the State labelling such rebels as ‘terrorists’, ‘anti-nationals’, ‘mass murderers’ etc. Various CL&D&R organisations have on the other hand consistently tried to present the truth behind such arrests, the just demands of such jail struggles and the conditions in prisons through fact-finding missions, publishing of booklet or reports/articles in their bulletins and press-releases. This chapter deals with an examination of such literature so as to highlight the conditions of their arrest, jail struggles and treatment in prison in the States mentioned below.

Kerala:

In Kerala, the campaign against Death penalty and for the release of life convicts has been actively taken up by the CL&D&R movement. In 2005, under the initiative of individuals and groups already active on prisoners rights, the ‘Anti-Death Penalty Committee’ was formed in Kannur District. This committee has organised among other activities, State level conventions (May 2005), a 40 day hunger strike (October 2006), sit-in dharnas before State secretariat and mass petitions to State and Central authorities demanding abolition of death penalty and release of all eligible life-timers. Even within prison, a few prisoners who had completed 14 years in jail went on an indefinite fast in Viyyur Jail (June 2007). Due to the government’s indifference, this fast quickly snowballed into massive rallies by various Civil Liberties groups and sectional organisations in Thiruvanantapuram. The Committee had held that about “500 life timers including many aged and ailing women are kept illegally’ in the Kerala jails though eligible for release.” The State government has also denied granting parole to political prisoners.

West Bengal:

During the last few years, West Bengal has witnessed various arrests of political prisoners as in the peasants of Singur or Nandigram struggling against SEZs, or the tribals of Lalgarh for their ‘alleged’ association with Maoists or the Gorkhas and Kamptapuris for demanding a separate State. Or the intellectuals, artists, teachers, workers or other city dwellers because they have ‘dared’ to protest against the authoritarian CPM Government. In June 2002, the arrest and torture of the popular Prof. Kaushik Ganguly and unnatural death of Abhijit Sinha sparked protests against State repression leading to the formation of the ‘Bandi Mukti Committee’. This Committee has played an important role in advocating the rights of political prisoners of West Bengal. In the prisons too, the prisoners have resorted to protracted hunger strikes at Midnapur Central Jail (September 2003); by 469 inmates in Alipore Central Jail demanding recognition as political prisoners (Indian Express, 11th April

 Most of the literature examined consist of temporary publications and bulletins of the ‘Co-ordination of Democratic Rights Organisation’ (CDRO), ‘Committee for the Release of Political Prisoners’ (CRPP), ‘Peoples Union for Civil Liberties’ (PUCL), ‘Peoples Union for Democratic Right’ (PUDR), ‘Human Rights Law Network’ (HRLN), ‘Committee against Violence on Women’ (CAVOW) etc. as mentioned in the Bibliography of this study.
2010). In a fact finding report conducted by APDR, it was observed that nearly '32 prisoners at Presidency Jail had to face tremendous torture merely because they had protested against the ongoing mal practises' by the administration.

**Chhattisgarh:**

In the last decade or so, Chhattisgarh has become the epicentre of the Maoist movement. The State Government unable to find a democratic solution treats this popular movement as a law and order problem. It has promulgated the Chhattisgharh Special Public Security Act, 2005 and along with the Unlawful Activities Prevention Act, 1967 criminalized any form of dissent. Hundreds of tribals, oppressed sections and renowned CL&DR activists such as Dr. Binayak Sen, T. Ajay etc. have been incarcerated and denied bail for years on end under these special laws. The prisons of Raipur, Durg, Bilaspur, Jagdalpur, Ambikapur etc. presently house almost a thousand political prisoners. Even within prison dissent is not tolerated. Like their male counterparts, women political prisoners such as K. Shanti Priya @ Malita Reddy and Meena Chaudhari were forced into solitary punishment cells for raising ‘some of the common grievances of all women prisoners’. They were dragged by their hair, kicked and beaten to unconsciousness for displaying such leadership. They ultimately had to resort to a hunger strike from 27th August 2008 so that the DIG (jail) could intervene. This practice is quite common in all the prisons of the State. Prison authorities have even deployed prison ruffians (their loyal inmates) to do their ‘dirty work’ of beating political prisoners into submission. In fact violence by the prison authorities is routine, with the guards indiscriminately beating all inmates once in a while, without any reason.

