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Annual Subscription : PUCCL BULLETIN
w.e.f. March 1, 2010

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Repeal Sedition Law Rajindar Sachar

Recent developments in Jawaharlal Nehru University have vitiated the political atmosphere, most particularly the alleged conspiracy of a section of the ABVP at the behest of a local BJP legislator. The sinister twists and turns of politics is now a matter of concern.

Public opinion is generally against the retention of the "sedition law". It has even been described as an anachronism. In the original draft of the Constitution, the law on sedition was incorporated to curb the fundamental freedom of speech and expression in exceptional circumstances. The provision was, however, dropped after a prolonged debate. K M Munshi had advocated its deletion from Article 19 because "the party system which necessarily involves an advocacy of the replacement of one government by another is its only bulwark; the advocacy of a different system of government should be welcome because that gives vitality to a democracy." TT Krishnamachari supported Munshi, saying that in the USA a similar piece of legislation became "non-functional" in 1802.

Nehru said: "Take again Section 124A of the Indian Penal Code. Now so far as I am concerned, that particular Section is highly objectionable and obnoxious and it should have no place both for practical and historical reasons. The sooner we get rid of it, the better."

Alas, such words were never translated to action; they remained merely on paper. Section 124A continues to be used as a weapon of oppression by all governments. It is also surprising that the sedition law, which was formulated by the British, is still mentioned in the Indian Constitution. In Britain, the law on sedition has been abolished primarily because the offence is defined in vague and uncertain terms. This offends the fundamental principles of criminal law. It refers to a particular historical context -- sovereignty in the person of the King -- which no longer holds. The law is archaic and must be done away with. Another reason that has been cited in Britain is that while certain political views may be unreasonable or unpopular, they cannot be "criminalised". This offends democratic values. Furthermore, the definition of sedition offends fundamental freedoms of speech and expression which are universally recognised. In practice, the law is used to silence political opposition or criticism of the government. This has a "chilling effect" on free speech, it was observed by the government while abrogating the law. In the context of the turmoil in JNU, now is the right time for all parties to demand the repeal of the sedition law. Indeed, to reaffirm their bonafides, all parties should acknowledge the importance of public morality in politics, as emphasized by. Ram Manohar Lohia, the socialist leader. He had said: "Political morality requires that there should be conformity between word and deed". And this can only be ensured if the other parties match their

speeches against sedition by formally passing a resolution in the Rajya Sabha (where they have a majority) to repeal the law. The BJP, which is in the opposition in the House of Elders, might well criticise the move as undemocratic and anti-people.

A recent resolution adopted by various unions, representing human rights and civil liberties, has demanded that the Opposition parties must take the initiative. Can we expect them to match their words with deeds? If they do so, the BJP will stand exposed in the matter of civil liberties.

In fact, a similar petition, demanding repeal of the sedition law, had been sent to the Congress-led UPA Government in 2012. Unfortunately, it was not even been acknowledged. This begs the question -- Can the Opposition now redeem its lapse and at the same time score a political point against the Modi government?

Such a declaration by the Opposition parties has become direly imperative. It is intriguing that these parties have been silent even in the aftermath of the attack on the human rights activist, Soni Suri, as well as lawyers of the Legal Aid Group in Chhattisgarh's Bastar

region. Matters were made worse by the area's IGP, SRP Kaluri, who had the temerity to remark that the attack on "Soni was a part of a conspiracy hatched by the JNU student, Umar Khalid". Were the goons who attacked Soni hand-in-glove with the police? Earlier too, Soni had been tortured by the police in Bastar. It was only after PUCL moved the Supreme Court that she was given some relief and was allowed to get medical aid at AIIMS, Delhi.

The fact of the matter is that rabid elements of the RSS have now become active. And they are certain that the Modi government will not take action. Otherwise, how is it that such provocative instigation to criminal conduct is being overlooked by the police? A few examples will suffice:

The Akhil Bharatiya Hindu Mahasabha observes Republic Day as "black day" and November 15, the day Nathuram Godse was hanged, as Balidaan Diwas. On that day, this RSS outfit took the oath, swearing to make India a "Hindu Rashtra".

The malaise has afflicted the government as well. A certain minister in the Modi government attended a condolence meeting that was convened after a VHP

worker was killed allegedly by a Muslim in Agra. He is said to have encouraged VHP activists to raise explosive communal slogans. Mr Katheria claims that his hands are not tied simply because he is a minister. He asserted that such meetings would continue. One had expected that Narendra Modi, who keeps himself in silent mode, would at least act quietly and dismiss the minister from his cabinet. Nothing has happened. The Prime Minister has not even spoken on the matter, far less condemn Katheria. Such silence on the part of the Prime Minister can only divide the nation. I feel Katheria's case is provocative enough for the President to ask the PM to remove him from his ministry. If Modi fails to do so, the President should himself dismiss the minister. He is oath-bound to do so. I am also surprised why the UP Government is quiet and has not registered a criminal case against Katheria. This ought to have been done in the interest of secularism, as enshrined in our Constitution. Not to act suitably can incur the dismissal of the government, as pointed out by the Supreme Court in the Keshavanand case in 1969.

Courtesy: The Statesman:

Link: <http://www.thestatesman.com/news/opinion/repeal-seditionlaw/128201.html#sb3g69oY2roAYA6K.9> □

Denial of Justice to Minorities in Pakistan and India

Pushkar Raj*

Two recent legal developments underscore the dismal state of Hindu minority in Pakistan and Muslims in India. While Pakistan's parliamentary legal select committee approved the Hindu marriage bill for its about four million Hindu population, two district courts in India began acquitting accused of the Muzaffarnagar Hindu-Muslim riots of 2013 in which 60 people were killed and thousands were displaced.

The proposed Hindu marriage bill that has come after 69 years however, is only significant in a

sense that now Hindus in Pakistan will be allowed to govern their civil affairs according to their own customary traditions and they will be able to get their marriages registered and properties transferred. The bill will not address the abduction, forcible conversion and marriages of the girls of Hindu community as it has a contentious provision that lays down that if any one of the Hindu couple decides to convert to another religion, the marriage will be illegal.

While the proposed law, in a way, legalizes post marriage conversion, it does not put any

deterrent on the pre-marriage abductions and conversions of Hindu girls. The majority of Hindu girls abducted, converted and married are below 13 years of age as post-puberty marriage of girls is allowed in Pakistan.

Pakistan Human Rights Commission has noted that Pakistan state has failed to save Hindus from 'disgusting excesses such as forced conversion of young women.' (10 August 2012).

A report of Movement for Solidarity and Peace, a human rights organization based in Pakistan, estimates that nearly 1,000 non-

Muslim girls are forcibly converted to Islam every year.

According to Pakistan Hindu Panchayat about 1000 girls are forced to convert only in Sindh province of Pakistan each year. The courts rarely dispense justice to Hindus in Pakistan in the cases of forced marriages. So much so that a noted human rights advocate Amarnath Motumal, advises his community members not to go to courts with cases of forced marriages saying, "We close the doors when we go to courts for justice." (The Express Tribune, 31 August 2014).

