

BLACK LAWS AND THE PEOPLE

An enquiry into the functioning of black laws in Punjab.

APRIL 1985

PEOPLE'S UNION FOR DEMOCRATIC RIGHTS

We thank all the people but for whose assistance this report would not have been possible. That they have to remain nameless is a telling pointer to the situation in Punjab.

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"When the army is in occupation for all practical purposes and the Central Government is hell bent on liquidation of those it considers "terrorists" it is not difficult to find a person accused of an offence, in any area where there has been extensive disturbance for over a period of more than a month, caught in the coils of the presumption. In Punjab, fire arms and explosives are frequently found in many places, especially because of our previous wars with Pakistan and the liberal licensing by the Government itself. Even otherwise, when the temptation is strong, is it not easy to plant a firearm on any person, knowing police practices in "discoveries" and in "encounters". The conclusion one reasonably reaches is that a dreadful combination of procedures, personnel and prosecution praxis may well spell guilt and punishment on any one who may then be marched blindfold into a secret is rendered impotent." Justice V.R. Krishna Iyer (Popular Jurist, Sept-Oct 1984).

In October 1983, Punjab was put under President's rule. This was followed by a spate of laws: Punjab Disturbed Areas Act, 1983, the Chandigarh Disturbed Areas Act, 1983, the National Security (Amendment) Acts, 1984, the Armed Forces (Punjab and Chandigarh) Special Powers Act, 1983, the Code of Criminal Procedure (Punjab Amendment) Act, 1983, and finally the Terrorist Affected Areas (Special Courts) Act, 1984.

These laws give extraordinary powers to the army, police and the judiciary and have the effect of bypassing all safeguards incorporated in the ordinary criminal law to ensure a fair trial and legal justice. This question has been pushed to the background by a succession of events: the Army action in June 1984, the assassination of the Prime Minister in October 1984 followed by widespread massacre of Sikhs. The events preceding President's rule and those following thereafter have traumatized Punjab and the entire country and left in their wake a grave communal situation. In this context, the continuance of the above laws in Punjab acquires a new and troubling significance.

The government rationale for these laws is that they are necessary to deal with extremist violence. It is not our contention that no danger exists from communally-motivated terrorist violence. But nor can it be the contention of any sane person that the entire Sikh community is guilty of "extremism". And yet by the imposition of these laws the entire people of Punjab are being deprived of the rights guaranteed in the Constitution and thousands of ordinary citizens being made to bear the brunt of their operation.

This was the finding of a fact-finding team sent by PUDD in March 1985. The task of the team was to investigate the impact of these laws on ordinary people and whether the laws were effective in terms of their stated objectives. The investigation revealed that not only were the laws ineffective with regard to stated purpose, but worse, are helping to further communal alienation and creating a favourable climate for communal terrorism. This is a consequence of the anti-democratic nature of the laws and the wide scope they provide for their arbitrary and indiscriminate application.

The evidence documented in this report relates in the main to what followed after the Army entry in the Golden Temple in June. Combined operations were undertaken in the rural areas, and those arrested from both the Golden Temple and the villages were placed in army camps. These included women and small children. At Amritsar there were four such camps. After the army was removed, the police has been continuing its search for terrorists and making indiscriminate arrests. The number of arrests remain disputed and unverifiable (at present, the government figures for those in custody are around 850). While some of those arrested were released, the rest were transferred to different jails and placed under the jurisdiction of various Special Courts, the most important being the Jodhpur Special Court.

The information collected points to widespread use of torture, fabrication of evidence, severe harassment of families of which male members are missing/absconding, mindless and arbitrary use of laws often either to settle personal scores or to teach a lesson to any one who dare to voice any protest against anti-democratic laws and procedures. Specific attention was given in our investigation to the functioning of

the Special Courts to which a substantial portion of the report is devoted. Section I will deal with the Special Courts, Section II with actions of army and police.