**Gujarat:**

The Gujarat government has always used Special Anti-Terror laws to curb dissent and harass religious minorities like Muslims. By 1993, it had the unique distinction of having the highest number of TADA detenus i.e. 17,546 (Lawless Roads, PUDR 1993) even much higher than states like Punjab, Kashmir, Assam and Andhra Pradesh where militant movements existed. Its implementation of POTAs was similar. Now with the Unlawful Activities Prevention Act (UAPA) considered the foremost anti-terror law and the Central Government calling Maoism as the biggest internal security threat, its guns have been turned at the social organisations, Civil-Liberties groups who have been defending the rights of the oppressed. In an omnibus FIR registered in Feb. 2010 at the Kamrej Police Station, Surat range, charges of conspiracy, waging war and UAPA had been invoked to arrest nearly 20 social, political, tribal and NGO activists, trade unionists, journalists etc. throughout the country. Without a single instance of any previous Maoist related offence in Gujarat, the police have nevertheless conjured up this case under the special provisions of the UAPA and will manage to imprison these political prisoners for years on end without bail. At the time of writing, the arrests of such activists continue.

**Uttarakhand, Haryana and Delhi:**

In the past decade, many political activists have been arrested and detained in the states of Uttarakhand, Harayana and Delhi under charges of sedition or UAPA. These States have not witnessed any major armed struggle, nevertheless the Government has arrested numerous such activists under the pretext of curbing ‘left-extremism’ and the influence of the Nepali Maoists. PUCL and PUDR sent fact-finding teams to inquire into the reality of these arrests. In Uttarakhand, such political arrests took place in three to four rounds. In the first of these, activist of the ‘Uttarakhand Kisan Sanghatan’ (UKS) who spearheaded the agitation against Tehri Dam project were arrested.
Numerous peasants and political activists from Udhamsingh Nagar, Nainital, Almora, Champawat and Dehradun had been arrested under trumped up charges of organising and participating in Weapon Training Camps in 2004 and 2007. Currently incarcerated in the jails of Dehradun, Halwani etc. they have been denied bail and implicated in a large number of cases. In Haryana too, the Government has used charges of sedition to arrest many Dalit and political activists associated with the Jagrook Chhatra Morcha, Krantikari Mazdoor Kisan Union, Mahila Mukti Morcha and Shivalik Jan Sangharsh Manch. The fact finding team of PUDR visited the area in May 2007. It observed that 'more than hundred people had been picked up, kept in illegal confinement, tortured in custody and then let off over the previous two years, and more than fifty people were implicated in false cases with serious charges like attempt to murder'. In Delhi, of late, many trade union leaders and teachers have been arrested and booked under various sections of UAPA.

Maharashtra:

In Maharashtra, the government has arrested a number of political activists under the cover of Anti-Terrorist and Anti-Maoist Operations. Old membership lists of SIMI have been drawn up by the police to falsely arrest hundreds of Muslims in various blast cases. Although subsequent investigations have shown that Muslims arrested in cases such as the Malegaon 2006 blast case or 7/11 train blasts are not the real perpetrators, the police continue to keep them incarcerated. On the other hand an equal amount of adivasis, political and social activists such as journalists, book publishers, students etc. have been arrested on charges of being Naxals or Naxal sympathisers. On all such political prisoners charges of UAPA have been imposed and at times even the draconian Maharashatra Control of Organised Crime Act (MCOCA). Even while in jail, they have been discriminated against and at times attacked for demanding their rights. In June 2008, the Superintendent of the Arthur Road Jail, planned and executed a brutal attack on nearly 40 Muslim political prisoners, severely injuring many of them. In April-May 2008, the Maoist political prisoners went on a 27 day hunger strike at the Nagpur Central Prison against the re-arrest at the jail gate of those released by the Court, against the branding of social organisations or activists as Naxal sympathisers and for prison reforms such as phone facilities, interview timings etc. In a show of strength, many political prisoners across the State along with many death row convicts observed a single day Hunger strike on 13th Sept 2009 demanding recognition of their political prisoner-hood, abolition of death penalty and for prison reforms.

Bihar, Jharkhand & Orissa:

Five landless, poor and dalit peasants of Bihar are presently on death row. Krishna Mochi, Veer Kunwar Paswan, Dharmendra Singh and Nanhe Lal Mochi were sentenced to death on the charge that they resisted the private armies of the landlords by participating in the Bara incident. Shobhit Chamar has been similarly sentenced to death. All five are currently lodged at the Bhagalpur Central Prison. In Oct. 2004, the Bihar prison administration brutally lathi charged Maoist political prisoners of the Special Beur Jail because they objected to money being resorted from the visitors by the Jail authorities. About three dozen such prisoners were seriously injured and because they were denied medical treatment nearly 300 to 400 prisoners went on daily dharnas inside the prison.

