

STATE TERRORISM

**POLICE ATROCITIES IN THE KARAVALI AREA
COUPLED WITH**

**FAILURE OF THE JUDICIARY
IN PROTECTING
CITIZENS RIGHTS & LIBERTIES**

**(A REPORT ON THE TOTAL BREAK DOWN OF THE LAW &
ORDER SITUATION AT THE INSTANCE OF THE POLICE
ACCOMPANIED BY A COMPLETE LET DOWN BY THE
SUBORDINATE JUDICIARY)**

PEOPLE'S TRIBUNAL ENQUIRY

Conducted at the instance of the
People's Union for Civil Liberties, South Kanara
And
Transparency International India, Karnataka Chapter
And
The Catholic Sabha, Dakshina Kannada

By:
Justice Michael F. Saldanha,
Retired Judge, Karnataka High Court.
Chairman, Transparency International India, Karnataka Chapter.

PEOPLE'S TRIBUNAL ENQUIRY

Conducted on 11th and 12th December 2010

MEMBERS OF THE JURY

JUSTICE MICHAEL F. SALDANHA

PROF. NAGARI BABIAH

PROF. DR. RITA NORONHA

ADVOCATE - MRS. MERLYN MARTIS

ENQUIRY ORGANISED AND CONDUCTED

BY

MR. P.B. D'SA

STATE PRESIDENT,

PUCL KARNATAKA



Justice Michael F. Saldanha (Retd)
Chairman Transparency International India
(Karnataka Chapter)

DEDICATION

This report is dedicated to all those
victims of Police Atrocities and
Judicial Atrocities
In India that we call a democracy.

PUCL – D.K

**If you want a share of fame, you've got to be
willing to take a share of the blame.**

If no one heeds your call, go forth alone.

If there is no struggle, there is no progress.

Violence always rebounds, always returns home.

If you can't bear crosses, you can't wear a Crown.

Remember to hate, to be violent, is demeaning.

**The appearance of millionaires in any society is
no proof of its affluence.**

God grant me the
Serenity
to accept the things
I cannot change...
Courage to
change the things I can
and Wisdom to
know the difference...

THE JUSTIFICATION

After the BJP Government assumed power in Karnataka in the year 2008, there was a sudden spurt in inter-communal hostilities. It initially started with some of the militant organizations adopting an ultra-aggressive posture by decorating every town, city and village with saffron flags, posters and the like which was accompanied by groups of young persons going around these places targeting the minorities. Even where members of the minority communities were assaulted, their shops looted and places of worship defiled, the Police refused to register offences against the wrong-doers, instead of which, the Complainants were threatened, beaten up and often times arrested and put behind bars. Taking up the matter with the higher authorities served no purpose because each of these Police Officers would straight away make the excuse that the instructions have come from the Vidhana Soudha. What this meant was that the Police force in the State got completely saffronised because inevitably every member of the force desired to flow with the tide which they also found very beneficial financially and career-wise. **Specifically, at least three of the most violent and dreaded Police Officers from Mangalore who should have been dismissed from service and prosecuted and convicted were rewarded with promotions!** To quote an example, the militant organizations would loot shops and restaurants and would also drag persons to the Police Stations on the ground that they were converting others or that they were cattle thieves and the like and this gave the police an excellent opportunity to exploit the victims and make big money.

It also became the order of the day for the police to target the members of the Muslim community on the ground that they were Terrorists or were linked with anti-social activity. This meant that any member of the community could be subjected to search of the house or business area and the police would help themselves to whatever they wanted and pick up one or two persons on the ground of suspicion and blackmail them. **What was really tragic was the fact that in not a**

single one of these cases did the Courts provide any relief. This wave of communalism overtook the Bar as a result of which, it was extremely difficult for any of the victims to get a Lawyer to appear for them. The subordinate Judiciary would rubber stamp anything and everything that the Police would do how so very astounding it may be. **To quote one specific example, when the Editor of the Karavali Ale was arrested on totally false and unsustainable grounds, the Magistrate refused Bail and when this could no longer be done, the Police told the Court that NINE other Courts had issued NON BAILABLE WARRANTS against him on one and the same charge! This was action ultimately quashed by the High Court with strictures but that was after the lapse of nearly one year. To sum it up, there was a complete breakdown of the Law and Order situation.**

Matters really exploded in September 2008 when the Churches were attacked and the Police Department in partnership with the militant organizations let loose the type of violence and false arrests that this country has seldom seen. There was a universal demand that a Judicial enquiry headed by a Retired Supreme Court Judge be set up by the Central Government to examine the facts and produce a report along with recommendations in respect of these horrifying events and one of the basic demands was that the role of the Chief Minister and the Home Minister, the State Government and the various wings of the Government particularly the Police should be investigated. Not surprisingly, the Chief Minister immediately picked a Retired High Court Judge from his own Home Town and from his community to head the enquiry and the terms of reference necessarily excluded all the above areas. **This enquiry was financed by the State Government and immediately there was a strong public protest that like all other Judicial enquiries set up by a State Government or the Politicians in power, that this enquiry also would carry on for a couple of years, that the investigation would be an eye-wash and more importantly that it would completely cover up for the Politicians and the State Government and its officials and not only exonerate them, but as happened in the case of the Nanavati Commission in the State of Gujarat, it would give the culprits a clean chit and even go to the extent of complementing and praising them.** It was in this background that

PUCL decided to institute a Peoples' Tribunal Enquiry under the auspices of Transparency International which was to be a one man Commission headed by Justice M.F. Saldanha. With the assistance of several persons, the Commission held an incisive investigation, the unique feature being that instead of the old fashioned formal hearings, the Judge went to every one of the areas and personally investigated the scene of offence, met the victims and the witnesses and several others, afforded the authorities an opportunity of explaining their defence and thereafter, produced a detailed Report, parts of which have been released and the whole report is to be released shortly in the form of a volume. The findings are extremely damaging to the Politicians, the State Government and the Bureaucracy but the principle responsibility for the violence, and the total breakdown of the law and order situation has been ascribed to the police and to the Courts which have let down the citizens by refusing to render Justice, by supporting the custodial terrorism and wrongfully upholding every illegal detention and the worst form of infringements of human rights.

If the Church attacks were shameful enough and invited universal condemnation Nationally and Internationally, with the question being asked as to why the persons who were involved in the violence and who openly came out in Press Conferences on Television and on Public platforms boasting about their great achievements were not arrested even though every one of their actions were cognizable offences, the State Government openly encouraged another organisation called the Rama Sene which was even more militant and violent. Apart from targeting the students and younger people belonging to the Muslim and Christian communities they started moral policing whereby open violence was let loose against the boys and girls of these communities.

This was followed by an incident known as the Pub Attack Case wherein a whole lot of young women were molested and beaten up while they were dancing. The National and International media covered this incident live and it sent shock waves through the whole country and through every other civilized nation inviting total condemnation. Not a single arrest was made nor was any action taken and the Ram Sene went totally out of control in the whole District. The Home Minister

justified all these criminal activities on the ground that the students concerned had given provocation which was downright false.

It must be said to the credit of the previous D.C. Ponnu Raj that he issued a show-cause notice to the Head of the Ram Sene who was beating his chest and loudly proclaiming that he would step up the violence. After following the procedure prescribed by Law, an Order was passed against Muthalik externing him from the District. The Law prescribes that if the Order was wrong that the aggrieved party had to file an Appeal and that he could even obtain Interim Orders provided the case so warranted. It is quite unprecedented for the Appellate remedy to be by-passed and for the party to directly approach the High Court as there exists a total legal bar to the High Court exercising jurisdiction when an alternate remedy exists and when it has not been exhausted. To the utter shock of the right thinking citizens of the State and particularly Dakshina Kannada District – Muthalik straight away approached the High Court and the High Court not only entertained the Petition but straight away granted a Stay. With due respect, it is submitted that it is Orders such as these that completely destroy the status and confidence of the few good officers in public office like Ponnu Raj because it is such men who stick their necks out in the course of duty and if the High Court slaps them in the face, it will send shock waves to this and every other good Officer who will be disappointed and frustrated and will desist from standing up to illegalities.

PUCL and Transparency International found that the role of the Police Department in all these atrocious activities was indefensible and that these two areas namely the Police and the Courts required to be carefully investigated and that the time has come for the problem to be studied, for appropriate recommendations regarding corrective action required to be set out and follow up measures undertaken and accordingly, a Peoples Tribunal Enquiry was fixed for the 11th and 12th December 2010 in Mangalore.

This was the Justification for the institution of the Tribunal's Enquiry and the Report and Findings as also the Recommendations are contained in this volume. We gratefully acknowledge the time and the skills of the Jury Members who presided over the enquiry and who

collated the material that forms part of the case history and the findings as also the recommendations. All of these were put together by Justice M.F. Saldanha who did the final drafting, and who assumes responsibility for everything contained in this volume and to whom we are extremely grateful.

It was decided that the Report be preceded by a Foreword amplifying the background to the enquiry. Justice Saldanha has drawn heavily from what emerged in the earlier Enquiry conducted by him as also a lot of supportive material that emerged thereafter since he has been actively pursuing the various heads. **For instance, it was necessary to point out to the Home Minister of the State who kept on publicly declaring that the attacks against the minorities have subsided, that by 15th August 2010 i.e. Independence Day, there had been a fresh lot of regular attacks against the minorities and that they had totaled 1000. Secondly, the Home Minister had to be reminded that whereas prior to his Government assuming power and prior to the Church attacks of September 2008 that there had not been one single recorded case of so-called conversions or attempts and that after his oral directions to the Police, every Police Station has been registering at least 20 such false cases every month in order to build up the statistics. The media and independent authorities have been examining the genuineness of these offences that have been registered and every one of them have been found to be false as not a single one of the so called Complainants is even traceable.** Undoubtedly, these are sensitive areas and the facts are unpleasant but in the public interest, they have to be recorded and exposed. This job has been done by Justice M.F. Saldanha independently and none of the remaining members of the Jury are in any way responsible for it. It is clarified that PUCL, Transparency International and Justice M.F. Saldanha who has authored the Foreword take fully responsibility for this part of the volume.