The conditions of Muslim community in India are no better as they have also been denied justice in a systematic way over and again. The acquittal of the riots accused in the Muzaffarnagar riots cases (2013) recently is condemnable but not a new event as the instigators and executors of riots have gone unpunished in India for so long now. Muzaffarnagar riots accused have been acquitted in six different cases including dacoity, gang rape and murder. (PUDR, Press Release, 21 February 2016)

In a similar way, a Delhi court in March 2015 acquitted all 16 accused in the 28-year-old Hashimpura massacre (Meerut riots, Uttar Pradesh 1989) citing

insufficient evidence. 19 police force personnel's were accused of picking up 42 men of the Muslim community from Hashimpura area of Merrut town and shooting them down at the nearby canal. A counsel for the victims and survivors, Rebecca John summed it, "If today is not the day we hang our heads in shame, there can be no other day", she said after the verdict. (Times of India, 22 March 15)

900 people died in Bombay riots (1993). Only three convictions have taken place in those riot cases. (The Telegraph, 30 July 2015) The Sri Krishna Commission, set up to inquire into the Bombay riots r e c o m m e n d e d d e - communalization of police force as it had found bias against the Muslims in the police firing incidents. The recommendations were never implemented.

The conviction rate in the Gujarat riots (2002) has been the worst so far, a negligible between 0.21 and 1.18 %. (Stanford Law School Gujarat Riots Report, May 2014) Certainly, despite the mammoth efforts of the civil society organizations and judicial intervention from the highest level- the Supreme Court of India-, it is a pathetic outcome that speaks for itself.

The Prevention of the Communal Violence bill remained unlegislated in the parliament for nine years from 2005 to 2014. It was withdrawn just before the 16th general elections by the Congress party that ruled the nation for ten years giving way to BJP in power in New Delhi. The present Prime Minister, Narendra Modi, called the bill a 'recipe for disaster', signalling that the BJP has little interest in preventing communal violence legally. (The Hindu, 5 December 2013)

As the debate surrounding beef eating, sedition, anti-national, *Bhartmata* etc gets shriller at the behest of Hindutava forces, the Muslim minority in India is likely to come under more intense pressure. Thankfully, given the democracy in country, Muslims in India enjoy some political clout. Much of their state of survival will depend on how effectively the Muslims use this democratic power to counter the onslaught of political forces of the Hindu right which are the direct beneficiary of their continuous flogging.

Pushkar Raj is an independent writer based in Melbourne. Formerly, he taught political science in Delhi University and was the National General Secretary of the People's Union for Civil Liberties (PUCL), India. □

Note: Vishwa Deepak, a young journalist of Zee News has written an open letter to Zee News exposing the diabolical and unethical way by which the video of JNU student leader, Kanhaiya Kumar, was doctored by the channel to create an impression on viewers as though Kanhaiya Kumar had raised anti-national slogans on 9th February, 2016 when the JNU controversy broke out. We are carrying the letter in full as it exposes the manner in which news can be distorted for political ends and raises the larger issue of accountability of the media organisations and rights of citizens for full, free, objective and unbiased reporting of events.

Zee News Journalist Quits in Disgust over JNU Coverage, Tells All in Letter

Vishwa Deepak on 22/02/2016

We journalists often point an accusing finger at others but never at ourselves. We decide others' limits of accountability but never ours. We are called the fourth estate of Indian democracy, but are we, our organisations, our thinking and our work process democratic? These are questions not for me

alone but for everybody.

The manner in which JNUSU president Kanhaiya Kumar was framed in the name of 'nationalism' and charged as 'anti-national' by means of media trial, points to a very dangerous tendency. We journalists have a responsibility to ask questions of those in authority,

not to work in equilibrium with them. Whatever excellence has been achieved in the history of journalism has been the result of asking questions of authority.

To question or not to question is a personal matter. However I believe the personal is also political. A time has come upon us when one has to

choose between one's professional responsibilities and politico-social convictions, take sides. I have chosen to go with the latter and due to differences on these grounds

Dear Zee News,

After a year and four months the time has come for me to separate myself from the organisation. I know I should have taken this step earlier; however if I don't do so even now, I will never be able to forgive myself.

What I am about to say now is not being said in the heat of the moment, or in anger and irritation; it is a well-thought out statement. I am a journalist but I am also the citizen of a country in whose name the poison of blind 'nationalism' is being spread. My duty as a citizen as well as my professional obligation both tell me that I must try my best to stop this poison from spreading. I know this is akin to crossing the high seas on a small boat but even then I want to make a beginning. Based on this conviction, I am resigning to register my protest at the role played by Zee News in instigating and spreading the campaign of blind nationalism under the pretext of publicising Kanhaiya's excess.

Then again, this is not a personal matter – it is equally to do with professional accountability, social responsibility and also love for the country. I have to say with regret that on all three yardsticks, by virtue of being connected to the organisation as a journalist I have failed on several occasions.

Ever since Mr Modi became the prime minister of India, every newsroom in the country more or less has witnessed a communalisation but the conditions in this organisation are far more grim. I am sorry to use such a big sounding word but there is no other word for it. Why is it that every news has to be embellished with a Modi angle with the aim of furthering the pace of the Modi government's agenda?

So much so that I am assailed by a

with my organisation Zee News I have resigned with effect from February 19.

I dedicate my resignation to the

deep doubt whether we are journalists any more. It seems as though we are the mouthpiece of the government or its hatchet men. Modi is the prime minister of the country, he is my prime minister too; but as a journalist I can only digest so much of Modi worship. My conscience has started rebelling against me. I feel ill.

An agenda behind every news, an attempt to deify the Modi government as great in every news show, an attempt in every debate to 'shoot' down all of Modi's opponents – no lesser word than attack is acceptable to us. What is all this? Sometimes when I pause and think about it I feel as if I have gone mad.

Why have we been forced to become so pathetic, unprincipled and the scum of the earth? After having studied in India's foremost media institutions, worked in reputed organisations ranging from Aaj Tak, BBC and Deutsche Welle, all I have earned by way of professional recognition is the appellation of 'Chhee' (dirty) journalist. Our integrity lies in tatters. Who will take responsibility for that?

Bias in the newsroom

There is so much to tell. There has been a continuous campaign against Delhi's chief minister Arvind Kejriwal and it is still going on. Why? Questions have also been raised against his policies on power and water, education and the odd-even scheme. One has every right as a journalist to differ with Kejriwal and criticise him but not to do a hatchet job. If I were to make a list of all the negative stories done against Kejriwal it would fill up many many pages. I want to know if the fundamental principles of journalism such as impartiality or objectivity and integrity with respect to the viewer have any value left or

hundreds of thousands of Kanhaiyas in India and to those friends in JNU who are inspired to struggle and make sacrifices by the beautiful dreams they dream.

not.