Two, all India fact finding teams from various CL&DR organisations visited the prisons in Jharkhand (January 2008) and Orissa (February 2007). The team visiting Jharkand examined the conditions at the Chaibasa Jail, Ranchi Central Jail and Hazaribagh Jail. However they were not permitted to meet any political prisoners. In Jharkand, most Naxalite/ Maoist activists are booked under the ‘17 Criminal Law Act’ and are considered as criminals. In the earlier fact finding mission to Orissa, the
team visited the prisons of Behrampur, Malkangiri and Sambalpur. The team interacted with both men and women incarcerated for their alleged association with Maoists. It observed that many including juveniles were arrested on mere suspicions or for protesting against excesses of the CRPF and Orissa State Armed Forces. Conditions in both the States were horrendous with severe overcrowding. The prisons, especially the women wards, had poor sanitation and hygiene conditions and minimal medical facilities. Jails in Jharkand, such as the Hazaribagh Jail had no provision for women to work and earn during their confinement.

**Punjab:**

Though presently the number of political prisoners in Punjab are few, it has had thousands of political prisoners in the past two decades in the various prisons of Punjab and the rest of the country. Three such political prisoners viz. Bhai Jagtar Singh Hawara, Bhai Balwant Singh and Prof. Devinder Pal Singh Bullar have been awarded death penalty. They were part and parcel of the Sikh struggle for right to self-determination. Prof. Devinder Pal Singh Bullar’s appeal before the Supreme Court was rejected, even though a dissenting sitting judge called for his acquittal citing lack of corroborative evidence for his alleged ‘confession’. All of them have been held in high esteem by the Punjabi people advocating the cause of a Sikh nation.
Chapter 4

Suggestions and conclusion:

The existence of political prisoners in India is a reality that no sincere CL&DR activist can shy away from. Historically, these ‘enemies of the state’ who acted as per the interest and dreams of the oppressed masses have been stigmatised, persecuted, tortured, arrested or just killed in false encounters or ‘disappearances’. Even while in prison they have been segregated from the ordinary prisoners lest they ‘contaminate’ the latter’s consciousness and even physically beaten whenever they stood up for the latter’s rights. In essence, the State not only seeks to isolate and annihilate them physically but also ideologically and politically. The Constitutionally guaranteed rights to freedom of speech, belief, expression and association and also the rights to self-determination, right to a decent living and subsistence, right to development, right to dissent have been denied for the oppressed sections of our society. The protection and struggle for the implementation of their rights has been the primary objective of the CL&DR movement and hence their existence of political prisoners which is indicative of these violations becomes a concern for the movement.

The task of the CL&DR movement in this field is manifold. It primarily entails persuading the Government to recognise the existence of political prisoners, to undertake measures for the protection of their rights and to demand their unconditional release. Below are a mention of some demands before the Government that follow from these broad objectives.43

1. Need of a legislation on recognising the category of political prisoners as per the Internationally recognised practices and norms in accordance with the UN covenant on prisoners, to which the Government of India is a signatory.

2. To treat political prisoners in accordance with the Internationally recognised principles, standards and conventions such as the UN Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment, to which the government is a signatory and the Minimum Rules for the Treatment of Prisoners, 1977. In the event of capture or arrest of combatants of armed resistance movements operating in India, they should be recognised and declared as ‘prisoners of war’ and be treated in accordance with the Geneva Convention to which India is a signatory.

3. The Colonial Era Indian Prisons Act, 1894 should be immediately scrapped and replaced by an up-to-date one incorporating international HR standards and principles and NHRC recommendations.

4. Special and extraordinary laws used to persecute political activists such as the Armed Forces Special Powers Act, National Security Act, Unlawful Activities Prevention Act, and similarly draconian State laws should be repealed. Section 124A (sedition) of the Indian penal Code should be scrapped. Ban on all organisations proscribed by these acts or Government notifications should be lifted to provide a conducive atmosphere for the resolution of grievances and conflicts.