Section I

SPECIAL COURTS

1. The Terrorist-Affected Areas (Special Courts) Ordinance was promulgated on July 14, 1984 -- 10 days before Parliament was to sit. The Act was passed to "provide for speedy trials of certain offences of terrorist-affected areas and for matters connected therewith". The States of Punjab and Union Territory of Chandigarh were declared "terrorist-affected" in August, 1984. Three judicial zones were created each with a special court. The special court zones were created each with a special court. The special courts were established at Patiala, Jullandhar and Ferozepur. Subsequently seven additional special courts were set up : two at Amritsar, one each at Hoshiarpur, Ludhiana, Patiala, Bhatinda and Chandigarh.

We may note that in 1976 the Government passed the Disturbed Area (Special Courts) Act, 1976. The object of this Act was "An act to provide for the speedy trial of certain offences in certain areas and for matters connected therewith". Under this Act the State Government could declare an area disturbed and then set up a special court. Furthermore, the scheduled offences included the offences of conspiracy, murder, causing hurt, etc. including offences under the Arms Act and under the Indian Explosives Act.

The Present anti-terrorist act even surpasses the Rowlatt Act (1919) passed by the British government in so far as the anti-terrorist act is permanent part of the statute books unlike Rowlett Act which was for only three years.

Who can be tried in special court?

Anyone who has committed almost any crime. The definition of terrorist is itself wide enough to include just about anyone.

Section 3(b) defines terrorist:

"means a person who indulges in wanton killing of persons or in violence or in the disruption of services or means of communications

essential to the community or in damaging property with a view to:

- (i) Putting the public or any section of the public in fear; or
- (ii) affecting adversely the harmony between different religious, racial, language or regional groups or castes or communities; or
- (iii) Covering or overthrowing the government established by law; or
- (iv) endangering the sovereignty and integrity of India."

Thus any person committing any offence listed in the schedule can be tried in a special court. In fact section 7(1) (b) of the Act states that all other cases involving scheduled offences committed in such area pending before any court shall be transferred to the special court. The schedule in the Act has been expanded to include offences ranging from offences against the State to criminal intimidation. Unlike the Rowlatt Act even a person wholly unconnected with terrorist activity can be tried under the Special Court. For instance at Amritsar in the Additional Special Court of Addl. Special Courts Judge G.L. Chopra a case is pending involving a murder committed in a village. The incident occurred on the night of 7th/ 8th January 1985 at village Thada, Kathu Nangal P.S., District Amritsar. FIR No. 9/85 records that Smt Mahendra Kaur, her husband Dayal Singh and their elder son had gone to their tubewell to irrigate their fields. The elder son was away; the husband and wife were sleeping in the tubewell room (bambi) with the door open. When one Kewal Singh and another man alleged to have entered and hacked Dayal Singh with a 'datar'(sickle).

In another case FIR 97/84 also pending before the Addl. Special Court at Amritsar involves a dispute between brothers of village Jethuwal. One of them, Karnail Singh, is alleged to have given kirpan blows to his brothers, his niece and sister-in-law. This case came up at the Jalandhar special courts and later transferred to the Addl. Special Court of G.L. Chopra at Amritsar. Again case FIR No. 250/84 dt 29.8.84 there was dispute over share of land within the family at village Sidhar, P.S. Beas, Dist Amritsar, leading to murder. The son and daughter-in-law along with two grandsons of the deceased have been arrested. Their case came up before the Jullandhar Special Courts and from there it has been transferred to the Addl. Special Court at Hoshiarpur 200 km from Amritsar.

Each case first comes up before the special court at the zone level and then it is transferred to any of the seven additional special courts. Now all criminal cases involving offences in the schedule are tried by these special courts. The police can present the challan in upto one year. This means the person can be held as undertrial upto one year without possibility of bail or recording his confession. This has opened avenues for the police to make money by accepting a bribe in order to present the challan. In offences where a person if found guilty would be given a few months imprisonment finds himself in jail without conviction for a year.

The bulk of the cases in the special courts relate to offences under the Arms Act. The way out for those who are alleged to have committed an offence under this Act is to confess and be released. At Amritsar of the 27 cases disposed of in the court of Shri H S Sahni 26 were confessions and one was transferred.