MANGALORE
DATED : 17.01.2011

P. B. D'Sa
STATE PRESIDENT,
PEOPLE'S UNION FOR CIVIL LIBERTIES.

FOREWORD

SUDDEN SAFFRONISATION IN KARNATAKA

The BJP Government with B.S. Yediyurappa as the Chief Minister and V.S. Acharya as the Home Minister, (both seasoned RSS pracharaks) assumed power in the year 2008 and within days the State of Karnataka witnessed a total upheaval. This was more pronounced in the Karavali area because Acharya who held the Home Portfolio spent more time in his home town of Udupi and with his close associates from the RSS and the Bajrang Dal, the Swamijis, and his **Guru** at Kalladka than at the State Head Quarters at Bangalore. There was a sudden burst of saffronisation through the entire coastal belt. The whole of the State Machinery was completely communalized and the greatest tragedy was that the subordinate judiciary took a cue from the Lawyers who had joined the movement and totally aligned itself with them. All of a sudden, saffron flags, posters and streamers inundated the whole area. What accompanied this was total disaster.

UNPRECEDENTED VIOLENCE AGAINST MINORITIES

The Karavali area resembled Nazi Germany at the height of the Nazi power. Suddenly, huge battalions of youth, mainly on two wheelers but also in other vehicles which included Government Jeeps and KSRTC buses started patrolling the roads. Violence was freely indulged in, all directed against the minorities i.e. the Christians and the Muslims. Their shops, establishments and places of business were not only targeted but were indiscriminately exploited and looted. The Police Department under the supervision of S.P. Satish Kumar who was the virtual godfather of all the anti-social elements in the entire region ably supported by Inspector – Jayant Shetty and a host of police officers who included Police Inspectors - Ganapathy and Shivakumar unleashed the type of violence that the region has never experienced before.

POLICE COLLUSION AT VIOLENCE

Not one complaint in respect of assault, rioting, looting or dacoity was registered in any police station in the entire region. Anybody who went to a Police Station to complain was mercilessly beaten up, arrested on false charges and thrown into the lock up. The levels of police torture and false involvements reached an unprecedented scale and the greatest tragedy was that a good section of the Lawyers who had jumped on to the Bandwagon refused to render any assistance to the victims but were ever willing to come out powerfully on behalf of the aggressors. This is a sad blemish on the profession but is precisely what happened in Nazi Germany.

NO RELIEF FROM THE JUDICIARY-MATTER OF SHAME

What is really pathetic is the fact that the Courts provided zero relief. I am saddened and ashamed at the role of the Judiciary during this period and the manner in which every single victim was illegally and dishonestly denied Bail, retained in custody for abnormal periods of time and there was not one instance when action was taken by a single Judge in the hundreds and thousands of cases where the victims complained of inhuman and merciless torture at the hands of the police. In my opinion, this period represents the blackest era in the history of the subordinate Judiciary of the Karavali region.

MORAL POLICING / ATROCITIES AGAINST WOMEN

An organisation under the banner of the Rama Sene which had been both militant and violent in the District suddenly stepped up its aggression and hatred for the Christians and the Muslims and let loose violence which was directed against the younger members of these communities. The whole of the student population was terrorized, Muslim girls were not allowed to use the veil or burkha and what was really bad was the fact that these boys and girls were pulled out from buses and cars, beaten up on the road, taken to secluded places and mercilessly assaulted and threatened that if they lodged any complaints they would be killed. A string of such events took place with not a single complaint being entertained or any action being taken against the culprits. The Home Minister Acharya has gone on record before the Media stating

that the Rama Sena was fully justified in attacking anyone whose behaviour was considered "immoral". According to him, even where assault and kidnapping had taken place and where students have been pulled out from their hostels, class rooms and even residential areas that the action is justified. When there is a Home Minister of this type who gives full backing and encouragement to criminal activity and above all to the spread of communal hatred, the question really arises as to whether the Police inaction can be faulted. It was under similar circumstances when in a series of atrocities against women which were outrageous, that I had pointed out that the Police force in Karnataka exists to protect the Law breakers and that it serves absolutely no purpose to spend Rs.260.00 Crores per month on maintaining this Department, that it should be disbanded and public money saved and that the citizens will look after their own safety.

EDITOR SEETHARAM CHAINED-WORLD SHOCKED- COURTS INDIFFERENT

The world conscience has been shocked when the facts of the Editor Seetharam's case were projected by me Nationally and Internationally. While papers like the "Udayavani" came out with blazing SAFFRON HEADLINES and the rest of the media was terrorized, Seetharam's one publication "Karavali Ale" stood its ground and this invited the fury and revenge of Acharya. Under the personal and direct Orders of Home Minister Acharya, Editor Seetharam was illegally arrested, chained hand and foot in total defiance of the Law laid down by the Supreme Court of India and paraded through the Court Premises and produced in Court without there being any charge or case against him. The Judge had denied him Bail the previous night, he was retained in custody for one and a half months and taken to all corners of the State by the Police in defiance of Court Orders with repeated attempts being made by the Police authorities to finish him off and it is only the Vigilance of the Members of PUCL and a small band of persons, one of whom was myself who saved this man's life. The Press Council of India has recorded strong findings against the State Government and the Police Department in this case, the State Human Rights Commission has passed severe strictures and the High Court has ordered a princely

sum of compensation quantified at Rs.10,000/- (which in my considered view is not only a miscarriage of Justice, but a total let down by the higher Judiciary) and at the end of the day, Acharya, the Police authorities, the Doctors and every one else goes scot-free and as an eye wash, we are informed that two Police Constables have been suspended for one week on the ground that they wrongly handcuffed and chained the Editor.

ERRANT POLICE OFFICERS REWARDED

Transparency International and several citizens' organizations insisted that Disciplinary Action be taken against SP – Satish Kumar, Jayant Shetty and Ganapathy, the three Police Officers who had been responsible for the unleashing of violence against the minorities which had reached unprecedented levels. Under pressure, Chief Minister – Yediyurappa who had partnered Acharya in every one of these activities stated that a High Level Departmental Enquiry would be conducted. One of the very good Senior DIGs came to Mangalore, held an enquiry and submitted a Report to the Government holding these three persons guilty on all counts, recommending their immediate suspension and stringent disciplinary action. The material on record fully justified this and if there was any Rule of Law in Karnataka not only should these Officers have been dismissed from service but they should have been put on Trial and made a public example of. In nine of the leading Judgments on the point, the Supreme Court has repeatedly pointed out that the Police Department is entrusted with the sacred duty of maintaining Law and Order, and of safeguarding citizens rights and property particularly where the weaker sections and the minorities are concerned and that no member of the Force at whatever level should be spared under any circumstances, when they are found to be dishonest, corrupt, violent and rank sadists as turned out in the case of the whole of the Police Department in the Karavali area. The Supreme Court has gone on to observe that this Class of Public Servants who turn into perverts have to be awarded deterrent and exemplary punishment in the Public Interest.

Following these directions, in at least 6 of the cases, as Judge of the Karnataka High Court, I have awarded imprisonment ranging

from 5 to 10 years RI to errant members of the Police force not to mention Life Imprisonment awarded to six barbaric police personnel who had beaten to death three poor boys in Shimoga. What action has the Yediyurappa Government taken on the findings recorded against these Police Officers. **The file was called for by the State Human Rights Commission and not shockingly, there is an endorsement in Acharya's handwriting as Home Minister defending these Officers which reads "no action for the time being" and then follows the endorsement by the Chief Minister – Yediyurappa which reads "Treat the Case as closed". Then follows the nicest part of the operation where these Police men are promoted and are even recommended for Police honors.**

POLICE ATROCITIES OF THE EXTREME DEGREE

I set out below a few instances that highlight what was going on:

ATTACKING MUSLIMS

(a) A Muslim vegetable vendor in one of the small towns near Mangalore was attacked by the local Bajrang Dal and taken to the Police Station on the allegation that he had stolen the neighbouring Vendor's vegetable worth Rs.17/-. The man was stripped naked, mercilessly beaten and subjected to every conceivable form of torture at the local police station for two full days. No entry was made showing an arrest. He was not produced before the local Court and the police found that they had used too much force and the man was unconscious and about to die. He was put in the Police Jeep, brought to Mangalore and thrown on the footpath near the State Bank of India at 6.00 a.m. in the morning. A group of Muslims who were returning from Prayer witnessed this incident, picked up the unconscious man and took him to the Wenlock Hospital. The Doctors refused to either treat him or to admit him unless directed by the local Police as it was a medico-legal case. The Mangalore police refused to entertain any complaint or to support his admission to the Hospital though the man was in a precarious condition in order to support their colleagues who had almost beaten him to death. The result was that the community collected money and had the man treated at a private hospital for three months. Though, he did survive, he has suffered

lifelong kidney damage. When he went back to his hometown, the local police who had almost killed him on the earlier occasion and against whom PUCL had lodged a complaint to the then IG, recorded a statement and took his signature to the effect that he was traveling to Mangalore, fell out of a local bus and sustained severe injuries. On the basis of this report, the then DIG closed the case. The victim, his family and relations were all warned that if the matter was taken up, their women would be raped, their houses would be burnt and that there would be no trace of any of them.

ATTACKING CHRISTIANS

(b) After the police violence at the Permanur Church where over 180 Catholics were severely brutalized by the Police, desperate attempts were made to effect false arrests and to contend that it was some of the local youngsters who were involved in group rivalry who are responsible for the incident. Mercifully enough, the brutalization by SP. Satish Kumar, Jayant Shetty and the huge police force has been vividly record on video, has been shown on all the National Channels as also the International Channels including BBC and CNN. The method adopted by the Police was to round up as many young Christian Boys as possible, to beat them up and then record so-called confessions to the effect that they were responsible for the incident. The local police registered as many as 47 false cases to support their S.P. **The local Courts repeatedly refused Bail to these poor boys supporting the Police all the way.** The victims were retained in custody for a period of up to 3 and 4 months regularly brutalized while in custody and the majority of them have lost their source of livelihood not to mention the hundreds of students whose careers were ruined. They have all been terrorized into not taking any counter action. During this period, I was informed that a young man, aged 22 years from the area who used to drive a small tempo delivering milk for his livelihood was sent for by the local police. Knowing his fate, the boy ran away to his uncle's house at Padil. A few days later, the police traced him, arrested him at Padil and mercilessly beat him at his uncle's house. No arrest was shown for 24 hours and he was severely tortured at the Police Station, at which time, he started bleeding profusely. The Police ordered his relations to take him to a

Private Hospital and to inform the Doctors that he was the victim of a hit and run case on the highway. We had met the relations who were too terrified to even lodge a complaint against the police. The whole village collected money for the emergency surgery because his facial bones had been fractured and he required an immediate operation. It took him Eleven Weeks to recover from the police brutality. It is true that no complaint has been registered and further action was not possible because of the terror tactics adopted by the Police Department.