43 Many of the demands mentioned have already been put forth by the CL&DR movement and particularly in the declaration of the’ Committee for Release of Political prisoners’ ( see APPENDIX ‘C’)

pg. 38
5. An immediate end to all ‘false encounters’ and ‘disappearances’, which are used as methods by the police and armed forces to eliminate political opponents, should be enforced. Towards this end, it should be made ‘mandatory to register FIRs, whenever an encounter death takes place’, so that it ‘would be the [judicial] magistrate and not the police who would have the power to decide whether to continue the trial or close the case’.\footnote{This was a verdict pronounced by a 5 judge bench of the Andhra Pradesh High Court on 6th Feb.2009 after hearing a petition filed by the Andhra Pradesh Civil Liberties Committee (APCLC). The AP Police Officers Association challenged this decision before the Supreme Court and acquired a stay on the same.}

6. For the Unconditional Release of all Political Prisoners.

7. Abolition of Death Penalty

In accordance with the aforementioned demands, it is suggested that the CL&DR movement especially those organisations specifically dealing with the concerns of political prisoners, pay attention to spreading public awareness on these issues and pushing for improvements in jail conditions. It is evident from history, that the government has conceded to the recognition and release of political prisoners only when compelled to do so due to popular demands and pressure of people’s movements. Hence it is imperative that the CL&DR movement focus on building such public opinion regarding the existence of political prisoners and their conditions of incarceration, by the following suggested methods.

1. Facts are essential to prove a social reality. Hence prison surveys, information drives among Advocates of political prisoners, use of the Right to Information Act, 2005 or many more creative methods should be employed to compile a comprehensive list of political prisoners.

2. A high number of Political prisoners are economically incapable of engaging legal assistance commensurate to the seriousness and the number of charges/cases levelled against them. It is therefore of urgent need that legal experts and advocates be arranged so as to ensure their proper defence during trial and their release without harassment. It has also been a tradition within the CL&DR movement to attend such trials as observers so that the legal rights of such political prisoners are not violated.

3. By the very fact of their existence, political prisoners are in a continuous struggle against the oppressive Jail conditions. Struggles are being waged daily in the forms of vocal protests, written memorandums, non-co-operation with prison discipline or the method of Hunger strike. However in most instances these just struggles are brutally crushed by violent or punitive measures. To break this isolation and suppression the CL&DR movement needs to intervene and express solidarity to these jail struggles by fact-finding missions, dharnas, rallies etc. so as to generate public support and compel the Jail administration to implement Human Rights standards.

4. Present conditions in the prisons are way below even officially authorised standards. The government’s lack of commitment and denial of funds for improving the conditions in prisons has ensured that jail conditions continue to remain substandard, and widespread corruption within the jail department and the various supervisory bodies has aggravated it. All this continues shamelessly, because it is shielded from public scrutiny. It is therefore important
that the CL&DR movement reveals this true picture by visiting prisons and publishing reports on prison conditions for widespread coverage in the media.

During the last decade or so, the ‘problem’ of political prisoners has grown immensely and has rightly become an increasingly major concern for the CL&DR movement in India. Many All-India and State level organisations have been formed specifically dedicated to this cause. These developments are indeed heartening and have been viewed by us political prisoners as positive. Nevertheless, there is still a lot that needs to be accomplished to ensure The Unconditional Release of All Political Prisoners.
Appendices

Appendix A: Circular of IG (Prisons), Maharashtra dated 11 July, 2007 regarding treatment of Naxalite Prisoners

Appendix B: Jericho Movement (USA) Source

Appendix C: Statement on Political Prisoners, passed in the Inaugural Conference of the COMMITTEE FOR THE RELEASE OF POLITICAL PRISONERS (March - April 2008)

Appendix D: Relevant Articles of the ‘Geneva Convention’ relative to the treatment of Prisoners of War, 1949’.
Appendix A:

Circular of IG (Prisons), Maharashtra dated 11 July, 2007 regarding treatment of Naxalite Prisoners


SUBJECT: Regarding measures for prison security by Police and Prison administration in accordance with State Naxalite Secret Plan

The Sup’dt of Police, Gadchiroli sent a report vide letter no. 24/4 – Naxal Jail Andolan/07/904 dated 21.4.2007 to this office regarding it being observed from meeting notes from Naxalites, papers from them, interrogation, etc, that senior Naxalite leaders are always guiding Naxalite prisoners lodged in the jails of the State about measures according to the situation and also that senior Naxalite leaders are creating favourable conditions for their party.

The Sup’dt of Police opines that it is necessary for the Police and Prison administration to give attention to the following points in accordance with the Naxalite plan.

In view of prison security take necessary action regarding the following points and also take action by making it known to the concerned senior jailors/jailors/guards.