Worse, the work that was being done by 18 sessions and Addl. sessions Judges plus about 25 Magistrates is now being done by 3 special courts and 7 Addl special courts. This itself defeats the the purpose of the Act.

As a result of this the dates of hearing fixed are with 6-8 months gap, sometimes longer. This is not taking into account the delay in filing charges after detaining the accused as case number 8 shows. For instance,

(1) State vs Ajit Singh: the accused was charge- sheeted on 19-10-84 and the next date of hearing is fixed for 28.8.85. This case has been transferred from Jullandhar to Amritsar. After transfer the date is likely to be extended.

(2) State vs Buta & others: a case under Sec. 302 from village Jalalpura. Accused chargesheeted on Jan 21, '85. Next date of hearing is November 1, 1985.

(3) State vs Jagtar Singh, etc. : Case under sec.f 302 from village Sudhar. Accused chargesfheeted on march 15, 1985. Next dat of hearing is December 9, 1985.

(4) State vs Vishwanath & others : a case under sec. 307 IPC. Accused chargesheeted on November 15, 1984. Next date of hearing is November 15, 1985.

(5) State vs Gurdip Ram : Case of Karunpur village at Jullandhar Dist. Under Sec. 302. Accused chargesheeted on 20.10.84. Next date of hearing fixed for 9.9.85.

(6) State vs Lal Singh, R/o Lamma Pind dist Jalandhar: a case under sec. 307. Charges framed on November 2, 1984. Next date of hearing september 27, 1985.

(7) State vs Bakhtamar Singh, R/o Jandiala, Dist Jalandhar: Charged under IPC 302. Arrested July 24, 1984. Chargesheeted on January 1, 1985. Trial to begin on October 1, 1985.

(8) State vs Daljit singh, R/o Harpura village, dist Gurdaspur under Sec. IPC 302: date of occurrence and arrest January 30, 1984. Procedure for framing charges began on June 88, 1984 and chargesheeted on November 12, 1984. Trial fixed for November 22, 1985.

Both Hindu and Sikh advocates told us that it was virtually impossible to get bail in special courts even in ordinary criminal cases, which are bailable, since the police are not obliged to produce challans for a year. Under the Act no one can get anticipatory bail and there are severe limitations on granting of bail.

In Manohar Singh vs State of Punjab (S.L.P.) (609 of 1985) the Supreme Court released the appellants (the accused) on bail after the Jullandhar Special Court had refused. This was a case in which the appellants were accused under S. 153 A, IPC of stopping a rickshaw carrying two Sikhs wearing black turbans and exhorting them to "get united and we shall drive out Hindus from the State". This was an incident which was supposed to have taken place on June 28, 1984 but no challan was presented at the Court till February 22, 1985. The first informant (on whose basis the FIR is supposed to have been filed) Shri Kapoor Chand made a statement before the Deputy Commissioner, Gurdaspur denying that he had ever made such a complaint. A copy of the affidavit of Kapoor Chand disavowing all knowledge of the incident was presented before the Judicial Magistrate, Batala. Amar Chand, the rickshaw-puller

also filed an affidavit before the special court stating that he was not a witness to any such incident. Despite this the special court at Jullandhar rejected the bail application on 11.11.84. The accused were released on bail by the Supreme Court by the order of Justices A.P. Sen and D.P. Madan.

According to Minister of State for Home Affairs (March 28) there were, as of March 22, 1985 3,264 cases pending in Special Courts. While 1,785 trials were completed out of 1,976 trials being conducted, in 744 cases there were confessions. We were told that most of these were charges under Arms Act (1983) where even a pen-knife (with 5 cm blade) is considered illegal. And the punishments usually a few days or fine while in most cases accused have spent months in police custody.

On the day we visited Amritsar, there were 724 cases pending before the two additional special courts, the majority are offences under the Arms Act. The undertrials who have been languishing in jail have moved the High Court and the Inspecting Judges of the High Court that the special courts were giving very long dates and the former has directed them to give shorter dates.