TARGETING MUSLIMS-FALSE CHARGES OF TERRORISM

(c) Taking full advantage of the fact that some Muslim Organisations were involved in acts of terrorism which included bomb blasts in some parts of the country, the local police took it upon themselves to target the Muslim community. It became routine for the police personnel to enter the houses of members of the community on the ground that they had secret information of involvement on the part of local persons. Young boys were indiscriminately assaulted and their mathematical instruments used for geometry and their geography books and maps were seized and torn up on the ground that they were planning terror operations against the State. Jewellery was looted from the houses and anybody who lodged a complaint was arrested on the ground that they were suspected Terrorists. This form of police / State terrorism received 100% support from the Courts. In not a single case, was Bail granted and the custody periods were indiscriminately extended. A father and son were arrested on the ground that they were linked with the Bombay Blasts. They were retained in custody for four months as the Police claimed that they were investigating and the Court refused Bail though there was zero evidence. After four months, the Police took them to Mumbai, where they were retained in custody for another eight weeks because the Mumbai Police told the Court that they had no evidence against them, but that they were required to check about their involvement in the Ahmedabad riots. When the Court refused to extend the remand after two months, they were taken to Ahmedabad and were detained for another five months on the ground that the investigations were pending. When the local Human Rights Activists took up the matter before the Court, they were taken to Jammu & Kashmir on the ground that they

were connected with the Terrorists from that State. This involved illegal detention for another seven months as the police contended that though there was no evidence against them, they were checking their links with the Pakistani Terrorists. When all of this failed, they were brought back to Bangalore and the Courts have still not released them from custody as the Police contend that they have fresh information that they are connected with the attacks on Parliament. **Through this lengthy period of time, two totally innocent citizens have been denied their liberty for about TWO YEARS through a conspiracy between the police and the Courts for a couple of years when admittedly there is zero evidence against them.** The provocation for their initial arrest was because they had addressed a complaint to the DG Police in Bangalore that the local police had entered their house, molested the women, beaten up the remaining inmates and looted the place by taking away jewelry, electrical gadgets, watches and property worth Rs.3,70,000/-. This is the price the victims had to pay for complaining. **The wonderful result of all this was that in answer to the question on the floor of the assembly, both the Home Minister and the Chief Minister contended that there is not a single complaint against the Police Department from any member of the Muslim community in the Bangalore Region.**

CHURCH ATTACKS-POLICE INACTION

(d) Since, September 2008, there have been 2116 attacks on places of worship belonging to the Christian community. There have been 1868 instances of violence against individuals, shops, eating houses and other small business establishments belonging to members of the Christian and Muslim community. Every single one of these incidents has been reported to the Police authorities, 90% of them in writing because the leaders of the communities have instructed the victims to do this. Not one complaint has been entertained, not one FIR has been registered and not a single one of the culprits have been arrested. To quote just one example, I had personally questioned the S.P. and the then DIG Police as to why no action has been taken on four simultaneous cases of attacks and vandalism committed by the Bajrang Dal activists and other anti-social elements on a little shop belonging to a Catholic

Newspaper Vendor. He has on all four occasions named the persons involved and furnished the numbers of the vehicles used by them. The answer from the Police Department to me was that neither the individuals nor the vehicles were traceable. To the question as to why no FIRs were recorded, the answer was that they were acting on instructions from the Vidhana Soudha.

SEZ ATROCITIES BY THE POLICE

(e) One of the highlights of the Police performance in Dakshina Kannada has been the total alignment with the authorities of the Mangalore SEZ. The victims in this case happened to be 69% Christians and all the entire lot, even the non-Christians were tribals and those belonging to the weaker sections. They were looted, beaten up, their homes, fields and property destroyed, their standing crops were buried under debris through bulldozers, the compensation amounts misappropriated, documents and records forged and fabricated, all of which have invited severe strictures from the Lokayukta and Justice S.R. Nayak, the Head of the State Human Rights Commission. In all of this, where the SEZ authorities had used the services of the mafia, musclemen and criminals of the worst category against the poor, weak and helpless victims, the atrocities of the Police Department in these acts of State Terrorism are shameful and unpardonable. There are on record 2726 written complaints from the victims, social workers and NGOs who represented these poor persons. The date, time, full particulars and names of the culprits have all been set up. Not one single complaint has been registered. No FIRs recorded and what is even more shameful is that the various police stations and in particular the office of the SP, Mangalore were functioning as part and parcel of the SEZ. What needs to be taken particular note of is the fact that 1246 false cases were registered against the victims and the social workers who tried to assist them, in all of which cases, the Police made it a point to register so-called FIRs invoking non-bailable offences, so that the victims could be retained in custody for abnormally long periods of time. In addition to this, on every occasion when the so-called accused were produced in Court, Bail was opposed by the Police. I have no hesitation in recording the fact that there is unmistakable evidence that

the whole of the Police Department starting from the SP to Officers like Jayant Shetty and all the way down the line to the constables was totally corrupted and was on the pay-roll of the SEZ. **On 8th November, 2008, when the Internationally acclaimed Swamy Agnivesh and I personally went to KUNBI PADAV and witnessed the atrocities taking place and the Police protecting the SEZ mafia, the Bajpe Police Station is supposed to have recorded two FIRs against Swamiji and myself on a host of serious criminal charges such as attempt to murder, unlawful assembly, rioting, intimidation, trespass and interfering with public servants in the discharge of their duties. We have not so far been arrested, but it is not known when the police will decide to do so, because both of us were told that once the police lay their hands on us and take us into custody, every bone in our bodies will be broken. IF THIS IS NOT STATE TERRORISM, WHAT ELSE IS IT ?**

FAKE ENCOUNTERS

(f) The Police Department in Dakshina Kannada are Specialists in fake encounters and encounter killings. Since, the year 2004, the Police have been indiscriminately shooting down whomsoever they find inconvenient and in all these fake encounters, evidence is fabricated to indicate to the public that the deceased person was the aggressor and further more, that he or she had indulged in anti-social activity and acts of terrorism but that there is no recorded criminal evidence or convictions because the police were not able to arrest the persons. **I had occasion as Judge of the Karnataka High Court to examine as many as 21 such cases and every single one of them I have recorded that the so-called encounter was fake and that the killing was thoroughly unjustified.** In the majority of these cases, the Police are heavily paid by the Opponents of the deceased who are after their property or desire to settle scores with them and that is the real ground for shooting. In not a single one of the 21 cases, where I had directed that all those involved in the incident and those who had paid them / conspired with them should be prosecuted, not a single prosecution followed from the State Government. Similarly, since all those who have been shot come from the poor and weak strata, no action has followed and the Police have

got away with these murders.

Reference is invited to the enquiry conducted into the Editor – Seetharam case wherein the Police followed Seetharam and his wife on a Sunday night when they were on their way to attend to a temple, intercepted them and for the next two hours, kept taking them to once secluded place after the other in order to stage a so-called encounter and shoot them, but god was on their side and they survived only because every single road chosen by the police happened to have a fair amount of traffic or the presence of villagers and they finally gave up in the hope of getting the job done within one of the police lock ups or jails.

(g) CUSTODIAL VIOLENCE:

There has been a serious charge against the Police Department that apart from the torture chambers run by the Department and the abnormal inhuman and sadistic violence that the Officers and Staff regularly let loose on anybody whom they laid their hands on, that they have also been practicing another form of atrocity by getting the anti-social elements within the lock-up and the jail premises to assault the victims and to even kill them. There have been eleven complaints of persons belonging to the minority community who have died in Police custody in the last two and a half years but in all these cases, no action against the police has been possible because they have made false entries in the Police Stations that the death took place on the road in a hit and run case and the Government Doctors have supported the police in these atrocities.

In the Editor – Seetham case, where Seetharam was ordered to be retained in Police custody in Udupi and was permitted hospitalization on very valid and real health breakdown reasons, on the express Orders of Home Minister – Acharya and his son who was exercising more powers than the father, without obtaining Court Orders, and in breach of the Law, the Police pulled him out of the Udupi Hospital, refused the family's requests for an ambulance at their cost and drove him at breakneck speed over horrible roads for two hours till he reached Mangalore at night virtually half dead. An attempt was made to put him into the sub-jail as it was full of gangsters and anti-social elements, all of whom are

the best friends of the Police Department so that he could be finished off there. The presence of the PUCL Office-bearers and the insistence of the Lawyers prevented the attempt of the Police to have him beaten up and possibly killed in the jail.

Sometime before this, the Police had falsely picked up two Muslim boys, objected to their bail and had them confined to the Mangalore sub-jail where they tried to incarcerate Seetharam. These two boys were savagely assaulted by a group of Bajrang Dal activists who are present in the same jail. They were moved to the hospital in a precarious condition with grievous injuries in the belief that both of them would die. The injuries were all on vital parts of the body particularly on the head and chest. There were stab wounds and the Press and TV exposed the fact that the assailants had used knives, daggers, iron bars and iron chains. There was a demand for a Judicial Enquiry and the Home Department was asked to explain as to how such deadly weapons had been smuggled into the jail. There was also a demand that the assailants must be charged with offences of attempt to murder and causing grievous hurt and further more, that the Jail Authorities who had permitted deadly weapons to be taken in and had also abetted the assault should be suspended and dismissed from service. The nice part of the story is that it emerged that the assailants had with them mobile phones and unlimited quantities of liquor. Home Minister Acharya who at that time the Chief Patron of the Bajrang Dal condoned all their violence, ordered that no action be taken against them and immediately issued a statement that the Home Department would look into the matter. What followed:

- (a) **The Jailor who was responsible for allowing illegal arms and liquor into the jail and who also facilitated the incident was immediately shifted by Acharya under his personal Orders to Bangalore and was rewarded with a promotion.**
- (b) Acharya also ordered that no action be taken against any of the assailants on the ground that it was not known as to who exactly had assaulted the Muslim boys. Judging from some of the ridiculous statements that the Home Minister used to

issue at that time which defied credibility, it is a small wonder that he did not issue a statement that the injuries were self inflicted !