There was a similar attitude towards dealing with the suicide of Dalit scholar Rohith Vemula. First we described him as a Dalit scholar, then as a Dalit student. Still that would have been alright if the news had been approached properly. The role of ABVP leaders and BJP's Bandaru Dattatreya in inexorably pushing Rohith towards suicide is under scrutiny (everything is crystal clear) but as a media house our role was to dilute the issue and provide a defence for the individuals in question.

The video that never had a slogan of 'Pakistan Zindabad' we ran again and again to stoke passions. How could we convince ourselves so easily that the voices in the darkness belonged to Kanhaiya or his friends? Blinded by prejudice we heard 'Bharatiya court zindabad' as 'Pakistan zindabad'

I am reminded of the occasion when on the issue of tolerance, reputed writers like Uday Prakash and others from every Indian language started returning their Akademi awards. Predictably we started raising questions about them. Take Uday Prakash, whose readers are legion. He is the pride of the language that we speak and in which we write. In his writings we can see glimpses of our lives, our dreams and our struggles, but what we are engaged in is trying to create the impression that this award return was 'sponsored'. It was a painful episode; still one bore it.

But for how long and why?

My sleep patterns are disturbed, I am restless. Perhaps it is the consequence of an awareness of my guilt. What can be worse for an individual than the ignominy of being branded anti-national? The question, however, is that as journalists what right do we have to

hand down sentences thus to people? Isn't that the function of the courts?

Wilful distortion of JNU story

We succeeded in tarring Kanhaiya and many other JNU students as anti-national in the eyes of the people. If one of them is lynched tomorrow, who will be accountable for it? We have not just prepared the ground for somebody's killing and the destruction of the lives of a few families; we have created conditions fertile for the spread of riots – even civil war. What kind of love for the country is this? What kind of journalism is this?

Are we a BJP or RSS mouthpiece to say what they direct us to say? The video that never had a slogan of 'Pakistan Zindabad' we ran again and again to stoke passions. How could we convince ourselves so easily that the voices in the darkness belonged to Kanhaiya or his friends? Blinded by prejudice we heard 'Bharatiya court zindabad' as 'Pakistan zindabad' and toeing the government's line managed to push towards ruin the careers, dreams and families of several individuals. It would have been appropriate if we had let the agencies investigate the matter and awaited their conclusions.

Umar Khalid's sister is being threatened with rape and acid attacks. She is being called a traitor's sister. In any eventuality, would we not be responsible for this? Not once but hundreds of times Kanhaiya insisted that he did not support slogans that went against the interests of the country but no one listened to him for the simple reason that the frenzy we instigated was on the lines of what the NDA government wanted. Have we seen Kanhaiya's house carefully? His house is not a house but a painful symbol of the helplessness of the farmers and ordinary people of this country. It is the graveyard of hopes that are buried every moment in this country. But we are blind to all this! It is painful for me to say this but I do want to say that there are many

such houses in my area too. Rural life in India is truly ugly. We have injected teetering walls and fragile lives with jingosistic poison without sparing a thought for the consequences. If something untoward happens to Kanhaiya's father who is paralysed, won't we be responsible for it? If the the *Indian Express* had not done a story, this country would never have known from where Kanhaiya got his inspiration to speak for the deprived.

Unleashing the mob

Rama Naga and others too have a similar background. Battling poverty, it is with the help of a subsidy provided by JNU that they are able to study there and have the confidence to go far in life. But our vulgar longing for TRPs and our corrupted minds have virtually destroyed their lives.

We may not be in full agreement with their politics, or maybe we find their views too extreme but how does that make them anti-national? How can we essay the role of the court? Is it mere coincidence that Delhi Police has referred to Zee News? It is being said that we are in cahoots with Delhi Police. What are we expected to tell the people?

In any case, what enmity do we have vis-à-vis JNU or its students. I believe that if there is any institution that presents a beautiful combination of modern values of life, democracy, diversity and dissenting views, it is JNU. But it is being branded as a criminal base for anti-nationals.

Is JNU a criminal base or is the real criminal that BJP legislator who barged into the court premises and assaulted Left activists? The legislator and his companions were kicking CPI activist Ameek Jamei prone on the ground and the police were standing there watching the scene unfold. Our screens were showing the images of this beating and we were writing that O.P Sharma was being accused of assault. I asked, why use the word accused. I was told, orders from the 'top'. How can our top sink so low?

Defending Modi in our writings is still understandable, but now we are reduced to write in defence of BJP leaders like O.P. Sharma and ABVP workers in our stories.

I loathe myself, my journalism and my helplessness. Was it for this that I left everything else to pursue journalism. Probably not.

Now there are two options before me – either I leave journalism or remove myself from this situation. I am choosing the second option. I have not pronounced a sentence, just raised some questions that are linked to my vocation and my identity. Maybe in a minor way but I too am accountable for my actions. I know for a fact that I will not get a job anywhere else. I also know that if I keep at it here I will reach the one lakh bracket. I earn a good salary here but these creature comforts are extracting a huge price from me which I no longer want to give. Coming from an ordinary middle class family, I know that without a salary I will face many difficulties but even then I no longer want to suppress my conscience.

I would like to reiterate that I have no personal grievance against anyone. My questions are linked to organizational and editorial policies. I hope these questions will be taken in the right spirit.

It is also important to point out that if a media house has the right to express its rightward leanings and inclinations, on an individual level we too have every right to talk about our political leanings. As a journalist being objective is a professional obligation, but at a personal level and as an aware citizen my path is of the Left – the Left which more than in party offices is to be found in our lives. It is my identity.

Finally, a word of thanks for dragging on a year-long tug-of-war. It gave me an opportunity to make some good friends in Zee News.

With respect and love

Vishwa Deepak. (Translated by Chitra Padmanabhan)

Courtesy: The Wire;

<http://thewire.in/2016/02/22/zee-news-reporter-quits-in-disgust-over-jnu-coverage-tells-all-in-letter-22290/> @ 23.2.2016 □

Press Statement on JNU and Related Incidents, February, 2016

Issued by People's Union for Civil Liberties (PUCL), National Alliance of People's Movements (NAPM) and progressive organisations and individuals in Pune¹

'Stop attacks on autonomy of educational institutions for political interests !'

'We condemn the assaults on journalists, teachers and students in Delhi !'

The events in Delhi from the 9th and 16th of February, specifically those in the campus of Jawaharlal Nehru University and Patiala House Court are extremely disturbing and dangerous.

The ruling party and its patronised student wing ABVP actively establishing their hegemony in educational institutions and universities; the viciously well planned strategy of only highlighting the irresponsible slogans given by a fringe group at a programme organised around the death anniversary of Afzal Guru; the arrest of Kanhaiya Kumar, the President of the JNUSU who had nothing to do with these slogans and who condemned these slogans immediately; the extremely serious charge of 'sedition' placed upon Kanhaiya Kumar; the attack upon journalists, JNU professors and students within the court premises by some BJP lawyers and goons in the name of 'patriotism', on 15th and 17th February; the blatant disregard of the Supreme Court's direction and the shameful physical assault on Kanhaiya Kumar: all these are reprehensible and condemnable. The inaction and callousness of the police by remaining bystanders even as antisocial elements took the law into their hands is angering and an onslaught on democracy, and therefore particularly worrying and worthy of contempt.