The special courts violate, nevertheless, Articles 14 (right to equality) and 21 (personal liberty)

1. Ordinary criminals in other parts are not tried by special courts.
2. By keeping accused in jail over such long periods amounts to violation of the first principle of criminal law - accused is presumed to be innocent until found guilty.
3. The special courts do not distinguish between the class of offenders i.e. between people accused of being terrorists and people accused of offences arising out of family disputes, rent, etc.
4. The ordinary class of alleged offenders are being denied:
 - a) Anticipatory bail
 - b) Bail in bailable or non-bailable cases as under ordinary criminal law.
 - c) The witnesses can remain anonymous; thus cross-examination is defeated.

- d) The trial is in camera, so protection of open trial is denied.
- e) The trial does not take place in the place where the offence is supposed to have taken place (where cause of action arose) but far away places making it difficult for lawyers, witnesses and the defence.
- f) Right to appeal is to Supreme Court and within 30 days, instead of having the opportunity of moving the High Court and the Supreme Court. Besides the appeal time is 90 days normally.

JODHPUR SPECIAL COURT

Under Sec. 4 of the Act the State Govt. can request the Central Govt. to set up a special court at any place outside the State. It is under this provision that a special court has been made in Jodhpur inside the jail with elaborate safety measures. The trial of 379 terrorists is to be held there.

The charge-sheet has been submitted. The 379 have been chargesheeted under S. 121 of the Indian Penal Code read with Sec. 25 and 27 of the Arms Act. S. 121 is the offence of waging war against the State. If a person is accused of an offence under S 121 then under the Act he or she will be presumed to be guilty unless he or she can prove their innocence. Sec.20 states that if a person "had been at a place in such area at a time when fire-arms or explosives were used at/from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence".

All the 379 have been given the same charge-sheet. All were arrested from the Golden Temple. The advocates preparing the defence of these 379 people are up against a wall. They have not been given a list of witnesses. This makes it virtually impossible to prepare a defence. If a person was at the Golden Temple but had nothing to do with the terrorists, how is he/ she going to prove his or her innocence? If the "identity and address of the witness" can be kept "secret" under sec. 13 (2) once again no defence can be conducted to question the authenticity of witness's statement.

Take the case of Inderjeet Kaur, she is a woman of about 35 years old, a housewife and mother of four children. Inderjeet Kaur and her family live at Atta Mandi, near the Golden Temple. Inderjit and her friend Parmjeet visited the Golden Temple every morning. Just before 'Operation Blue Star', the BSF had set a camp in their building. Both Inderjeet's family and Paramjeet's family gave water, sherbet and food to the BSF and as a result were threatened by 'extremists'. On June 4, 1984 the two women got up early and as usual they started off for the Golden Temple. The BSF had become friendly and allowed them to go. Paramjeet never returned. Her husband has had no official intimation. Inderjeet sustained bullet injuries and was in hospital. Then she was at a military camp. All the time her husband was assured that she would be released. But she was transferred to Nabha jail under N.S.A. The grounds for arrest are cyclostyled and is identical for each person. She said the Advisory Board has not confirmed her detention but she was transferred to Jodhpur.

Meanwhile her husband has received a letter (No.Teh/RR/1250-1400 dt. December 12, 1984) from the Deputy Commissioner asking her to put in her claim for relief. This particular aspect also highlights the contradictions of official action. In the fact that the government is providing Amarjeet Kaur compensation for injuries sustained at Golden Temple, for which a verification is supposed to be done by the CID, indicates that she had nothing to do with terrorists. Yet she is being tried at Jodhpur. There are other similar instances of persons who have received claims for compensation while simultaneously facing trial at Jodhpur special court.