- (c) The victims were treated in the hospital for a long period of time till they recovered and all their relations were warned that if they lodge any complaints or press any charges that they would be finished off. When questioned by the media as to why the assailants had not been prosecuted, Acharya's defence was that the victims and their relations had not lodged any complaints and hence, the State was unable to act. It is impossible, in a situation like this to accept that there would be no complaints but even if that was the position having regard to the terror tactics employed, the question still arises as to why the State and the Police Department did not take legal action on their own accord in the case of such serious offences committed within the jail premises.. This a mandatory requirement of the law and no excuse is admissible.

(h) JUDICIAL INDIFFERENCE:

No atrocities or illegalities could have taken place on such a continuous and massive scale if the Judiciary had only lived up to its constitutional obligations. It is a matter of regret, distress, deep concern and utter shame that in the whole of the area right through this period of time that one Judicial Officer in any Court so much as listened to recorded or took cognizance of complaints from the victims even when produced in Court. This was a failure of the Law and of judicial duty and it is this failure that encouraged the State Government and the Police to commit the type of atrocities that have been recounted here. In thousands of cases where the victims told the Magistrates that they had been subjected to horrifying torture and serious injuries, they were not even taken out of police custody and consigned to judicial custody. PUCL has checked the court records in over ten thousand such cases and in not a single one has the Magistrate recorded the complaint of torture and injuries.

To what extent the Judiciary has failed in its duties is representative on the fact that even in thousands of cases where visible injuries were shown to the Magistrates, no medical investigation or treatment was ordered. Not only is this a breach of the Law and encouragement to the State and the Police Department to multiply violence and atrocities but it is the most horrible infringement and violation of human rights and to think that it has happened at the instance of the Court and Judicial Officers is something absolutely unpardonable.

(i) REFUSAL OF BAIL:

The same pathetic story is repeated when it comes to the track record of the Judiciary in the matter of grant of bail. The consistent practice followed is to refuse to hear the Accused and his Advocate and to straight away refuse bail and remand the Accused to Police custody. This has happened even in the case of thousands of persons who are victims of police violence at the time of the church attacks and to hundreds who were falsely arrested by the Police in the course of these incidents. I have personally examined the cases of at least 6,000 innocent persons and in not a single one of these cases, could the arrest be justified. In the case of Permanur and Kulsekhar, over 300 persons who were victims of police violence and who were injured, the majority of them with bleeding injuries on the head were produced in blood stained clothes before the Courts and the Magistrates refused them Bail and remanded them to Police custody even refusing medical treatment. In the Milagres incident particularly, as also in two other incidents from Mangalore city, in order to justify the defence put forward by Acharya and his Police that the mobs had attacked them, hundreds of students, mechanics, drivers and other self employed persons were indiscriminately rounded up and arrested. Their college careers were ruined, their businesses were finished all because the Courts refused to grant them Bail for periods ranging from 3 to 6 months. There was zero material against them. Their arrest was illegal and unjustified and yet the Courts at the instance of the State and the Police detained them in custody irrespective of the consequences. Apart from the illegalities, these are serious and unpardonable infringements of human rights. I will answer the question as to why no counter action or complaints have

emanated, the obvious reason is that the State Terrorism has pulverized the victims and their families, they have told me that they are thankful that they are alive and that they dare not agitate for their rights. What distressed me most was the fact that in each and every case, the pathetic statement was that " after the Courts have done this to us, do you ever expect these very Courts to entertain our complaints or to Order compensation?" This is indeed a very very shameful certificate to the Judiciary coming from the most deserving consumers of Justice.

POLICE GOONDAISM ON 23/12/2010.

The St. Aloysius College is the oldest and most reputed educational institution in the District. On 23.12.2010, the students had organized a musical function, when all of a sudden, SI – Manjunath from the Bunder Police Station along with a relatively large group of policemen stormed into the campus, disrupted the proceedings and violently attacked the students. When questioned, he stated that police permission had not been obtained for the function. There is no provision of Law under which a college, holding a function in its own premises has to seek police permission. Obviously, this was another method of blackmailing the college and extorting money. The Dakshina Kannada Police have not only got a bad name but have acquired a stinking reputation for blackmail and extortion and this is a classic instance where the Police Force of Dakshina Kannada exposed its true character in all its shameful glory! The matter has been reported to the higher authorities who have all covered up for SI – Manjunath and his team which establishes how deep and how complete the rot is.

ABSOLUTE NEED FOR A HIGH POWERED PEOPLE'S TRIBUNAL ENQUIRY.

It is in this overall background that PUCL and Transparency International have taken a decision to hold a People's Enquiry into the atrocities of the Police Department and the corresponding failure of the Judiciary to either check these atrocities, to contain them or to take counter action. The hearings were held at the Milagres College Hall on the 11th and 12th December 2010. As a result of the publicity, a large number of aggrieved persons attended the Tribunal hearing. A summary

of the proceedings was prepared for purposes of record. More importantly, it was decided to examine a representative number of cases as each of the aggrieved persons and their witnesses deposed before the Jury and they also produced the relevant and requisite records in respect of each case which was fully substantiated. The members of the Jury expressed their opinion at the end of the proceedings on the afternoon of 12th December and Justice M.F. Saldanha who presided over the proceedings and headed the Jury summarized the findings. These are separately set out along with a brief description of each of the cases that were taken up for consideration and the individual findings in respect of the respective case. On a constructive note, there are a series of recommendations in an effort to bring about some correctives. The situation as it now exists is intolerable, both as far as the depravity, corruption violence and misconduct of the Police and the Judicial action that is unfortunately supporting it all the way, with the dreadful fallout resulting in INJUSTICE ALL THE WAY. Human rights have been defiled, disrespected and destroyed and the Police are living up to the definition which the Allahabad High Court coined for them- "**Criminals in Uniform**"- this just has to change.

MANGALORE
DATE : 10TH January 2011

(JUSTICE MICHAEL F. SALDANHA)

R E P O R T

FINDINGS OF THE JURY

We propose to briefly summarise the salient facts in respect of the representative cases in order to amplify the basis of the findings arrived at. This is also necessary from another angle in so far as the facts will be illustrative of the manner in which the Police force has been functioning in and around Mangalore city. We do not propose to set out the names of the Complainants and witnesses for the obvious reason that the police have the habit of violently hitting back at anybody who exposes their atrocities and that is one of the reasons why the Department has been getting away with criminal misconduct. The facts however, will demonstrate what exactly the police have been up to.

CASE No.1:

The victim was falsely implicated on a murder charge in the year 1988 by SI Kempaiah. The illustrious SI thereafter moved up because of his special talents and connections, became an SP and has now retired from service. **The false charge-sheet submitted by him could obviously not be sustained and even though, 22 years have passed, the case has not yet been heard and the victim has the trauma of a murder charge hanging above his head. He has complained to the Government and to the Department on 16 occasions asking for action against Kempaiah but nothing has happened.**

Findings:

Firstly, the mere fact that the Department is unable to sustain the charge for 22 years clearly indicates that it is a fabrication. Despite this position, the Department has covered up for this Officer. Had action been taken, the man should have been dismissed from service instead of which, he is rewarded for such misconduct, promoted and allowed to retire and is obviously being further rewarded for the rest of his life through a pension. This is dangerous because false implication is a serious criminal offence, it is indulged in by the police repeatedly and

regularly in order to harass, blackmail and terrorize and if it is not curbed, the consequences to the citizens are grave.

CASE No.2:

The victim in this case had submitted complaints to the local police, the then SP Satish Kumar and to DIG – Prasad that his little shop was being repeatedly attacked by anti-social elements. He has indicated the names of the persons and the vehicle numbers of the two wheelers used by them. **27 such incidents had taken place over a period of three months.** He has sustained considerable loss of property due to these attacks, despite which, the Department has neither registered a single FIR nor taken action against any of the culprits who are well known criminals. **The matter was reported to the DIG, nothing was done by him and the SP instigated the criminals to STEP-UP THE ATTACKS.** The interesting feature of this case is that the citizen finally mobilised his own resources and got a few of his own friends to arm themselves against such attacks and when the culprits found that they would be severely beaten, if they continued their criminal activities, the trouble stopped.

Findings:

This is a familiar situation where the Department is taken care of by a mafia don who happened to be the boss of the culprits. The victim is left with absolutely no redressal and the serious part of the matter is that even if complaints are directed higher, where there is a thoroughly corrupt SP like Satish Kumar, the situation gets further worsened. In this case, when the DIG repeatedly questioned Satish Kumar, he stated that the culprits and the vehicles were not traceable which statement was inherently false. A normal citizen has no capacity to move higher than the District level and the bottom line therefore is that the presence of the police is not only useless but worthless in this class of cases. The aggravating factor is that not only is there no redressal for the injury but the victim runs a serious risk of violent revenge action from the Police Department if the matter is agitated further.

CASE No.3:

The victim in this case had parked his car in a designated parking

area when a Police Constable turned up, abused him for no reason and threatened him that he would be taken to the Police Station if he did not part with money. On his refusal, he was forcibly taken to the Police Station and when he complained to the Inspector- in-charge, the Officer abused him in filthy language and told him to pay up the money or else, that he would be arrested and put in the lock-up on the ground that he had misbehaved with a member of the Police force. Once he was in the Police Station, he was taken inside, slapped and all the money that was on his person was taken away and he was told that if he lodges any complaint, his legs would be broken.

Findings:

This case is very representative of the real functioning of the Police Department. Instead of maintaining Law and Order or doing their designated duties, the Constables are on the look out for victims at all times in order to extort money. It is not difficult for them to catch hold of vulnerable persons from time to time, to use abusive language and muscle power and drag the victim to the Police Station, if they do not part with enough of money. The highlight of this case is that the reason why the Police went after the Complainant was because they were helping themselves to fruit and other eatables from the roadside hawkers and the Complainant had asked them not to exploit these poor persons. We take a serious view of this aspect of police misbehavior because such exploitation has become the order of the day and the victims are petty traders who are living hand to mouth and they have absolutely no defence against such anti-social behavior on the part of the police. It is also representative of how very dangerous it is when a law abiding citizen is dragged to a Police Station.