1) Not keeping hardened Naxalites lodged in Prison in one room.

2) A system for keeping watch that prison officers/employees do not become moles due to attempts of Naxalites in prison, or Naxalite affiliated organisations or lawyers handling naxal cases.

3) Make arrangements for keeping ultra radical Naxal members in secure prisons.

4) If a single prison has many Naxal members, keep them at different places.

5) Make arrangements for allowing relatives/friends to meet Naxalites only after in-depth verification and make arrangements for taping the points discussed for the purpose of understanding.

6) Make arrangements for censoring letter correspondences of Naxalites in prison, and for an in-depth study of from where their money comes and for what reason.

7) Keep watch whether hardened Naxal members discuss with other prisoners regarding party policies or Naxal activities.

8) A system be there of informing the concerned District Sup’dt of Police as quickly as possible regarding release of hardened Naxal accused from jail.

9) There is need to have a strict system of secrecy of to and fro transport of prisoners for court dates or other purpose.
10) Make arrangements for keeping strict security of every prison where Naxal members are imprisoned, etc.

Sd/-
(JA Vettkunnel)
Research Officer
Inspectorate General of Prisons
Maharashtra State, Pune -1

To,
Superintendent
All Central/District Prisons

cc
Appendix B:

Jericho Movement (USA)

Jericho is a movement with the defined goal of gaining recognition of the fact that political prisoners and Prisoners of War exist inside of the United States despite the United States’ government’s continued denial.....and wining amnesty and freedom for these political prisoners.

Background

The Jericho Movement grew out of a call for a national march on the White House during Spring Break of 1998 by political prisoner Jalil Muntaqim. The call was made in October of 1996 through the Provisional Government –Republic of New Afrika and the New Afrikan Liberation Front, but the organisers decided to use this opportunity to jumpstart a much needed movement to build a national support organisation for political prisoners in general.

The Jericho March

Jericho98 was the collective work of over 50 organisations, defence committees and groups, 64 Jericho Organising Committees and Students for Jericho making the issue of Recognition and Amnesty for US-held political prisoners and prisoners of war a national one with its successful demonstration and rally at the White House.

The organisers who made up the Jericho Organising Committees were/are just as diverse as the demonstrators who came from all across the United States, crossing the spectrum. The Jericho Movement was clear that we had to build a movement that left no political prisoner out there on his or her own again if we were to succeed in wining this struggle against racism, classism and all forms of oppression.

The Beginning of a New Commitment

The March 27, 1998, demonstration was just the beginning of a whole new commitment to supporting these political prisoners and demanding recognition and amnesty for them. There are hundreds of people who went to prison as a result of their work on the streets against oppressive conditions like indecent housing and inadequate or complete lack of medical care, lack of quality education, police brutality and the murder of people organising for independence and liberation. These peoples belonged to the organisations like the Black Panther Party, La Raza Unida, FALN, Losmacheteros, North American Anti-Imperialist Movement, May 19, AIM, The Black Liberation Army, etc. and were incarcerated because of their political beliefs and acts in support of and/or in defence of freedom.

There is Work to be Done

Once the demonstration was over, the real work began, The Jericho Organising Committees that came into being around this work continue educating people about the existence of these political prisoners. The original structure that was designed to mobilise people to go to the White House and serve notice that we will no longer allow our political prisoners to be behind prison walls with no support, and that work is being done to free them, is now being transformed into a mass based organising tool.
At the present time, there are Jericho Organising Committees operating in California, New York, Massachusetts, Wisconsin, Pennsylvania and Italy and regional committees functioning across the country. Then, too, Jericho is working with local defence committees to bring the cases of individual political prisoners to the public. Building a bond across organisational lines is what Jericho is about.....that's where our strength lies.

The Jericho Movement addresses four principle issues:

1. Building the Amnesty Campaign
   A big part of this work is locating the political prisoners, compiling dossiers on them, and building the case for Amnesty.

2. Continuing the Educational Campaign
   About the Existence of Political Prisoners inside the US.

3. The Jericho Legal Defence Fund
   Providing supportive expenses for lawyers and law students etc. to provide legal defence for political prisoners.