The People's Union for Civil Liberties (PUCL) and National Alliance of People's Movements

(NAPM) along with like-minded organisations and individuals gathered in Pune city on the 17th of February to analyse these disturbing events and to organise peaceful resistance to the same. This is their appeal to all responsible and peace-loving citizens of our country.

Our Appeal

An act that was brought into force by the British to crush the independence struggle is being used by the Indian government to unleash terror inside the JNU campus. It is illegal to arrest student leader Kanhaiya Kumar and charge him with sedition and inciting violence. Prima facie none of these offences have been committed by Kanhaiya Kumar.

According to numerous witnesses and media reporters who portrayed the situation accurately, Kanhaiya Kumar criticised the policies of the BJP government. On the earlier day, anti India slogans had been made in another event, but no evidence has been gathered by the police about whether they were made by JNU students or not. Neither have the police submitted any evidence to the court implicating Kanhaiya Kumar's association with those slogans. In fact the police have now reported to the court that they will not oppose Kanhaiya Kumar's bail application. The sudden turnabout of the police related to someone charged with a serious offence such as sedition in itself casts suspicion on their intervention. Simultaneously, it is noteworthy that three office bearers of the JNU branch of the ABVP have submitted their resignations, condemning the action of the central government.

We condemn the fact that the Vice Chancellor of JNU did not take a firm stand against the totalitarian action of the central government. However, the unstinted and proactive support by the professors

of JNU to their students is praiseworthy, also because they have set a model example not only for their own university but for society in general. Even the JNU students have set a sterling record of responsible citizenship by maintaining exemplary solidarity and restraint in spite of the adverse situation they have been forced into. We welcome the constructive resistance that the faculty and students are offering to the administrative and police repression by holding open air classrooms on the topic of 'nationalism'.

Our demands

1. We condemn the arrest of the President of the JNUSU Kanhaiya Kumar on baseless charges, and demand that he and other students similarly arrested be released forthwith.
2. The university should take immediate steps to stop the arrests of students; no one should be arrested without firm proof and merely on suspicion. We demand the instant and unconditional withdrawal of the police force from the JNU campus.
3. We condemn the irrational and war-mongering statements made by the Home Minister Rajnath Singh and the Minister of Human Resources Smriti Irani against the democratic space provided by the JNU teachers, professors and students for debate and dissent. We demand that strict action be taken against BJP MLA O.P Sharma, his supporters, Vikram Chauhan and other lawyers who participated in the assault and violent activities in the court premises of Patiala House.
4. We demand strict action against the police and Delhi Police Chief Bhim Sain Bassi

who allowed Kanhiya Kumar to be assaulted by lawyers in the court while he was in police custody.

5. We stand unitedly and firmly in solidarity with the students and professors of JNU as well as with students all over India, who have bravely resisted the attack of the BJP government on educational institutions. Similar incidents have occurred in the Film and Television Institute of India (FTII Pune) and the Central University in Hyderabad. This has precipitated an adverse and highly volatile situation. We demand that all terrorising and arm-twisting tactics used for political gain be stopped immediately so that students can concentrate on their education.

We believe that the only way to resolve such conflicts is by meaningful and heartfelt dialogue. Extreme, arbitrary police action and substitution of a fair and just legal trial with public threats of shooting people to create terror cannot result in any positive alternatives.

Students are enduring the adverse impact of divisiveness existing in our society today.

We condemn all political and fundamentalist groups who are intent on destroying democracy in India and who use violence and terror instead of democratic methods in order to increase their political base. Citizens may wonder whether it was appropriate to observe the death anniversary of Afzal Guru who was given the death penalty by the Supreme Court, but this topic needs open discussion and debate. It would be pertinent to read the judgement carefully and observe how the impact of popular expectation from the courts overshadowed the actual evidence found against him. We need to become aware of how the politicisation of the Kashmir issue by vested interests has distorted an already complex problem. We need to encourage and welcome public dialogue and open discussion on such sensitive issues.

We All – For Democracy !

Dr. Ramesh Awasthi, Anvar Rajan, Milind Chavan, Dr. Manisha Gupte

(People's Union for Civil Liberties – PUCL), Maharashtra; Suniti S.R., Milind Champanerkar, Dr. Suhas Kolhekar, Dr. Vishwambhar Chowdhary, Prasad Bagwe (National Alliance of People's Movements – NAPM); Mukta Manohar (Pune Municipal Workers' Union); Bhalchandra Kerkar (Shramik); Prof Subhash Ware (Aam Aadmi Party); Nirmala Sathe (Alochana); Dr. Sanjeevani Kulkarni (Prayas, Palakniti); Nilima Sahasrabudhe (Palakniti); Hrishikesh, Mangal (Lokayat); Dr. Hemlata Pisal (MASUM); Prathamesh Patil (Sumbaran); Dr. Sunita (FMES, IJME); Jayshree Awade (PIPFDP); Sandesh Kulkarni (Samarpan Sewa Sanstha, Raigad); Sunil Tambe, Ganesh Vispute, Dr. Parimal Maya Sudhakar, Dr. Shivani Parimal, Shriranjan Awate, Bharat Kamble, Sanjay Mense, Jaydeep Karnik, Dhanashree, Dr. Dhananjay Pathak, Kalyani Jha, Ankita A.A, Raahi S.G.; Dr. Anant Phadke (Shramik Mukti Dal – Lokshahiwadi)

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¹<http://www.indiaresists.com/dileep-padgaonkar-jnu-sedition-media-modi/> @ 02.03.2016 □

Proceedings of PUCL-NAPM meeting on 'Repression in Educational Institutions and Misuse of Sedition Law', 23rd February, 2016 in Pune

Manmohan's Govt Seldom Spoke, this Govt Seldom Listens: Dileep Padgaonkar

February 29, 2016

Anandita Ghosh and Saranga Ugalmugle

People's Union for Civil Liberties (PUCL), National Alliance of People's Movements (NAPM) and other progressive organizations held an open meeting on the repression of educational institutions and journalists and the misuse of sedition law, on the 23rd of February in Pune. To register their protest against the events in JNU and Patiala court house recently, they issued a public statement and appeal. [The entire statement is at the end of this article.] The open meeting included speeches by Dr. Nitish Navsagaray (law professor), Mr. Dileep Padgaonkar (senior journalist), Mr. Suhas Palshikar (Political

theoretician), Dr. Manisha Gupte (Feminist Activist) and Dr. Ramesh Awasthi (President, PUCL Maharashtra). Each speaker explored different aspects of nationalism and the need of the hour.