CASE No.4:

The Jury was informed by a bunch of witnesses of the total communalization and saffronisation of the Police Department ever since the present BJP Government came to power and of the manner in which the Journalistic community has been targeted. Virtual terror tactics have been employed by the Police Stations and the Police personnel in the full confidence that the Courts would fully back them up. This was the universal complaint of all those who were present and the names of two

Police Officers – SP Satish Kumar and Inspector – Jayant Shetty headed the list of Officers who had been running wild in the Department. They had been able to withstand complaints to the authorities at any level because they had the full backing of the Chief Minister and the Home Minister. After a long period of horrifying atrocities and corruption, SP Satish Kumar was shifted to another District whereas Jayant Shetty has been promoted!

The Journalistic fraternity pointed out that these two Officers had started a trend in the City and in the District whereby ALL victims who landed in Police Stations were stripped naked and submitted to horrifying tortures. This sadistic and perverse behaviour of these two Officers quickly caught on and has become the order of the day in the District. At least 22 persons who had been victimized in this manner have supported this version. Also, these two Officers were involved in sadistic levels of violence in public places and they got away with it because anybody who complained was picked up, STRIPPED NAKED, beaten up and implicated in false cases.

Findings:

The implications of these cases are extremely grave because it is only the media or rather the bold and independent section of the media who can expose police atrocities and if Officers like Satish Kumar and Jayant Shetty use abnormal levels of violence and falsely implicate the Complainants and then get away with such atrocities, then it is quite obvious as to how they run wild in the District. What is disturbing is the fact that when such corrupt and criminal Police Officers have the personal support and backing of the Chief Minister and the Home Minister and in this case above all the Palak Minister of the District whose name was repeatedly figuring, no complaints at any level can bring them to book. **What is worse is the fact that it also shows what sort of sexual perverts these Police Officers turn into when they specialize in humiliating persons by stripping them naked in the Police Stations and getting sadistic delight by inflicting the inhuman forms of torture on them by targeting their genitals. These pervert members of the Police force totally disregard the physical injury and lifelong damage that they are inflicting on the victims. We can only**

summarise these tactics by defining them as a case of POLICE TERRORISM MIXED WITH ABNORMAL DEGREES OF SEXUAL PERVERSION.

CASE No.5:

In a very serious incident that took place in Karkala on 29.09.2009, certain persons who were hostile to the victim came to his house and in the presence of his wife and father took the victim to the nearby tank on the ground that they wanted to discuss something. **They forcibly immersed him in the water and held him down till he was dead. The family members are EYE-WITNESSES.** Thereafter, they took the body to the KMC hospital and reported that they had seen the victim drowning, that they pulled him out of the water and asked the Doctors to give him first-aid. The Doctors found the victim dead. The wife and the father rushed to the Police Station and lodged a complaint which the police refused to record as the Police had been taken care of. The Complainants insisted that the Police register an offence of murder and arrest the culprits who had been named, but the police refused to do this. They also refused to claim the body until action according to Law was taken as a result of which it remained in the hospital. The Accused persons, claiming to be relations, took charge of the body after some days, took it to the Church and had it buried. The Complainants moved the higher authorities of the Police Department who also refused to act in the matter, on the ground that the guilty persons had produced a certificate from the hospital that the death was due to drowning. The Complainants then filed a Petition in the High Court and the High Court ordered that the body be exhumed. Surprisingly enough, though the body was exhumed after several months, it was found intact because the Hospital had treated it as an unclaimed body and embalmed it for use by medical students. The High Court has ordered a fresh Post Mortem examination but according to the police, the report is not available for the last four months. The wife and the father point out that the police have colluded with the murderers and have also abetted them in destroying the evidence by recording a false cause of death and refusing to act on the basis of the Complaint from the wife and father both of whom are eye-witnesses to the murder.

Findings:

In the majority of criminal cases which are pre-planned, the Police are heavily bribed, as a result of which, they refuse to respond to any emergency calls for help when the crime takes place. Secondly, they refuse to register any complaint and experience has shown that the police along with the Lawyers of the criminals who have committed the offences, register a false cause of death and accord permission for the disposal of the body. In all these cases, a sham post mortem examination is conducted and the Doctor at the instance of the police and the Accused records a false cause of death. All these ingredients are fully present in this case and the Police heavily bank on the fact that even if at a belated stage, the Courts Order a re-investigation, that nothing worth-while transpires because the evidence is virtually dead by that point of time. This case is a classic instance in which, had the FIR been registered at the earliest point of time, even if the cause of death was indicated as drowning, that would have been compatible with the evidence to the effect that the Accused had forcibly immersed the deceased in the water.

This is a horrifying instance of miscarriage of justice where the police are parties to the murder and to the destruction of evidence both of which are serious criminal offences. It is only hoped that when the Petition is disposed off by the High Court that directions are issued to register offences against the culprits and the Police Officers concerned and to proceed according to Law. **It is cases of this type that have completely destroyed whatever little public confidence that existed with regard to the Police Department.**

CASE No.6:

The Jury were given a detailed account of the Police violence at Ullal on 06.10.2006 when the infamous Jayant Shetty along with Inspector Shiva Kumar descended on the area and mercilessly assaulted members of the Muslim community. This was followed by the Police Officers ransacking every single muslim house and looting the jewellery, money and valuables worth Crores of Rupees on the ground that they were looking for Terrorists. From the documents that were produced, it is quite clear that these atrocities did take place because they have been elaborately recorded and produced before the higher authorities.

Unfortunately, the whole of the police force which was demonstrably corrupt was also completely saffronised and muslims have therefore been treated as their enemies. To what extent Shiva Kumar and Jayant Shetty were aligned to the RSS was demonstrated from the fact that their open threat over the months and years was that they would bring the RSS musclemen to Ullal and let them loose on the Muslim community.

In order to defend themselves, Shetty and Shiva Kumar registered false cases against the Complainants, arrested them, took them to the Police Station where they were stripped naked and subjected to horrifying torture. Since, these cases were inherently false, the State Human Rights Commission presided over by the Hon'ble Mr. Justice S.R. Nayak has passed severe strictures against these Police Officers and recommended not only disciplinary action but a prosecution against them. The State Government has taken no action but on the contrary, these Officers have been promoted under the Special Orders of Chief Minister Yediyurappa and Home Minister Acharya. The cases filed by the Police were all dismissed whereas the Criminal Courts have taken cognizance of two criminal cases filed against the Police Officers. Those cases are pending, but unfortunately, on every date of hearing the Accused Police Officers remain absent and the Magistrate cheerfully adjourns the case. The Complainants who are risking their everything in order to see that the Law takes its course against the errant Police Officers are being driven to frustration / desperation by the Courts and the question posed to the Jury is as to whether the citizens of this country can ever expect the Rule of Law to be enforced by the Courts particularly against the Police.

Findings:

This case raises a host of important issues. Firstly, whether there are any tangible solutions possible when the Police force is both corrupt and completely saffronised. Secondly, when errant Police Officers are protected through political patronage by equally corrupt Ministers where does this leave the citizen? Thirdly, when the victims of Police atrocities are sought to be silenced by involving them in false cases whether this is not the very height of injustice. **Humorously enough, when these cases fail, as they have to, the Judges smile and tell the aggrieved**

victims that they are very fortunate that the case did not end in conviction, that they should be thankful and not think in terms of action for malicious prosecution.

The High Courts and the Supreme Court of India have consistently held that the most deterrent sentences should be awarded in all cases of police excesses, atrocities, violence, custodial deaths and above all, corruption. The number of Courts who actually carry out this mandate are few and far between. **As Judge of the Karnataka High Court, in eight such instances, Justice Saldanha has awarded the Police Officers and the Constables the maximum sentences prescribed under the Law, as also stinging fines/ compensation of Rs. Five Lakhs each which were paid over to the victims as compensation and in all these eight cases the Judgments have been confirmed by the Supreme Court. It is absolutely essential that the Courts do this more often.** More importantly, directions have been issued to the subordinate Courts to ensure that in any case, where there is a complaint against the police, that it be properly looked into and where it is valid and sustainable that not only should action be taken but that it should be disposed off on a top priority basis and further more, that all the support and protection which the Complainants and their witnesses require must be afforded. **What is really required to be done is that in instances where the Departmental hierarchy and the Politicians support the demonic Police Officers, all those persons should be prosecuted. Even if it is for the first time, one such a test case is taken up, the superior Police Officers and the Politicians will stop abetting Police atrocities.**

CASE No.7:

Once again, the name of Jayant Shetty figures in this case. Brushing aside the relevant details, what stands out is the fact that in connection with Jayant Shetty's Bungalow which is his personal property and the building material relating thereto, the Police Officer has instituted a false prosecution by misusing his official position. On our analysis of the case, we find that the facts clearly warrant action under the Prevention of Corruption Act, but obviously, this Police Officer has terrorized everybody in the District and he is still holding a prominent position in

the Police Department as a result of which, the victims dare not take action against him and the Politicians who support him will obviously not institute any steps. There is a second instance concerning the same Police Officer pointed out to us wherein two persons have been involved in a false prosecution. **There is zero material against them and yet, a charge-sheet has been filed and they have been required to attend the Court for the last two and a half years.** What was highlighted was the fact that when a person is required to attend a Criminal Court, they have to leave their jobs, business, personal duties and go and sit in the Court Room invariably for the whole day, as otherwise, a Non Bailable Warrant is issued by the Magistrate and the Bail is cancelled.

Findings:

If the citizens of this country are to live in safety and in peace, it will be very necessary to set up a machinery to control and punish Police Officers of this type as the consequences of their action are absolutely disastrous. Under the scheme of the Law and under the Constitution, it is absolutely essential for the Courts to enforce the Law ruthlessly and to punish the police in every single instance even if it is a misdemeanor. There are as many as 203 Reported Judgments of the High Courts and the Supreme Court mandating this, but unfortunately, the subordinate Judiciary rubber stamps every action of the Police which is sending out the wrong signals and encouraging Officers like Jayant Shetty to continue with their demonic misbehavior.