What makes the official proceedings even more dubious are the "confessions" of persons like Inderjeet Kaur, barring the change in name and other particulars, all the detainees picked up from Golden Temple were detained under NSA and served with cyclostyled grounds of arrest and confessions supposedly made by them. A copy of one such cyclostyled statement is given below:

"Stated that I am a resident of Atta Mandi Amritsar and I am a member of All-India Sikh Students Federation and Dal Khalsa. Bhai Amrik Singh was President of these organisations. These

organisations were associated with Sant Bhindranwale and we all acted according to the dictates of Sant Jarnail Singh Bhindranwale. In order to maintain the independent entity of Sikhs, our aim was to establish a separate state (Khalistan) with a separate constitution. In order to fulfil this mission we gathered lots of arms, ammunitions bombs and explosives from the foreign countries. So that for the achievement of the Sikh state Khalistan we should be able to strike the government. To fulfil this object six thousand persons were collected, to whom arms training was imparted by retired Maj. Gen. Shubheg Singh. We kept our objective secret from the visitors to Darbar Sahib Amritsar and also the Government. On 5.6.84 the security forces deployed around Darbar Sahib gave us warning to come out of Darbar Sahib. About 120 persons came out of Darbar Sahib on their warning. We were in groups. Due to this firing the security forces continued upto 10.8.84. Following were the active members of our organisation.

I and these persons participated vigorously. At last the security forces arrested us after entering into Darbar Sahib. Many of our workers were killed during the encounter with the Army. The army seized lots of arms of ammunitions from the vicinity of Darbar Sahib. Apart from this many Pakistan army officers conspired with us and fought against the government. The government with the help of army has destroyed Durbar Sahib by firing on it and killing the Sikhs. We will vindicate this by killing four for each Sikh killed. Even if we are released, we will again collect arms and with our supporters fight for making Khalistan a separate State."

Section II

On October 15, 1983, the Armed Forces (Punjab and Chandigarh) Special Powers Ordinance was promulgated. Later, in December it became an Act. Like the previous laws passed by the government to curb terrorism, this too has become a permanent part of the statute book. It is under this law that the armed forces get extraordinary powers and their acts get legal sanction.

This Act is almost a replication of the Armed Forces (Assam and Manipur) Special Powers Act, 1958. It is significant that when the earlier Act was being discussed in Parliament many members, including those belonging to the ruling party, expressed their misgivings. The then Chairman of the Rajya Sabha pointed out that once an area is declared disturbed and authority is transferred to the military to deal with the situation, "the civil authority will have no control over the situation".

Under sections of the Act even junior officers have vast powers to search, seize and arrest people at any time of the day or night, without any warrant. Even a non-commissioned officer has power to shoot someone on mere suspicion that he may disturb public order. There is no check at all on the actions of the army and the ordinary citizen who becomes a victim of the army's arbitrary powers is left without any channel for the redressal of his or her grievances. A person whose relative is picked up by the army in the dead of the night has no way of knowing where to search for the missing person; a person whose property is looted by the army cannot recover it; a person tortured by the army has no way of getting relief through the law courts. For section 7 of the act lays down: "No prosecution, suit or other legal proceeding shall be instituted, except with the previous sanction of the central government, against any person in respect of anything done or purported to be done in exercise of the powers conferred by this Act."

During the army action at the Golden Temple there were many cases of indiscriminate killing of ordinary people including unarmed women and children. The post-mortem reports state that some killed had their hands tied behind their backs. These killings include 16 sewadars of

Baba Kharak Singh from gurudwara Dera Baba Sham Singh, located 50 yards from the Golden Temple. Baba Kharak Singh is an old, revered sant and a pacifist. On June 7, sixteen of his men, including 70 year old Joginder Singh and 18 year old Harde Singh were pulled out from the Dera, their hands tied behind the back, made to walk through the streets of Aita Mandi Bazar, and were shot dead opposite the DCM shop by BSF personnel. Soldiers belonging to the Bihar regiment and the BSF also looted the store of the Dera and decamped with things worth Rs. 70,000 and half a kg. of gold. This was reported to us by the granthi of the Gurudwara. The report of the looting and killing was confirmed by an eye-witness.