Dileep Padgaonkar, distinguished journalist, brought out the realities of the media. He said that one has to realise and understand that there is pressure on the media- political, ideological as well as commercial. Given the background and especially the way things are today, objective reporting is difficult to come by, but even more difficult to find is fair comment. In a scenario where TV anchors 'bash' guests and there are shows called 'The Big Fight', there is little room for

nuanced analysis or discussion. There has been a polarization of opinions and ideologies; people don't like going into nuances.

Padgaonkar observed that during the elections of 2014, the condition of the media changed- there was ideological polarisation, commercial pressures increased, and this government and prime minister have a unique communication strategy. Their communication strategy is one way, in one direction. He said, "Manmohan Singh's government seldom spoke, this government seldom listens".

The PM tweets to wish people on birthdays, but there is silence when a man gets lynched on suspicion of

consuming beef; that is a communication strategy. So at an official level there is no communication, and on social media, there are reactions.

Referring to the manner in which JNU videos were doctored and publicised, Padgaokar said that the Indian media is a planter's paradise- investigative journalism is not up to the mark, and therefore, it is extremely easy to plant material. The media no longer reflects reality but also guides and shapes reality. When twitter has a comment linking JNU to LeT, despite coming from a fake account, the damage is already done. "That night the nation wanted to know and the nation decided that the tweet was right!" said Padgaonkar.

Commenting on the present government, Padgaonkar said, "It was obvious to me right from May 2014, the current government will be double faced. One face will speak about the modernization of the economy and the modernisation of the armed forces. And whatever, needs to be done to modernise the economy and modernise the armed forces will be done and will be done by and large correctly." He went on to add, "The second face is ensure that in education and culture there is no progression but regression, and the agenda for education, the agenda for culture was straightforward, no ambiguity. We have a certain line that must be imposed. That line is- I define what culture it; I define what Indian culture is; I define what nationalism is; but most of all, I define what anti-nationalism is." The right wing in India feels threatened by pluralism. Any criticism is attributed to a big conspiracy.

However, he says there is hope- the staggering incompetence of the right, the lack of strong intellectuals and creative minds. He ended by saying that the only way to rise to the vicious challenge of the present was to become 'Constitutionalist Patriots'- where patriotism stems from the constitution, where patriotism means to believe in pluralism, diversity, and non-violent means to achieve ends. He said he loves his nation but when cornered

and forced to choose, he would stand by the people of the nation rather than the state; he would be with the citizens of the country rather than the institutions of the country.

Dr. Nitish Navsagaray, a Dalit rights activist and a lecturer at a Law College, presented a strong case for the need of repealing the law on sedition from the Indian Penal Code. Sec 124 A of the IPC defines law of sedition which states that anyone who brings or attempts to bring into hatred or contempt or excites or attempts to excite disaffection towards the Government by words spoken or written or by signs or by visible representation or otherwise, is guilty of the offence of sedition. The definition does not leave out of its purview any possible mode of self expression, simply by using the words "or otherwise". The punishment for the offence of sedition is life imprisonment but lesser punishment can also be awarded. Sedition was not a part of the original Indian Penal Code (IPC) enacted in 1860 and was introduced in 1870.

Navsagaray referred to the two cases of sedition filed by the British government, one against Bal Gangadhar Tilak and one against Mahatma Gandhi. Taking some historical cases into account to show how this law of sedition has been used as a political tool by the Governments in power to curb voices of dissent, he mentioned another landmark case, in which the scope and nature of sedition as defined in the IPC was explained – Sadashiv Narain Bhalerao's case (King Emperor v. Sadashiv Narain Bhalerao in 1947). The Privy Council held, "but even if he (accused) neither excited nor intended to excite any rebellion or outbreak or forcible resistance to the authority of the Government still if he tried to excite feelings of enmity to the Government that is sufficient to make him guilty under the section".

Before 1962, as per the law in the Penal Code no incitement to violence or insurrection was necessary in the speech to be termed as sedition as long as it excited "dissatisfaction" towards

the government. In 1962, in the case of *Kedarnath v. State of Bihar*, the court, however, adopted the view of the Federal Court of India that the gist of the offence of sedition is "incitement to violence" or the "tendency or the intention to create public disorder". So, as per the Constitution Bench of the Supreme Court, a person can be charged with sedition only if there is incitement to violence in his speech or writing or an intention to create disorder.

This being the historical stand on sedition by the judiciary, one must not forget that Tilak, a freedom fighter, and Gandhi, one of the founding fathers of our nation, had long back taken a stand against the law of sedition. Pandit Nehru himself called sedition an obnoxious piece of legislation and mentioned the need of removing it from our statute books. In spite of the same, we continue to have the archaic law of sedition, a relic of the colonial rulers. This law has been used to gain political points and to subdue any sort of dissent against the government. Being a modern democracy, India cannot continue to criminalize dissent, and thus Navsagaray stated the urgent need to repeal the law on sedition from the statute books!

Suhas Palshikar, another eminent journalist and professor of political science, spoke about interference of the state in educational institutions. The JNU incident, he said, highlights the issue of autonomy of educational institutions and state interference in the same. "We have stopped looking at universities as a space which fosters intellectual growth and curiosity but have instead made them into governmental departments." said Palshikar. He raised concern over how educational institutions have been reduced to industries which manufacture graduates and technicians to meet some statistical demands!

Palshikar, while speaking of nationalism, questioned what amounts to nationalism. Is nationalism love for the state imposed on the people at gunpoint or under pressure of arbitrary state law? Should it be out of love for the

people, society and their concerns? Is nationalism ownership over a piece of land or the quest to work for the voiceless people of the society? JNU, HCU, etc. are not isolated events; they raise pertinent questions about where this nation is headed? What is our idea of India?

It is time to contemplate over the relationship between democracy, which asks questions, and nationalism, which insists on love for the nation.

Manisha Gupte, a feminist activist and member of PUCL, spoke of the alarming similarities between Germany during the rise and reign of Hitler and present day India and the need to stand up to the present situation. While Hitler and Goebel harped on the past glory of Germany, the vision of an undivided Germany, and who was a true German, the present government, much along the same lines, talks of a glorious past, an undivided India, and defines who is a nationalist and who is not. And the manner in which cultural nationalism is being shaped, is dangerous. The BJP is openly violent and discriminatory. One only has to look at the interviews of the lawyers who brag about beating Kanhaiya; there are those who talk of petrol bombs and even hanging, and these are the people who are labelled nationalists. On the other hand, people who debate whether capital punishment should be abolished or not become anti-nationals.

Much like Germany's SS and SA troupes, we have groups like the RSS and Bajrang Dal. These groups work to establish fear on the roads, in everyday life; and then

there are the lone wolf attacks- Kalburgi, Dabholkar. They attacked individuals whose houses and minds were open for all.

In Germany, the gas chambers were set up by doctors, very educated individuals. Even in the setting up of the RSS, there were many doctors and highly educated people. She said, "Highly educated and progressive are not the same. Along with modernization, modernity of mind is required." The nation is headed towards a scary path. When Vajpai was in power, we were critical of him. Then came Advani, and Vajpayee seemed moderate...then came Modi and everyone before him seemed moderate. The fear is tomorrow we will have someone who will make even Modi seem moderate.