4. The Jericho Medical Project
   Fighting for adequate and quality medical care for political prisoners.
Appendix C:

Statement on Political Prisoners, passed in the Inaugural Conference of the COMMITTEE FOR THE RELEASE OF POLITICAL PRISONERS (March 31-April 1 2008)

In the last decade, the people in general as well as the democratic and struggling people all over the Indian sub-continent have been subjected to severe repressive measures and state terrors by governments in various regions. Tens of thousands of people have been imprisoned, killed in the name of ‘encounters’ or police firings in regions comprising Andhra Pradesh, Kashmir, Chhattisgarh, Bihar, Jharkhand, West Bengal, Maharashtra, Karnataka, Tamil Nadu, Uttar Pradesh, Uttarakhand and Kerala and the regions of north-east like Assam, Nagaland, Manipur, Tripura, Meghalaya and Arunachal Pradesh. More recently those who are fighting against displacements from their lands, forests, against the plunder of their natural resources by foreign MNCs and domestic big capital have also come under the cross hairs of state repression and terror. Those who are participating or leading people’s movements against the rise of prices of essential commodities or fee hikes in education institution, workers struggling against job loss or for higher wages or against closure of industries have been dealt with by subjecting them to longer periods of imprisonment. Women have been a specific target of the state repression and terror under the garb of enforcing ‘law and order’.

On the whole it is quite clear that Naxalites such as maoists, Muslims, struggling dalits and tribals and those who are fighting for the right to self-determination like Kashmiris, Nagas, Assamese, the Bodos, people of Manipur, Kamtapuris have become particular targets.

The Naxalites or Maoists – as has been described by the Prime Minister of India as the ‘biggest internal security threat’ and ‘virus’ to be ‘crippled’ – have been specifically hunted, killed or imprisoned. The communities demanding for their right to self-determination have been put behind bars for ‘waging war’ against the sovereignty and integrity of the Indian nation. Virtually every Muslim is targeted as a ‘terrorist’. Thousands of Kashmiris have been languishing for years in various prisons in India. Every tribal or poor peasant has become a potential threat for the politics of ‘development’ and ‘good governance’. In many cases caste is an important factor in the dispensation of justice. Most of these prisoners are incarcerated even without proper charges against them or are falsely implicated.

The prison has become a site for ‘disciplining’ or confining the political opponent through torture, rape, humiliation, mistreatment and discrimination.

In short, persecution of political activists and general struggling masses opposing various policies of the governments under Liberalisation, Privatisation and Globalisation has become the order of the day. As the rulers show extreme intolerance to the political opposition of peoples’ struggles against imperialism, for democratic aspirations that has been sharpening over the years, there is a likelihood that the present crisis-ridden situation would spiral into a bigger explosion. In these circumstances, the only familiar response is the inevitable repression and terror normally resorted to by the Indian state so as to specifically target and imprison more and more people from the democratic, revolutionary and nationality struggles in many regions of the Indian sub-continent. It is significant and certainly is the call of the times for all those who stand for justice and democracy to fight state repression and raise the demand for the unconditional release of political prisoners. Let us unite to make a definitive step in this direction in form of Committee for the Release of Political Prisoners.

The Indian administrative governance system boasts of prisons as correctional institutions, despite the hard reality that more than sixty years of history contradicts the above claim. Prisons have become torture centres. There is hardly any concern for the rights of the prisoner. The Indian government till date does not have a national prison policy or legislation on the category of political prisoners. The government of India continues with the colonial Prisoners’ Act of 1894 not to say the
prison manual to deal with the prisoners, vastly leaving room for the jailer and the officials to deal with the prisoners with the way they deem fit individually.

The Committee for the Release of Political Prisoners is formed by concerned citizens from various walks of life. Prominent writers, academics, artists, social, political and human rights activists who believe that the condition of political prisoners in particular and those of all prisoners in general speak for the true state of democratic fabric of our societies and feel the urgency of demanding the unconditional release of all political prisoners while at the same time asking for the improvement of prisons and prisoners' conditions.

The Committee for the release of Political Prisoners believes that the persons who have been arrested or detained, for partaking in struggles of political, social and economic significance, in favour of exploited classes and oppressed castes/communities, in whatever form, and were guided not by self-interest, but by definite political views or ideologies, irrespective of the charges that the state have put on them, should be considered political prisoners. However, members of the state sponsored armed groups would not be considered as political prisoners. Private armies of Bihar, Salwa Judum of Chhattisgarh, SULFA of Assam and a host of groups in J&K and other states or similar groups, operating under patronage of the state/ruling parties, be viewed as state sponsored armed groups. In addition persons directly involved in genocide, rape and mass murder or so in connivance with the state should also not be considered as political prisoners.