Under the Criminal Procedure Code, it is mandatory for a Magistrate to dismiss every single proceeding at the earliest point of time when there is no case made out against the Accused. The Law Commission has pointed out that in 97% of this category of cases, the case should have been dismissed, the Accused discharged and action taken against the Police for filing an unsustainable charge sheet. The lower Judiciary has failed in its legal and constitutional obligations by allowing the cases to drag on for anything from three years to seventeen years before they are thrown out. **Are these Judges and Magistrates going to compensate the innocent citizens, whose lives have been ruined through such proceedings?**

CASE No.8:

This head of complaint concerns the Church attacks which made National headlines as also International concern because the evidence indicates that whereas the Bajrang Dal, the Ram Sene and other Organisations were primarily held liable for the violence that the truth of the matter is that in every single incident, it was the Police who led from the front. The then DC – Mahabaleshwar Rao and the SP – Satish Kumar, Inspectors - Jayant Shetty and Ganapathi were the stalwarts who unleashed unmitigated violence on the members of the Christian community. Among those who were beaten up, were the Head Mistress of a school, an elderly nun, aged 87, a 69 year old lady who lost her eye and thousands of innocent persons. **It is a matter of record that the injured persons whose number exceeds 792 in Mangalore City alone, many of whom suffered serious head injuries, fractures and other bodily injuries including near death experience because of poisonous gas that was released from teargas shells that were used years after their expiry dates and it has been pointed out by the victims and their representatives that over 1180 written complaints were lodged with the various Police Stations that not one FIR has been registered. On the other hand, a 106 false cases have been registered by the Police Department to defend themselves and over 2000 persons have been involved in these false cases, 38% of whom are students who careers have been ruined, housewives, teachers, self employed persons (a mechanic who is starving because he was in custody for three months and his little business has collapsed and 29 auto drivers who were thrown out of their jobs because they were in custody for long periods).** A responsible Priest who has appeared before the Justice Somashekar Commission has deposed before us on the basis of irrefutable material and we have scrutinized the facts and the data and we have no hesitation in accepting the correctness thereof.

Findings:

Though the Church attacks issue is the matter of separate investigation, it figures prominently here because it illustrates how the State Machinery which is supposed to respect the Law and enforce it

through the Police Department turns into the Law breaker and how the victims are denied Justice and at the same time, are hauled over the coals on the ground that they are criminals. It was pointed out to us that in every one of these false cases, the Police made it a point to include half a dozen serious Non-Bailable Offences and the Magistrates indiscriminately refused Bail. It was only after months that these poor victims who had been falsely involved and arrested could be released and after that, they are required to regularly attend the Courts. Over 200 students who were falsely involved have missed their exams, their careers are ruined and they run the serious risk of being dismissed from the educational institution on the ground that serious criminal charges are pending against them. The implications of how serious this aspect of the police action is will be demonstrated from what we have pointed out.

CASE No.9:

In this case, a civil dispute is being agitated between two neighbours over a particular area of land which concerns the erection of gates. As often happens, one of the parties bribes the Police and asks them to interfere and they promptly do it as an arm-twisting measure. When the Civil Court is seized of the matter in a Civil Case, that Judicial Forum has all the powers to pass Orders both Interim and Final. We have also found that there is absolutely no Law and Order problem that has arisen in this case, despite which, without any justification, the Police have intervened, taken sides and even beaten up the Opposite Party and collected a huge amount of money from them under the threat that they will be locked up. While the Law and Order situation has reached a point of complete breakdown, it was pointed out to us that the Police Stations are busy involving themselves with property disputes, business disputes even husband and wife matrimonial disputes, the bottom-line being that wherever there is money or property involved, that the police get very active.

Findings:

The Law Commission had occasion to point out that when the data was evaluated while the Police force contended that they are under staffed, ill-equipped and unable to cope with the burden of maintaining

the Law and Order, that the facts indicated that on a National level, it was found that in 92% of CIVIL DISPUTES the Police Department abdicates its primary functions of maintaining law and order and investigating Criminal Cases, in favour of involvements in personal and property disputes, that they evict tenants for a fat fee from the landlords, that they involve themselves in every conceivable aspect of society where they can make money and this gate case is illustrative of such dereliction of duty and misuse of power and rank corruption.

CASE No.10:

This case relates to the month of March 2006 and is approximately 4 ½ years old. Pursuant to the death of a married woman, the police interrogated the husband as he was the prime suspect. Not surprisingly, the man made a deal with the Police and they go and arrest one of the neighbours on the murder charge placing reliance on a Statement of the husband implicating him. There was zero evidence in this case, but since the charge was under Section 302 IPC, Bail was denied to the Accused and he was retained in custody. Every application made for discharge of the Accused on the ground that there is absolutely no evidence against him was mechanically rejected by the Court on a peculiar ground namely that the case is triable by the Court of Sessions and that the Magistrate has no jurisdiction to examine the merits. After almost three years, the Judge changes and so does the Investigating Officer. The Court then realizes that the Cr.PC mandates the filing of the Charge-sheet within 90 days which the Police have not done and further more, that when the Police were questioned, they admitted that they have no evidence against the Accused, the case was closed and the Accused was discharged. He was running a small sweets business with 18 workers. When he was arrested, there was nobody to run the business and all the 18 persons lost their jobs. After he was released, since the business had totally collapsed and some other person had forcibly occupied the premises, the Accused could not resume his business and was reduced to pauperism. He was a married man with three children and the entire family has been completely ruined. Neither the Court nor the Police nor the State are bothered about the horrifying consequences of what they have done.

Findings:

Once again, we need to go back to the Law Commission Reports wherein it has been repeatedly pointed out that there is a tendency on the part of the Police to adopt short-cuts. When a serious crime has been committed, some poor person, usually a servant or a watchman is picked up, mercilessly tortured and a Police statement issued that he has confessed to the offence. Some incriminating evidence such as a knife, blood stained clothes or so-called recovery of property is fabricated and there are instances in which the Accused who are poor and cannot afford competent defence, end up on the gallows. The more fortunate ones receive a life sentence and the small number of extremely fortunate ones are acquitted if providence provides them with a good and competent Judge who is also conscientious, which is a rarity. This case is very illustrative of all these factors and above all of what happens when a poor person comes out of the Court or the Jail and is ruined for life despite being completely innocent. **While the culprits are the police in uniform, the real responsibility and culpability in these cases lies with the Judiciary which is responsible for the dereliction of duty and these horrifying results. The Law provides for Compensatory action but in less than 1% of the cases is this awarded and when it is done, it is usually an absurd or beggarly figure of about Rs.1000!**

CASE No.11

This case concerns a Pastor from a small town against whom a case was registered on the allegation that he had attempted to convert a person. This was done at the instance of the local saffron brigade. He was retained in custody for two months which is totally against the Law and the records shows that the Police objected to Bail at the instance of their saffron masters on the ground that the feelings have run very high in the area and that there will be a serious Law and Order problem if he is released. When the Pastor was released on Bail, the Police insisted that he must report at the Police Station every Sunday morning. The Pastor pointed out to the Court that he has his Church duties on Sunday mornings, but the Judge refused to change the Order on the ground that the Police are objecting. **This reporting required the Pastor**

to come to the Police Station at 8.00 a.m. every Sunday and he is made to wait there for at least three hours on the ground that the staff are not available, as a result of which, for ten years, he has not been able to attend to his religious duties. The incident is of 15.03.2000 and the case has not been taken up on the ground that the Complainant is not traceable – obviously because it is a fabricated case. When an application was made to the higher Court requesting that since the Pastor is a permanent resident of that place, he has a house and family there and the requirement of reporting should be relaxed or changed to some other day, the Sessions Court dismissed the Application on the ground that if any variation is asked for, the Bail will be cancelled. **There cannot be a more vindictive or PERVERSE order.**

Findings:

One of the repeated Complaints from the litigants as also from responsible members of the Bar is to the effect that the Magistrates in Criminal Cases, by and large, instead of impartially evaluating the material, assessing the correctness or otherwise of the allegations and being vigilant in cases where it is obvious that the charge has been fabricated, are abdicating their Judicial duties and virtually rubber stamping whatever the police produce before them. In case after case, the Court has shown absolutely Zero respect for the Law, fairness and Human Rights or for the liberty of the citizen and have been indiscriminately curtailing the liberty of an innocent person who has no capacity to protest or to take counter steps. This case is a classic illustration of the fact that even where the injustice is pointed out to the higher forum that it is summarily rejected because the attitude, as one goes higher becomes more callous.

CASE No.12

Not surprisingly, there was a whole host of complaints with regard to Police harassment and victimization of Christians. Specific instances were cited not by the dozen but by the hundred in support of such persecution not by the members of Parties and Organisations who profess communal hatred but at the instance of the Police Department which has taken over the role of such persecutions. The explanation given by the Police Officers, though oral, when questioned by social

workers and NGOs is that they receive telephonic communications which have emanated from Bangalore, not from the Police Headquarters but from the Home Ministry and the Home Minister himself. One of the directions that have come directly from Home Minister Acharya to the Police Stations after the Church attack cases is that every Police Station must record a specified number of so-called conversion cases and that incentives should be provided to organizations and individuals who institute such cases. This is not an empty allegation because the records fully substantiate this position. In the City of Mangalore alone where this was being overdone in five separate cases, the so-called Complainants were questioned at public forums such as this one and they have openly admitted that they were asked to give a false statement.

Findings:

These allegations are 100% true and justified and they pose a very serious danger because they indicate total misuse of the Police machinery by the Government of the State. What has added to the problem is the fact that on as many as 17 occasions in the last two years where Public Interest Petitions were filed before the Karnataka High Court, the Petitions have been summarily dismissed and the sad part of it is that nine of them were by a Catholic Chief Justice and the other eight by a Christian Chief Justice against whom serious charges of corruption were made and who is facing impeachment proceedings. The first of the two is now in the Supreme Court but he had a track record in the Karnataka High Court of dismissing every PIL against the State. Not only does the situation require serious reforms in the working of the Police Department but more importantly, a total overhaul of the working of the higher judiciary.

CASE No.13:

This is a really pathetic case of a Bank employee against whom a Criminal Complaint was lodged by the Bank that they SUSPECT his implication in a case of cash shortage. The Police arrest the man and retaining him for custody for six months periodically subjecting him to inhuman torture. The amount involved is supposed to be Rs.900/-, the incident is of the year 2003 and the Bank has reconciled the accounts which establishes that the Complaint itself was false. The Bank refuses

to withdraw the complaint on the ground that it will get into problems. The employee is under suspension for seven years on the ground that the case is pending. On every date of hearing, nobody remains present and the Court continues to adjourn the case. More than a dozen applications have been made to the Court that the case be closed and the Accused be discharged as neither the Police nor the witnesses remain present but the Judge refuses to do this. On two occasions, when Applications were made to the higher Court, they were rejected on the ground that it is for the Trial Court to decide whether the Case should be closed or not.