Manisha ended saying, "We, and there are thousands like us, will not allow such a day to come; so if we have to go, let's go out with the first lot and not wait to be the last person standing".

Dr. Ramesh Awasthi, the president of PUCL Maharashtra, commented on the nature of present day nationalism. He pointed out that present day nationalism was a modern form of tribal territorialism. Akin to tribes that define boundaries and kill invaders on sight, nationalism is being shaped not only along physical boundaries but also ideological and cultural boundaries.

He cited the example of a 13 year old Bangladeshi girl who was shot and hanged on the barbed wire at the Bangladesh border of our country by the armed forces as she had mistakenly come over to India,

similar to tribes that set such examples to warn others. The idea of protection seeps down to the state level and further to communities and localities.

There is rising jingoism on various grounds; one example being linguistic jingoism. There is bound to be unrest if such uniformity is forced on people. India is plural, and the manner in which nationalism is conceptualised has to be inclusive, plural, and sensitive to diversities. If diversities are not taken care of and there is majority jingoism, will the marginalised feel at home? Speaking from experience, he gave an example- when Dalits are routinely violated and abused, would they feel pride or love towards their village? It is the Maratha's who feel love for the village or are concerned about its 'honour'. When you don't take care of all the people, can you expect the wronged to feel the same sort of love and affection towards the institution?

Any sort of Jingoism breaks the county. The limited conceptualisation of nationalism is damaging the social fabric of the nation. He emphasized that it is crucial that even as we stand up to the present, we also think of the ongoing and future process of healing.

It was heartening to see the number of young people who attended this open meeting. The speakers put forth diverse perspectives and encouraged thinking. And as Dr. Awasthi pointed out, the process of healing will be a long drawn process. But, however murky the present may seem, as the speakers said, there is hope; and hopeful we must stay as we fight on! □

Rising Tide of Communal Attacks by Right wing forces

ABVP Attacks Lecture on Bhagat Singh by Prof. Chaman Lal

Vidya, 19 March, 2016,

On the 18th of March, Bhagat Singh Chhatra Ekta Manch – a student organization in Delhi University and Aahwan: Ek Janwadi Sanskritik Muhim – a cultural organization, organized a talk and discussion with Prof. Chaman Lal on 'The Life and Writings of Bhagat Singh'. Dr. Vikas Gupta of the History

Department in DU introduced it and facilitated the discussion. This event was organized in the Main Gate of the Arts Faculty of DU after several attempts to book a venue inside Arts Faculty failed. We had hoped to organize a discussion on the life of a revolutionary and the relevance of his message today to

the students of the university.

The talk was scheduled to begin at 12 pm. At the same time, another cultural organization, namely Sangwari, came to the area outside the Main Gate to perform a play (nukkad-natak) on the JNU issue. Though this play disrupted our talk, since they were not permitted to

perform in the Law Faculty, we agreed and asked our speaker and discussant to wait till the end of the performance. Minutes into the play, the ABVP goons disrupted the performance. At first, it wasn't clear if the fracas was part of the play or not. But as soon as we realized that 15 or so members of ABVP had taken over, all those who had gathered there intervened to stop the hooliganism of these goons. It is important to state here that during the entire time, around 60 to 70 police officers and constables were mute spectators. These ABVP goons started sloganeering and those performing the play dispersed when they realized that they would not be able to perform. Meanwhile, we were waiting to resume the talk by Prof. Chaman Lal. It was at this time, an ABVP goon upturned our table and tried to tear the posters of Bhagat Singh we had displayed. We confronted him about this. Instantly we found ourselves surrounded by the police force along with the ABVP. Instead of stopping these goons who were relentlessly sloganeering, verbally abusing and pushing those participating in the talk, the police surrounded us. When we reminded the police SHO that she had given us permission to conduct the programme and the police presence had been deployed in such absurdly large numbers for this very reason, she merely replied that the ABVP had the right to be here and sloganeer even if it disrupted our programme and that she cannot intervene. After that, we reorganized, resisted

and pushed back the goons. The police surrounded us but did not stop the ABVP. Prof. Chaman Lal, after being introduced by Dr. Vikas Gupta, began his talk. He started by highlighting the lack of democratic space in the university and how Bhagat Singh would have viewed those disrupting such programmes as stooges of colonial and imperialist powers. He invoked the words of Bhagat Singh to reiterate the meaning of fighting for the country. The ABVP goons who had been sloganeering now openly threatened Prof. Chaman Lal and all those who had gathered – '*jo bhagat singh ki raah chalega, who Afzal ki maut marega*', '*desh ke gaddaronko, golimaaro saalonko*'.. Prof. Chaman Lal responded with slogans of '*inquilab zindabad*'. Once again, this time the police took exception to this and the SHO directly confronted Prof. Chaman Lal and told him to mind what he says. This entire time, the 15 or so goons had free rein to threaten the audience gathered for the event. A leader of ABVP, threatened two women with these words – '*tu kahaan padti hai, main jaanta hun, tumhe dekhenge*'. When the rest of us asked him if this threat applied to all of us, he turned to the SHO and told her, '*hume chodddijiye ihnpe, theekardenge*'. Everyone who had gathered to hear Prof. Chaman Lal formed a human barrier around him. We took on those who tried to attack him and strongly resisted this assault on democratic space in the university. Despite this vicious assault, we firmly stood our ground and

ensured that the programme continued. The affront to Bhagat Singh, Rajguru and Sukhdev by the ABVP and such right wing forces besides being appalling is entirely unsurprising. But we are appalled at the extent of police and intelligence bureau's complicity with the ABVP and strongly condemn the tactics of intimidation unleashed on us in the name of '*deshbhakti*'. Dr. Vikas Gupta reminded us that the country that Bhagat Singh envisioned was not the one being endorsed by these '*false nationalists*'. Bhagat Singh, an avowed atheist, would have firmly stood against the Hindu Rashtra these goons repeatedly invoked. He reminded us the need stand with Bhagat Singh for what he stood for rather than let him be appropriated by the Hindutva fascists. It is to the credit of those who stood firm in the face of such fascist assaults as they witnessed fascism and its blind mass appeal in the country's largest university. Every day it is clear that a united struggle against such forces is not just conceivable but absolutely essential for the azaadi we all hold dear. Let us unite against those who are so afraid of Bhagat Singh's views that to hear the foremost scholar on the revolutionary martyr speak in Delhi University is deemed anti-national. It is time for us to remember the words of Bhagat Singh when he says, "The sword of revolution is sharpened on the whetting-stone of ideas. ... To associate wrong ideas with our names is out and out injustice".