We are committed for achieving the status of Political Prisoners in the statute books of the law of the land and to mobilise public opinion for the unconditional release of Political Prisoners. The movement for the release of Political Prisoners today is, in reality, a continuation of the historic tradition started off by eminent humanists like Rabindranath Tagore. The hunger-strike movement initiated first by Saathin Sen in 1921 in Barisal Prison demanding the transfer of the oppressive jailor and for the granting of the status of Political Prisoners spiralled into a massive movement for the release of Political Prisoners. The Committee follows the legacy of the movements that demanded the unconditional release of Political Prisoners in the past in 1940s during the British colonial regime, in 1950s after the suppression of the Telangana peasant struggle or in the 1960s and 1970s after the suppression of Naxalbari movement as well as the release of prisoners during the Emergency.

The Committee for the Release of Political Prisoners includes all sections of people such as workers, teachers, students, intellectuals, peasants, employees, etc.- whoever is ready to raise the demand of the unconditional release of Political Prisoners and work for better prison conditions. The members represent in this committee as individuals and not as representatives of organisations. The standpoint of the committee is to be represented by all members from this platform, irrespective of what one's individual or organisational understanding is about the issues addressed by the Committee.

The Committee for the release of Political Prisoners seeks unconditional release of all Political Prisoners irrespective of their political beliefs, practices as long as they belong to any social, political, economic, national and other issues in their regions from their respective organisations for the betterment of the people or for their perceived political ideology and so long as their fight is not for any selfish interests of the individuals but for a common cause. The Committee perceives that release on bail is no real release in the case of Political Prisoners for the reason that a Political prisoner is arrested and incarcerated primarily for his/her political beliefs. Notwithstanding that, the Committee will involve in assisting the Political Prisoners for their release on bail through legal aid, advice, expertise and even collecting donations in cases of economically challenged prisoners. However, the main task of the Committee is to build a continuous movement to shape public opinion for the unconditional release of Political Prisoners.

The Committee for the Release of Political Prisoners doesn’t take any position or express opinion on the ideology of and the path adopted by any political party or organisation that a Political Prisoner belongs to. It doesn’t support or oppose the ideology and methods of struggle in relation to violence or non-violence of any Political Prisoner’s political/social communitarian organisation/Party. These questions remain outside the purview of the Committee. Nevertheless, the members of the Committee are free to express their personal or organisational opinion on these issues in their respective forums.
The committee for the Release of Political Prisoners believes that the task of working for the unconditional release of Political Prisoners and working for the improvement of prison conditions amenable to all prisons is not the task of this Committee alone. The movement for democratic rights of the people in general and civil rights movement in particular, immensely contribute to the rights of political prisoners and general prisoners.

The Committee stands against all kinds of repressive measures followed inside prisons. The committee condemns violations of human rights of all prisoners. The committee stands for the just cause of the political prisoners from their liberation from the prison houses of imperialism and fascism.

The Committee for the Release of Political Prisoners supports and stands in solidarity with the political prisoners in the world. It extends support and solidarity world over to all political prisoners. It becomes part of the world wide campaign for the release of political prisoners all over the world.

AIMS AND OBJECTIVES:

- To Make the Government of India realise the urgency of bringing out legislation on recognising the category of Political Prisoners as per the internationally recognised practices and norms in accordance with the UN covenant on Prisoners for which the Government of India is a signatory.
- For the Unconditional Release of all Political Prisoners.
- To treat Political Prisoners in accordance with the internationally recognised principles during their detention time in prison.
- To demand deletion of provisions contained in Article 22 of constitution of India in respect of preventive detention; also demand for repeal of all preventive detention laws.
- For the right of the prisoner to be protected from any vilifying campaign of the media so as to be presumed innocent as required under Article 14 (2) of the International Covenant on Civil and Political Rights (ICCPR).
- To put an end to all torture centres and illegal detention cells that is maintained under the garb of investigation centres. The government should bring out a white paper on all such centres and its status at the moment.
- To generate awareness of the rights of detainees and prisoners under international human rights law.
- To arrange legal assistance and aid through legal experts and prominent advocates to those prisoners who are in a disadvantaged position or discriminated against toward receiving a fair trial on account of media projections or the police, military or Government’s undue propaganda.
- For creation of humane conditions inside prisons, police lock-ups, and other detention centres used by various intelligence agencies, police, paramilitary and military forces in accordance with various Supreme Court directives and CPWD’s recommendations in regard to police lock-ups 1966.
- For the enforcement of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment to which India is a signatory in 1979. Legislate anti-torture domestic law in the country to protect victims and witness.
- For the implementation of the laws related to the rights of detainees and prisoners including the Minimum Rules for the Treatment of Prisoners,1977.
- Under trial prisoners are subjected to forced labour. They need judicial protection.
- For the Abolition of Death Penalty.
For the implementation of the Principles enunciated in the UN Declaration on the elimination of all forms of intolerance and discrimination based on religion / belief / social hierarchy.