Findings:

The Citizens of this state are required to believe that the Courts are Institutions of Justice. This is just one more instance where the definition has gone wrong and injustice of the grossest level has occurred. In the first instance, there was no material to register an FIR and even if this proceeded on the basis of the Bank's complaint, there was no ground for the police to object to Bail for six months. The Accused is not a hardened criminal. The amount involved is a petty Rs.900/- and if at all, he was involved, he would have admitted it in the first few minutes of police torture and when this did not happen for as long as six months, there was no ground to still file a Charge-sheet, more so because when the Bank reconciled the records, it was found that the Complaint was unjustified. It was criminal negligence on the part of the police not to have verified this fact.

Nothing can condone what has happened in the Court room with the Magistrate mechanically adjourning the case for 7 ½ years despite the fact that neither the police nor the witnesses remained present. The Constitution guarantees the right to a speedy trial and more importantly, the Supreme Court and the High Courts have in the last ten years repeatedly enforced this right. There is zero justification for what has happened before the Court. One of the problems faced by the citizens of this country is that any complaint made against the Courts or the Judges is construed as an act of Contempt and this is the reason why even the media is terrorized into silence even when incidents of this type take place thousands of times every year in every State. The

Judiciary is the first institution to preach about the sacred principles of accountability and it is now time for drastic reforms in the working of the Courts. The public confidence in these institutions has fallen rapidly and this is the strongest barometer of the fact that there can be no delay with regard to correctives.

CASE No.14:

PUCL Dakshina Kannada is required to deal with cases of police misconduct, excesses and violence almost everyday and Mr. P. B. D'Sa recounted to us the fact that the number of incidents has been growing and the gravity of these incidents have also been increasing, both of which, are a matter of serious concern. One of the first heads which he brought to our notice was the fact that all over the District, over the last two years, there have been repeated attacks on persons transporting cattle. The allegation on every occasion is that the cattle are being taken to a slaughter house. The persons in the vehicle are beaten up and vehicle along with the cattle is taken to the Police Station. Immediately, the Police mercilessly assault all those who are in the vehicle, register an offence that they are cattle thieves and put them into the lock up. The vehicle is impounded and it is a costly and uphill task to get the vehicle released and to even get a bail order. The victims in all these cases are very poor and small persons who are transporters. They are deprived of all their money and belongings, they suffer injuries, they are unable to attend to their business for days and weeks and are subjected to horrible exploitation from the police and the lawyers. In about 40% of the cases, it has been demonstrated that the animal in question was being taken to the hospital or back, or that it had been purchased or that it was on the way to the market for being sold. The entire allegation regarding the slaughter house is totally false in these cases. Secondly, the evidence indicates that cattle which is old or surplus or unwanted is sold to the traders for meat. This is a perfectly legal and legitimate business and it is not for a group of vigilantes to use muscle power whenever they see cattle being transported and to drag persons to the Police Stations. **The Police have been encouraging this activity because the evidence indicates that in each and every case where the cattle have been taken to the Police Station, they have prepared**

a false document that the owner has taken it back, whereas in fact, the persons who have illegally impounded the cattle have always sold it to the BUTCHERS. This is bad enough in the case of cattle that was being taken for slaughter but in several of the other cases where it is domestic cattle, it is a tremendous loss to the owners to loose a valuable cow or a bull. This has become a lucrative business and instead of preventing it, the police all over the District have been encouraging it.

Findings:

This is one more instance of the Police misusing their power and functioning in partnership with those indulging in illegal activity. What is atrocious is the fact that a pretence is being made that the animals in question are sacred whereas the very gangs involved in this activity have sold each and every one of the heads of cattle to the butchers. One of the reasons for the breakdown of the law and order situation in the District is because a class of people take the law into their own hands. This is referred to as "Goondaism" and is a cognizable offence. Where the police join hands with such elements, it is an extremely serious matter and as a cover for this criminal activity, it is sought to be given a religious ground or a cover. **The disaster story does not end there, because on every occasion, when the victims have complained to the Court that the seizure of the cattle was unauthorized and that it should be returned to them, the Applications have been dismissed with every Magistrate accepting the false version put up by the Police that they have no facility to retain live animals at the Police Station and that the animals were returned to the owners because they insisted on it.** We need to further point out that these are large animals and that in two of the identical incidents which took place during the Church attacks and an attempt was made to retrieve the animal that it was found to be too late because it had already been slaughtered and the Purchasers admitted having paid Rs.11,000/- and Rs.14,000/- respectively for the animal. This nothing short of rank dacoity with police patronage and partnership.

CASE No.15:

On the basis of complaints from the victims who have actually been subjected to horrifying levels of sadistic torture, PUCL has investigated

and found that there are as many as four torture chambers set up by the Police in Mangalore town itself. These places are reminiscent of the nazi killing camps. PUCL has taken the matter up with the Police Department, the Home Department and the State Human Rights Commission. Whereas the first two have not disputed the position, the SHRC has passed strictures against the Department on at least a dozen occasions but to no effect.

Findings:

While it is often argued that in the case of hardened criminals or in the case of property offences like theft or violent crimes etc. that it is necessary to resort to third degree methods in the course of investigation, the well settled position in Law is that this is totally and completely prohibited and is a very serious infringement of human rights. The State of Karnataka and the Police Department in the State seem to have overlooked the basic fact that even a criminal has rights. From the cases listed out by us above itself it will be seen that in as high as 75% of the cases, the person arrested by the Police is both poor and innocent and these torture chambers are used to extort false confessions and then to deceive the general public that the offence has been solved and the culprits arrested. Either ways, there is zero justification for these torture chambers because neither the Law nor the Constitution permits them.

CASE No.15

Once again, PUCL has reported as many as eleven custodial deaths from the Mangalore sub-jail alone in the last two years. On every occasion, the Police have covered up the case by producing a false medical certificate from the Government Doctors who have certified that the death was due to shock. In one of the cases where the police had virtually hanged a young man in order to frighten him but he accidentally died in the process, they produced a fabricated note stating that he had committed suicide in the Police lock up. Though, PUCL has agitated these cases, it has not been possible to get any action taken against those responsible only because the Police have covered their tracks through false Post Mortems and Medical Certificates.

The Supreme Court while dealing with custodial death cases has laid down that whenever a person dies in custody, a presumption shall arise against the State and the Police Officers concerned and that no Court should accept false and fabricated Medical Certificates. This is a very serious matter and we need to record that Karnataka State has the worst record of custodial deaths. Right through his tenure as Home Minister, Acharya covered up for his Police Department in every case of custodial death, misusing his position as a Doctor and stating that the Police had no hand in what happened. **What was even worse was when 63 inmates of the Beggars Home in Bangalore died because of infection and filthy contaminated food fed to them by the State authorities and where the post mortem reports conclusively indicated that these poor persons had died as a result of criminal negligence on the part of the State authorities, Dr. Acharya has officially gone on record to insist that the deaths were due to natural causes.** When the Police have a god father of this type, it is not surprising that Karnataka has the highest number of custodial deaths for any State in the country. Again, where the State Human Rights Commission has passed 1426 Orders containing strictures of the highest order against the State Government in Human Rights Offences, the Chief Minister, the Home Minister and the whole of the State Government have ignored those Orders. On the other hand, despite 46 Petitions having been filed before the Karnataka High Court in this class of cases, all 46 of them have been dismissed. This is a pathetic record and it is because of such Orders that the Police are encouraged to keep on torturing and killing people because they know that nothing will happen to them.

Findings:

We need to observe here that a lot of thought will have to be bestowed to this category of cases because there is no doubt whatsoever that if a healthy person dies in police custody that an adverse presumption arises against the Police. We also concede that when the torture levels consistently go beyond any capacity of endurance that the victims could be driven to suicide but the IPC itself prescribes that the abatement of suicide is punishable with a very stringent jail sentence. It must be mandated that in any such case, the Police shall not be

permitted to obtain false certificates from the Government Doctors who most of the time are their partners in crime. **An independent post mortem by a Non Government Authority such as the Head of the Department of a Medical College should be directed to do the Post Mortem examination and in order to make it fool proof, it must be prescribed that two such independent examinations must be done.** Also, the Police invariably ensure that the body is hastily disposed off. For purposes of safety, it must be mandated that the body will have to be embalmed and preserved for a prescribed period of time, so that, if the Police have been able to Doctor the independent post mortems that there will still be scope to get at the truth.

CONCLUSIONS:

The Jury was unanimous with regard to its conclusions which are summarized below:

- (a) That despite the fact that there had been a few communal eruptions in the area in the past, that the earlier State Government had taken all essential measures to control the situation. Unfortunately, after the present BJP Government came to power, there was a sudden eruption of anti-minority violence. Instead of containing, controlling and eliminating this feature, that the State Government provided official patronage to all those involved in this activity with open support from the Home Minister and the Chief Minister.
- (b) That the immediate fall out of this situation was that the Police force got completely communalized and started not only protecting the violence perpetrators but going to the extent of targeting the minorities. In the Church attacks that took place, it was the police in all the incidents who led the violent attacks. Investigations revealed that not only was every instance of lathi charge unprovoked and unjustified, but that each of these incidents had been carefully planned with the police themselves arranging with the culprits to bring tempos full of rock pebbles which are not available in the area from the river beds and these were the lethal missiles that were used to

start each incident. In all the cases where teargas was used, it was disclosed that the shells were beyond the expiry dates by 4 to 8 years, as a result of which, the gas had turned toxic and poisonous with long term damaging consequences to the victims. When questioned, the State and the Police had no answer.