Courtesy: Countercurrents;
<http://www.countercurrents.org/vidya190316.htm> @ 21.3.2016 □

PUCL Odisha: Press Statement (March 19, 2016)

PUCL Statement on the Arrest of Human Rights Activist Debaranjan Sarangi

People's Union for Civil Liberties (PUCL) condemns the arrest of Shri Debaranjan Sarangi, an active member of Ganatantrik Adhikar Surakya Sangathan (GASS), who was arrested by plain-clothed policemen in the morning hours on 18th March from the village Kucheipadar in Kashipur Block of Raygada district. PUCL learnt from the villagers of Kucheipadar that at the time of arrest the policemen had

given them the impression that they were from Malkanagiri police station and Shri Sarangi would be taken to Malkanagiri. However, till 4 O'clock in the afternoon, neither the local villagers nor the Legal counsel of Shri Sarangi nor members of his family had any idea of his where about.

Subsequently, PUCL got to know from his lawyer Mr. Kanhei that he had been arrested on some cases

dating back to the year 2005 relating to the movement against the setting up of Aluminium plant and Buxite mining in the area, and was produced in the Kashipur court and been remanded to judicial custody at Rayagada.

It needs to be noted that Kucheipadar village had played a crucial role in the anti-Buxite mining movement and Shri Sarangi was closely associated with the

movement for many years supporting the community in their struggle against displacement. The movement had to suffer tremendous state repression. In the year 2000, three Adivasis were killed in police firing. During 2005-2006, hundreds of people were picked up by police and put in jail on false cases of which people had no knowledge. Even today, people are being arrested for cases registered ten years ago.

Added to this is the unstated policy of the government of labeling every struggle of the Adivasis as 'Maoists' and then in the name of containing 'Maoists menace' indiscriminately

PUDR Press Statement (20th March 2016)

arrest and kill innocent Adivasis. So it was in January 2011 the security forces had brutally killed 9 people in Basangamali, in Kashipur Block, which included five young Adivasi girls.

Not surprisingly, the same policy is being pursued to suppress the anti-mining struggle of Adivasis in Niyamgiri hills. Only a few days ago one Adivasi, Mando Kadarka, was killed by the security forces, and he was branded as a Maoist. In December 2015, the DVF (a special wing of the Odisha Police formed to tackle the Maoists) had killed three Adivasis in the Karlapat sanctuaty area (in the adjacent

district of Kalahandi) and declared them as Maoists. What is common to all these areas is the rich Buxite deposits and the sinister design of the state to handover these resources to the corporates by silencing the voice of opposition. The arrest of Debaranjan is just an example of it.

PUCL demands that the government of Odisha withdraw all the old cases falsely foisted on local people and activists and unconditionally release those who have been arrested.

Pramodini Pradhan, Convenor, PUCL Odisha □

The Lynch Mob of Latehar

In the early hours of 18th March 2016, Mohammad Majloom Ansari (35) and Inayahtullah Khan (12) were found hanging from a tree in the Balumath forest area in Latehar, Jharkhand. Residents of Balugan and Nawada villages, Ansari and young Khan were on their way to the weekly cattle fair with their eight buffaloes when they were stopped, thrashed, strangled and hanged by a lynch mob. So far the police has arrested 5 men and is on the lookout for three others. It has also clamped S.144 IPC in Balumath in a bid to quell communal tensions.

Surprisingly, till now, the police has been reluctant to question the Latehar Gau Raksha Samiti even though one of the accused, Mithilesh Prasad Sahu, is a known member of the organization. Instead, the version given to the media states "cattle loot", "cash" and "personal enmity" as probable motives for the lynching. A local leader of the Jharkhand Vikas Morcha (P) has questioned the official claim as he pointed out that the two victims were not rich traders and did not have much money on them as they were on their way to the fair on foot. Besides, if cattle loot was the motive, then, the police needs to explain why four of the eight buffaloes were found in the forest and only two were recovered from the accused. The SP Latehar,

Anoop Bitharay, has conveniently stated that neither the family nor the complainant have blamed any organization. Needless to say, the FIR does not specify any reason for the lynching.

Why is the police soft-peddalling the issue of the involvement of the Gau Raksha Samitis in the barbaric killings? Protesting villagers, mostly cattle traders, who blocked the Latehar-Chatra highway and also pelted the police, are not new to such acts of lynching. On 8th September 2015, a cattle trader of nearby Gomia village, narrowly escaped being killed after he was thrashed by right wing goons, the Latehar MLA, Prakash Ram told PUDR. Mr Ram also said that the police refused to lodge a complaint and, instead, detained the victim. In February 2016, the Vishwa Hindu Parishad, VHP, had announced in Jamshedpur that it would launch an agitation against the state government for 'failing to protect' the interests of the Hindu community and for failing to prevent 'cow-slaughter' incidents (www.jharkhandstatenews.com, 14.2.2016). Hence, the roots of the present hanging are not difficult to find. The lynch mob is around and known to the police.

The recent attacks and killings of Muslim cattle traders or those who are involved in the leather trade

have been accompanied with certain organized actions which point to collusion between the mobs and the administration. One, such mobs use extreme cruelty while attacking victims. Whether it was Zahid Ahmed Bhat who was burnt alive in his truck in Udhampur in October 2015 or the manner in which the two deceased in Latehar were strangled and hanged, the mob actions are extremely violent and barbaric. Two, the time lag between a rumour and the crime is alarmingly short as the gatherings of mobs and lynchings happen almost simultaneously. Such mobs are forever ready to attack and no effort is made to prevent such gatherings. For instance, in Mainpuri, Agra, in October 2015, two men, Rafeeq and Habib were severely thrashed by a lynch mob merely on the suspicion that they were slaughtering a cow even when it was known that the animal had died of natural causes. Three, the nature of police investigations following the discovery of the crime remain suspiciously loaded in favour of the accused as the police is unwilling to probe how organized mobs are being created out of local Gau Raksha committees which enjoy political patronage.

Each of the above suggests that the Hindutva lynch mobs act with the knowledge of the local administration. The question is how

will the rule of law function if its custodians subvert it willingly and act in complicity with the lynch mob? It is necessary to ask why such acts of vindictive killings are being repeated and why the state is

Letter:

Chhattisgarh: Representation sent to the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, The Human Rights Council and The United Nations by concerned citizens, human rights activists, lawyers and others

Subject: Communication Regarding: Escalation of counter-insurgency violence on tribal people in Bastar, Chhattisgarh, India and on human rights activists, lawyers and journalists who are working for the rights of the indigenous people in the abovementioned region.

Dear Sir,

This is to bring to your notice that indigenous activists and politicians, along with human rights defenders, lawyers and journalists are being attacked violently by various groups in the Indian state of Chhattisgarh, with the tacit and active encouragement of the state of these attacks. In addition, Chhattisgarh has seen a horrific state of affairs which equals to that of many militarised zones of the world due to the alleged base of guerrilla insurgents called the Naxalites – who are Maoists by political outlook and enterprise – in the state especially in a district named Bastar.