The right of the prisoner belonging to the Dalit community to exercise the option of SC/ST Atrocities Prevention Act even while in prison.

To conduct prison surveys, a tireless endeavour, to prepare list of political prisoners – in jail and on bail- and send fact-finding teams to bring out the facts behind the prison walls.

Take up various forms of struggles-dharnas, rallies, demonstrations- and other creative forms of protest for the betterment of conditions of all prisoners involving all concerned citizens and relatives and friends of prisoners.

Investigate and bring out the facts relating to the cases of violations inside the prisons.

Prepare reports on conditions of health and hygiene inside prisons and mobilise public opinion in favour of its implementation.

To study the Jail manual, various jail committee reports (central and states) since 1947 and prepare recommendations for a thorough change in the jail manual in consonance with the times.

To consolidate public opinion on the issues related with Political Prisoners.

To express Solidarity and stand by the families of the Political Detainees and Prisoners. To initiate counselling services for the kit and kin of the prisoner.
Appendix D:

Relevant Articles of the ‘Geneva Convention' relative to the treatment of Prisoners of War, 1949'.

GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949.

entry into force 21 October 1950

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognised by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons;
(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable as civilised peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

A. Prisoners of War, in the sense of the present Convention are persons belonging to one of the following categories, who have fallen into the power of the enemy;

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteers corps forming part of such armed forces.

2. Members of other militias and members of other volunteer corps, including those of organised resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organised resistance movements, fulfil the following conditions;

(a) That of being commanded by a person responsible for his subordinates;

(b) That of having a fixed distinctive sign recognisable at a distance;

(c) That of carrying arms openly;

(d) That of conducting their operations in accordance with the laws and customs of war.

3. Members of regular armed forces who profess allegiance to a government or an authority not recognised by the Detaining Power.

4. Persons who accompany the armed forces without actually being members thereof, such as civilian members or military aircraft crew, war correspondents, supply
contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, who shall provide them for that purpose with an identity card similar to the annexed model.

5. Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

6. Inhabitants of a non-occupied territory who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention;

1. Persons belonging or having belonged to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

2. The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment with these Powers may choose to give and with the exception of Articles 8,10,15,30, fifth paragraph, 58-67,92,126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power where such diplomatic relation exists, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.
Bibliography


- CO-ORDINATION OF DEMOCRATIC RIGHTS ORGANISATIONS (CDRO)
  - Bulletin (2) November 2007
  - Bulletin (5) February 2009

- COMMITTEE FOR THE RELEASE OF POLITICAL PRISONERS, (CRPP)

- COMMITTEE AGAINST VIOLENCE ON WOMEN (CAVOW) - ‘Stree Garjana’, (Undated)

- HUMAN RIGHTS FORUM, note dated 27 August, 2008


- K Balagopal, 'We shall have our own Mandelas, Birth of the Political prisoner in India', Economic and Political Weekly, Vol.XXIII, no.40, October 1988

- PEOPLES UNION FOR CIVIL LIBERTIES (PUCL) - 'PUCL BULLETIN', Vol. XXIX, no. 1, January 2009

- PEOPLES UNION FOR DEMOCRATIC RIGHTS (PUDR)
  - Caste Oppression, Peoples’ Movements and Charge of Seditious Charge in Haryana’, Delhi, May 2007
  - (On Unlawful Activities Prevention Act) www.pudr.org
  - ‘Through the Lens of National Security; The Case against Dr. Binayak Sen and the Attack on Civil Liberties’, Delhi, January 2008
  - Political Repression in Uttarakhand (Bogey of ‘Left –Extremism’; Attack on Political and Social Activist) along with Uttarakhand PUCL, Delhi, February 2009.

- Randhir Singh, 'Terrorism, State terrorism & Democratic Rights', Economic and Political Weekly, 8 February 1992

- Ujjwal Kumar Singh, 'Political Prisoners in India', Oxford University Press, 1998