- (c) Some of the newspapers and magazines have been openly exhorting anti-communal activities through their writings. Not a single instance of action against the individuals or publications under Section 153A has been taken. The heads of the Bajrang Dal and the Ram Sene have not only admitted their part in anti-minority violence of which there have been a couple of hundred cases in the Karavali area with not a single person being even arrested. Interestingly, it has come on record that it was the victims who have been arrested in the majority of these cases. **One of the prominent leaders during the Dasara of 2008, issued a Statement that “instead of doing the Ayudha Pooja for your items of trade and machinery, this year the Pooja should be to the knives, daggers and swords.”**
- (d) While the Police were quick to register false and unsustainable cases by the dozen against Editor Seetharam and members of the minority community and to obtain Non Bailable Warrants and target innocent persons on unsustainable charges, in a series of complaints lodged against the Writers of Inflammatory Communalistic Articles where conclusive evidence existed, the Police have closed the cases on the ground that no offence has been made out.
- (e) As far as the Muslim community was concerned, the Police have been brutally targeting individual muslims, entering their homes, violently assaulting them, looting property and valuables and indiscriminately arresting them on grounds of involvement in terrorist activities. Long periods of custody have followed and there has not been a single case in which

the police have substantiated the allegations.

- (f) There has been an abnormally high degree of custodial deaths, custodial violence on the part of the police and violence against members of the minority community while in custody and in not one of these, an offence has been registered. On the other hand, particularly after the Church attacks, over a thousand false and unsustainable cases have been registered against members of the minority community particularly Christians, Bail was opposed, they were retained in custody and even though, every one of these prosecutions was unsustainable, the State and the Police Department are still proceeding with those prosecutions in the course of which, thousands of lives have been ruined.
- (g) There has been a sharp rise in the police interfering in cases where cattle transport was involved with the animals being confiscated and false cases booked by the Police at the instance of communal elements. The State Human Rights Commission has passed severe strictures on at least a dozen occasions.
- (h) The levels of brutal violence demonstrated by members of the Police force has been disturbing with four specialized torture chambers having been set up in Mangalore city alone for this purpose.
- (i) It has been demonstrated that the corruption levels in the Police Department have reached an all time high with the police themselves actively being involved in the commission of offences by colluding with the Criminals refusing to render assistance to the victims, refusing to register complaints and covering up for the offences even to the extent of fabricating false evidence. Even in those of the instances where specific evidence is provided by Complainants, the Police have refused to accept it and refused to act. **The most lucrative business for the Police Department is by interfering illegally in High Stake Civil Cases.**

- (j) That in the case of serious instances like custodial deaths and injuries caused while in custody, false medical certificates have been fabricated by the Police in order to cover up for their atrocities and shield the members of the force responsible for these crimes.
- (k) That there have been an abnormal number of false cases registered against members of the Christian community after the BJP Government came to power and Home Minister Acharya issued directions to every Police Station to issue a prescribed number of such cases every month. **Whereas prior to 2008, there was not a single such complaint or conviction in the State, in the last two years, over 7500 such offences have been registered.**
- (l) In those of the false cases where leaders of the Muslim community had been beaten up and targeted not to mention illegally confined for long periods and the false prosecutions have failed no action has been taken against the errant police officers. Wherever counter prosecutions have been launched, the Police remain absent on every date of hearing and the Courts cover up for them. Also, in the prosecution launched against members of the minority community, the charge-sheets are not filed for abnormally long periods of time, the Police and the witnesses are absent on every date of hearing and the cases never end.
- (m) In sharp contrast, whereas as an eye-wash, a few arrests are made against members of the majority community, the Courts are ever willing to grant anticipatory Bail, whereas no member of the minority community even gets anticipatory Bail or gets Bail for weeks and months. This is a serious reflection on the impartiality of the subordinate judiciary. Again, in thousands of cases where the victims have complained of torture and assault and human rights violations while in custody, in not even one of those cases, have the Courts either entertained the Complaints, examined it or taken any action. This is a

very serious breach of the Law on the part of the subordinate judiciary.

- (n) Even in the instance of those of the Police Officers like Satish Kumar, Jayant Shetty and Ganpathi where the Departmental Enquiry has recorded misconduct of the highest order, the Home Minister and the Chief Minister have not only exonerated them but they have been rewarded with promotions. The same applies to the Jailor from Mangalore who involved in the horrifying incidents of violence in the Jail who was exonerated and personally rewarded with a promotion by the Home Minister.
- (o) The image of the Police Department in the Karavali area is at an all time low. The public confidence in the police is absolutely zero. The police are regarded as parasites and persons to be feared and hated and they are principally responsible for the break down of the law and order situation in the region because of the open collusion with criminals and mafia dons and total protection afforded to communal elements and those involved in anti social activity.
- (p) That the confidence in the subordinate judiciary has also gone to zero with the impression being created that there is no justice for the citizen in these institutions and that the Courts are totally on the side of the Law breakers. This is a serious reflection on the Judiciary, but unfortunately, there has been ample cause for it.
- (q) That as far as the role of the Police and the Courts in the Mangalore SEZ cases are concerned, it can best be described as horrifying. The victims in all these cases were the poorest of the poor, Christians, Adivasis and Tribals. Every conceivable form of illegality, muscle power and criminal activity not to mention violence was let loose on these poor persons and the Police headed these activities targeted this distressed state of society, refused them any protection or relief and openly covered up for the law breakers. The Bajpe Police Station

and for that matter the District Police Administration were functioning at all times as a unit of the SEZ. Undoubtedly, there was a lot of money to be made but the trail of human woe and misery is shameful and unforgettable. One of the specific roles played by the Police was to register unlimited number of false cases not only against the victims but against anybody who came to their assistance which included Swami Agnivesh and Justice M.F. Saldanha. Non Bailable Warrants were indiscriminately obtained and executed by the Police Department. We cannot condone the role of the subordinate Judiciary as unfortunately even the higher Judiciary, because 16 PILs have been summarily dismissed by the Karnataka High Court. When the Union Government examines the sad question as to how and why poor farmers, Tribals and Adivasis have been turned into Naxalites and Maoists they will find the answer in cases like the Mangalore SEZ.

The Editor – Seetharam Case figured very prominently during the Enquiry- The Editor himself gave evidence and produced all the supporting documents. merits special mention because initially the Police had tried to kill him and his wife in a fake encounter which failed, that he was arrested on a false and unsustainable charge that every cannon of Law was flouted when he was chained and produced in Court and the horrifying aspect that emerged when the Magistrate refused him Bail at night. The record also indicates that every attempt was made to eliminate him by shifting him from the Udupi Hospital to Mangalore on the Orders of the son of the Home Minister (who was then more powerful than the father) when his health condition was very low in a vehicle driven in such a manner that the ride would normally have proved fatal and then, because he survived despite his B.P. being 190 / 100, a midnight attempt to hand him over to hardened criminals in the Mangalore Sub-jail and when this was stopped by PUCL, he was again shifted at dead of night through an eight hour ride over horribly broken up roads which the State Government is famous for and then another attempt at Mysore to send him to the Jail instead of the Hospital which again failed because of PUCL are all instances that totally condemn the State Government, the

Home Minister and the Police Department. **The role of the Judiciary has been disappointing and pathetic and the question still being asked in legal circles is how the Police obtained nine Non Bailable Warrants against the Editor with the Magistrates willingly passing these Orders on virtually zero material.** The Press Council of India, the State Human Rights Commission and the Karnataka High Court have recorded concurrent findings against the Police Department and the State Government as also the Judicial misconduct involved. In the light of those findings / observations, all that can be said is that this entire chapter was an abrogation of the Law, it was malicious, vicious, criminal and something that should never have happened in a democracy.

RECOMMENDATIONS

- (a) The situation is abnormally grave and it is necessary for the Central Government and the State Government to take serious note of these findings, a copy of this Report should be officially sent to the Union Home Minister, the Governor, the Chief Minister and the Home Minister of the State as also to the D.G. Police as immediate corrective steps are required to be taken. The members of the Christian community and the Muslim community have essentially been at the receiving end and this will have to be stopped with adequate measures taken to respect their human rights and ensure that their constitutional guarantees are safeguarded.
- (b) That a copy of this Report be forwarded to the Chief Justice of India and to the Chief Justice of the Karnataka High Court because the role of the Judiciary, mainly the subordinate Judiciary but in several of the instances, the District Level Judiciary and even the High Court has come in for sharp criticism, one of the instances being that 27 PILs have been summarily dismissed by the Karnataka High Court and even in cases relating to police atrocities and wrongful detentions, no reliefs have been granted. Deep seated correctives are therefore essential at all the three levels. **THE OBNOXIOUS PRACTICE OF INDISCRIMINATELY ISSUING NON-BAILABLE WARRANTS MUST BE OFFICIALLY STOPPED.** The same applies to the illegal refusal of Bail and the totally illegal practice of deferring Bail applications indefinitely.
- (c) As an immediate measure, the State Government must set up Forums at the District level and the State level where individuals and their representatives such as the PUCL will be able to point out specific instances of police atrocities and misconduct not to mention corruption and these complaints will have to be examined and if public confidence is to be restored, stringent action against the culprits will have to follow. For this purpose, it is recommended that these Forums should have a monthly dialogue with the

People's representatives where the action taken will have to be made public.

- (d) Similarly, it is recommended that at the District and State level, the Judiciary must set up a Grievance Cell which will be presided over by a Judge who will entertain complaints of miscarriage of Justice (eg. Refusal to hear urgent applications, deferring Orders for abnormally long periods of time and exhibition of open bias and corruption) and the action taken will have to be made public within a month, so that, there is total transparency of functioning.
- (e) Specifically in the fields of Women's Rights, atrocities and violence against women and Human Rights, specific and time-bound action is required from the State Government with a Public assurance that these areas will be respected and protected by the Police.
- (f) If public confidence in the Rule of Law is to be restored, a few of the errant Police and Judicial officers will have to be Disciplined and if necessary punished in the public interest.

While this Report does to some extent read like a disaster or a horror story, it is an honest examination and a record of the situation that exists which could not have been more distressing or horrifying. It is close to malignancy and therefore, calls for immediate correctives. It was not long ago, i.e. **just 30 years back that the Karnataka Police were rated as the second best in the country and today, Transparency International has listed them as being the worst in the country.** The Judiciary is a revered institution and is the last resort of the citizen particularly as far as Justice, Human Liberty and Fundamental Rights are concerned and it is very essential that the disturbing features which have manifested themselves must be eliminated. It is to this institution alone at all levels that every citizen looks up to and if there is to be real justice emanating from the Courts, a drastic overhaul both in attitude and functioning is absolutely essential.

BANGALORE
DATE :

JUSTICE MICHAEL F. SALDANHA
FOR AND ON BEHALF OF THE JURY