The sweeping powers given to the army and the scope provided therein of their misuse is indicated in the four cases given below. The first is given in some detail as it encapsulates the experience of others who have been similarly victimized.

1. RS is a respectable citizen who following a quarrel with some of his colleagues was denounced to the authorities as a supporter of Bhindranwale. One night his house was surrounded by the army, he and his family brusquely woken up, and the house searched for weapons. When none were found, a pistol was ordered by the officers in charge to be placed under some garbage and the police accompanying the army told to recover it. Then some of the male members of the family and RS were taken away by the army. While the other family members were released the next day, RS was detained, for interrogation.

RS was blindfolded and taken to some place which he could not recognize. He was pressurized to confess that he was follower of Bhindranwale which he refused to do, stating that he had publicly been opposed to him. The commanding officer hit him severe blows in the chest and abdomen. All day he had not been given any food to eat. When he wanted to go to toilet they bound his hands and took him out with a sten gun placed on his neck. He urinated and vomitted blood. Next day he was blindfolded and taken to an unknown place and from there an army camp at Amritsar. For the first few days he was kept in a cell 12'X15' with 28 others and then shifted to a cell 6'X8' in a barrack which had 6 people in each cell. He was kept here for 35 days. During the initial period of detention he was physically tortured everyday. The

normal torture entailed being hit by fists and rifle butts. Occasionally they gave his electric shocks in his soles. Every kind of humiliation was heaped on him. One day soldiers asked him to clean a room full of bidi and cigarette butts and when he refused saying as a Sikh he could not touch them he was hit in the back with a rifle butt. He fell unconscious. He also spoke about a sadistic practice at the Army Camp. Officers used to enter the camp at night, drunk, and threaten to cut the prisoners to pieces and choose one person from among the detainees for their night-time pleasure. The unlucky prisoner had his skin all raw at the end of the 'game' as he was flayed with a wet cane. "It was like being thrown in hell". The food was rotten and detainees ate it only because it was a question of survival. One havaladar was described as being like Amjad Khan in Sholay. He used to talk in that smooth threatening tone saying he would win more stars for what he was doing to them. RS said they saw the people arrested from the premises of the Golden Temple but was afraid to talk to them in case they too were branded terrorists. There was a boy of eight years arrested from the Golden Temple who used to cry and was roughly treated by army men. "I don't mind admitting that we also cried seeing him".

There was a chargesheet against R.S. which was withdrawn. Since no viable case could be made out against him they later charged him under section 107 for shouting slogans against Santa Singh. The case too was quashed and he was released. He was left at night a street in Amritsar, with broken ribs and in such a bad physical condition that he could barely stand.

Notably RS was not give any copy of FIR and his whereabouts were not known to any relative.

2. Parduman Singh a journalist from Hoshiarpur was detained by police and handed over to the Army for 8 days (FIR No. 143, P.S. Sadar, Hoshiarpur) for publishing a report about some persons in military uniform who had looted a bus during the first phase of army operations. A young woman, Kamlesh Kumari, who informed the journalist, and herself lost ear-rings etc., too was detained under the same FIR 143 and handed over to army authorities. The woman and journalist were charged with conspiring "to overthrow the central Government by force (SIC!) and

wanted to form Khalistan". All this was said to be on the basis of "reliable information". The advocate defending the journalist, Jaswinder Singh Parmar of Hoshiarpur was then detained, on July 16 and interrogated by the Army for defending that journalist. Another advocate Mr. Kehar Singh Gill too was arrested and interrogated about matters considered confidential between advocates and clients. The army authorities obviously not only did not like anybody writing what they consider as portraying the army in an unfavourable light, but also disliked any lawyer defending persons they had chargesheeted.

3. Gurbux Singh, s/o Teja Singh from village Khajala (Dist Amritsar) was picked up by Major S.K. Bali of 15 Jat Regiment from Khajala on June 6, 1984. His licensed .38 revolver along with 3 cartridges of 9 mm bore were taken away. One June 18, 1984 FIR No. 160/84 was registered against him at Chowk Mehta Police Station under the Arms Act 1983. Thereafter he was sent to Amritsar army cantonment. Having been detained for two months he was handed over to police who promptly rearrested him under NSA mentioning that Gurbux Singh was arrested by the armed forces from Golden Temple while fighting against armed forces during first week of June 1984. The NSA advisory board quashed the order and he was released.

4. In another instance, charges of sedition were filed by army for criticising army action and the accused declared absconders even when they were present in the city. In Union Territory of Chandigarh vs Maj. Gen. Narinder Singh, Brig. Joginder Singh Dhillon and Navrang Singh, were charged with sedition. In the FIR No. 460/84 dated July 15, 1984 registered at PS East Chandigarh the accused were said to have made provocative speeches. The FIR however shows that while the accused criticised the army action, complained about how army soldiers robbed some persons, there was nothing incendiary in them. Worse the Executive Magistrate, Chandigarh issued a proclamation on December 17, 1984 declaring "Joginder Singh Dhillon has absconded or is concealing himself" and demanding presence by January 30, 1985 in his court of the accused. Similar proclamations were issued against the other 2 co-accused. This, despite the fact that all the 3 were present in Chandigarh at their residences.

Torture, and Harassment by Police

The most notorious case has been the brutal torture of 92 detenues who were taken from Nabha Central Jail to Ladha Kothi between 30-8-84 and 11-1-85 and subjected to third degree methods. This sordid affair was exposed when Justice S.S. Sodhi, Vigilance Judge, Sessions Division at Patiala visited the Central Jail at Patiala and Nabha. During his visit the people picked up from the Golden Temple and detained under NSA complained of the tortures. Justice Sodhi directed an enquiry and the report was submitted to the court. According to the Enquiry Report, between August 30, 1984 to January 11, 1985, 92 detenues were taken from Nabha jail (dist. Patiala) to Ladha Kothi (dist. Sangrur) in batches of 3 - 8 persons.

The Report says: "Their statements reveal two common modes of torture - one is use of extra thick pestle, like mini-log which is placed on the thighs of the detenues with one person or two persons standing on it. The detainee is made to lie on the floor prostrate or supine. The pestle with load thereon is then rotated over the thighs. If the position is prostrate, then the lower leg is bent over the pestle and pressed against it. Surface of the pestle being smooth and wrapped in a cloth does not cause any outward injury on the thigh."

"The second mode of torture which is described to be more painful consists of stretching the legs apart to the unbearable extent. The detainee is made to sit on a plain surface with one person supporting his back with his knees and pulling his long hair backwards. The legs are held at the ankle level by different persons and pulled apart. the legs on reaching a particular angle cause actue pain which on persistance result into swooning."

"The detenues at Ladha Kothi are not accorded the treatment due to them. They are locked up in individual cells and are kept in solitary confinement all the 14 hours except for the period when they are subjected to interrogation and torture. They are served food in the very cells and are also required to make water and ease themselves within the four corners of their cells".

"After going round the premises of Ladha Kothi, I got the impression that it was just an interrogation centre and it possessed least trappings of a Central Jail. There seems no justification for shifting small batches of detainees from Nabha jail to Ladha Kothi. The detainees stated that their shiftings from Nabha jail to Ladha Kothi were only a camouflage for taking them out from Nabha jail and to bye-pass the requirement of law to produce them before a Judicial Magistrate for being remanded to Police Custody for their interrogation in some new case."

In the second phase, the army was withdrawn from the villages hence the more recent cases of victimization in rural areas are by the police. The police has been spreading a reign of terror by nightly visits, illegal detention and illegal attachment of property of families of wanted persons. Below we give four sample cases of families being terrorised because some male member is absconding/missing.

1. The police have lodged FIR no. 11J/84 at P.S. Jandiala on the basis of secret information that one Kuldip Singh is a terrorist. The man is missing but the police have arrested his father, Bachan Singh aged 70, his mother aged 60, his brother, his married sister and her two children aged 2¹/₂ and 8 years. All have been in jail since 24-2-1985. The case was to come up at Jallundhar Special court for bail on 15-4-1985.

2. HS is a resident of village close to Taran Taran in Amritsar district. He has three sons. His youngest son BS aged 23 years had been active in Akali agitation and led jathas. Early last year there was a case of explosion at a temple near his village. Significantly, the FIR did not mention his name. On June 23, 1984 army posted in this area came to interrogate him. Not being able to locate him they took into custody the father and his taxis were taken to the police thana. Then began a series of long periods of arrests. HS was released on June 30. Rearrested with two other sons on July 25. Released on August 26. Was taken into custody once again on 25 to be released on September 30. Rearrested on October 15 and once again released on November 3. Thereafter his sons and two nephews were detained to be released only in mid March, 1985. BS is still absconding. All this, even though the priest in the local temple, and other persons all deny BS involvement.

The detention of these persons and the taxis and closure of their shop has meant a severe economic loss for the family.

(3) CS is son of JS in district Amritsar. He is accused of being involved in a case of murder on June 4, the accused was earlier a member of the then banned AISSF. CS went into hiding. Then began a reign of terror for the family. His mother was kept in police custody for five months. She was released but the brother-in-law of the accused and a cousin were picked up and detained for 2¹/₂ months. Apart from detention the house was sealed, the goats, cows etc were taken away. Rice which as being harvested was taken away and auctioned ostensibly to pay for the upkeep of the animals. Yet the police demanded Rs. 5,000 from the family for fodder. The 80 year old grandmother of the boy was asked to leave the village and persons even remotely associated were threatened. The land remains uncultivated since last June and the family has left the village to escape being harrassed.

4. NS, son of BS, in village T near Amritsar. On Oct. 5, 1984, he was arrested in connection with an incident of firing nearby. Four days later, the family members who had gone to visit the accused were told that the boy was with DSP Bua Singh. However, the same night the police raided the house claiming that the accused has escaped. Thirteen members of the family were taken into custody, including the women. Next morning eight persons were released. But four young women of the family were kept for eight days and one of the brothers for 23 days. He was rearrested and kept for a month and another brother was also taken into detention. Since mid-March they have been free, but as a result of this more than five months' harrassment, they could not sow the winter crop. It is noteworthy that not once any of the persons detained were produced before any magistrate. No warrant was ever shown. And with all this, the prisoners were even made to pay for their food.

It is such daily occurrences that upset people most. The blatant injustice of persecuting family members of missing persons cannot but alienate people including as it does illegal detention, torture, humiliation of women, jailing even of minors and old people, and economic hardship. It should be noted that according to the villagers interviewed, many young men absconded because of the occurrence of

"encounter" deaths in districts of Amritsar and Gurdaspur. Rather than surrender and face certain death, they have fled. Others have fled we were told because of the terror created by the police.

Conclusion

Our enquiry points to serious and widespread violation of the fundamental rights of the people through both the use and the misuse of the black laws enacted in Punjab. The extraordinary powers bestowed on the army, the police and courts have resulted in alienating the people, breeding resentment, and creating discontent. As the principal target in the implementation of these laws are members of the Sikh community, this has very harmful implications given the communal situation.

Cases are piling up in the Special Courts, hundreds of people are under threat of conviction on the evidence of anonymous witnesses and corroborative evidence, and memories of humiliation and torture being kept alive by fresh incidents.

Both urban and rural areas have felt the harsh impact of these laws. There is no justification for laws that deprive any citizen whether accused of terrorism or not which deprive him/her of his/her rights under the Constitution. The government has in the name of stamping out terrorism passed laws which have become a permanent part of the law of the land and are applicable all over the country.

The laws have not only failed in their stated objective, but have created an atmosphere of terror among ordinary citizens. What is more, by blocking all channels of legitimate protest and dissent, they are throttling those very forces of democratic and secular opinion which can best combat communalism and help restore normalcy.

PUDR therefore urges the immediate revocation of all the black laws.