Given the rich mineral resources of Chhattisgarh, the Government of India and the Chhattisgarh State Government have both expressed in public, multiple times, of their eagerness to increase industrial activity in the state by promoting mining and heavy industrial estates in the state which has led to displacement of villages, migration of manual labour, loss of identity for the indigenous population etc. This is coupled with the fact that basic facilities like drinking water, healthcare, education etc were never reached rural and remote areas of Chhattisgarh from where

so 'tolerant' about the violent actions of right wing mobs. While it is obvious that these self-styled cow protection groups must be prevented from converting the rule of law into self-serving instruments

people were asked to evict.

Chhattisgarh, despite being rich in natural resources, suffers India's highest rate of poverty, at a rate which overwhelmingly affects Adivasis. In such circumstances when the indigenous population protested against the mining and industrial activities and the absolute neglect of human life for the indigenous people of Chhattisgarh, the State responded with 'counter-insurgency' measures and counter-terrorism laws. Many operations were carried out by the State either actively or passively and they are known by many names such as "Operation Greenhunt", "Salwa Judum" etc. Some operations such as "Salwa Judum" were carried by vigilante groups, constitutive oftentimes of underage indigenous adolescents from those very indigenous groups that are under attack. According to the International Association of People's Lawyers,

"The purpose of the Salwa Judum campaign is to concentrate tribal people in so called "relief camps". In the past two years and a half [since 2007] 350,000 people have been displaced this way and live outside their villages. 50,000 of them live in the relief camps organised by the Chhattisgarh state. The fate of 300,000 others is uncertain...People who have refused to leave their villages have apparently been forced by SPOs [Special Police Officers] who did not hesitate to use coercion, threats, intimidation, deception and violence for this purpose. Serious atrocities have been reportedly committed by these forces... The victims of the Salwa Judum campaign and supported by the Chhattisgarh

of communal power, why is the administration looking the other way?

Deepika Tandon and Moushumi Basu, Secretaries, PUDR ☐

state, are mostly civilians. The aggression on civilians is a direct violation of International Fundamental Rights and International Humanitarian Law...Instead of being protected... against the dangers from military action, civilians are even the objects of attack in Chhattisgarh". (International Association of People's Lawyers, October 2007).

Such operations are carried out with the aid of the State, even though it has been declared by the Supreme Court of India in 2011 that the operations of such groups are illegal as they are prima facie criminal activities and furthermore their encouragement is violating the Constitution of India. The Supreme Court stated:

"The State of Chhattisgarh shall forthwith make every effort to recall all firearms issued to any of the SPOs, whether current or former, along with any and all accoutrements and accessories issued to use such firearms. The word firearm as used shall include any and all forms of guns, rifles, launchers etc., of whatever calibre." (NandiniSundar and Ors. v State of Chhattisgarh, WP (Civil) No. 250 of 2007)

Despite this judgement, the BJP Government of Chhattisgarh led by Chief Minister Raman Singh has not significantly reversed previous policy. Recent years have seen the emergence of alarming 'counter-insurgency' activities in the State. SRP Kalluri, the Inspector General of Bastar Range, the highest police officer in the Bastar district, has been at loggerheads with the Human Rights activists, journalists and lawyers who are working to uphold human rights in the region

and lately many of them have received abuse, threats and in some cases brutal attacks recently. Ministers, Parliamentarians, National Media and Government Officials are all silent on the issue, although civil society is trying hard to bring their attention to the blatant violations of human rights that is occurring in the state.

Recent attacks on indigenous people in Chhattisgarh:

Sexual assaults on indigenous women

There have been media reports highlighting an instance of a series of gangrapes committed by the state security forces in villages in Bastar, Chhattisgarh, where the victims are all women from indigenous families living in the forest-villages of the region.

The incident of sexual assault, beating and loot of personal belongings came to light when a few local journalists travelled to the area on October 27 to investigate the news of an encounter between security forces and Maoists. The journalists had heard that troops from the state police and the Central Reserve Police Force had carried out an anti-Maoist operation in the area, exchanging fire with the Maoists. At Sarkeguda village, however, they came across a starkly different account. Villagers told them the security forces had carried out rape and plunder in villages about 15 kilometres away.

In this particular instance, three women and one teenage girl, with the help of a national women's activist network, were able to successfully report their rape:

The 14-year-old girl said she was grazing cattle with other women when she was chased by the security forces. Overpowered and blindfolded, she was raped by at least three people before she became unconscious. A woman in the fourth month of her pregnancy said she was stripped by the security personnel and dunked in a village stream. The security forces removed their clothes and jumped in behind her,

raping her in the water.

...The women, however, told the collector that the sexual violence did not stop at the rapes. Several women had been beaten on their thighs and buttocks, they alleged. Their lower clothing had been lifted, their blouses torn, and they had been threatened with further sexual violence – the security personnel said they would push chillies up their vaginas. At least two women who were breast feeding had their breasts pinched and squeezed for milk to prove they had breastfeeding infants.

Attack on Adivasi activists

On 20th February, 2016, notable Adivasi activist Soni Sori was attacked. An unknown chemical substance was thrown in her face, causing a severe allergic reaction for which she is still undergoing hospitalization. This attack occurred when she was about to file a complaint against the Inspector General of Police, Bastar Range – viz. - SRP Kalluri – for atrocities committed by this person and his forces against indigenous people. Soni Sori has previously been brutally tortured and sexually assaulted by the Chhattisgarh Police in custody for her alleged connections to Maoist insurgents.

Attack on lawyers representing tribal people charged with terrorism and sedition

Two lawyers – Adv. Shalini Gera and Adv. Isha Khandelwal – who, together, were members of the Jagdalpur Legal Aid Group– a group established to represent indigenous people adversely impacted by the Common Law-oriented criminal justice system which offer scant space for indigenous voices to be heard before the Law, have been harassed and hounded out of Jagdalpur, the district headquarters of Bastar. Adv. Khandelwal and Adv. Gera have been facing harassment for some time now, starting with a resolution being passed by the Bastar Bar Association that they cannot practice in the trial courts there, followed by calling these two lawyers to police stations to show

their credentials as advocates, and followed by a series of harassments perpetrated by the police, instigated by SRP Kalluri, to the owner of the accommodation that these two lawyers had rented – which led to these lawyers being left with no choice but to leave Bastar and the numerous cases they had to defend numerous tribal – those who are facing grave criminal charges of sedition – of the region.

Similar fate has also befallen those close to the 'JagLAG' lawyers:

“Late Wednesday night, the police also picked up the owner of the house that JagLag had rented. A driver by profession, he was released after a few hours, but his vehicle was impounded. “Our badly shaken landlord informed us at 2 am this morning that he has no option but to ask us to vacate our house and office within a week,” the JagLag lawyers wrote in an email on Thursday.”

They were thus forced to leave Bastar on 19th February, 2016. – and, after a series of harassments including passing a Resolution through the Bar Associations at the trial courts by the other lawyers in the trial courts at Bastar, most of whom neither belong to indigenous group, nor have any whiff of sympathy for the indigenous people when faced with such an alien criminal justice system.

These two lawyers who were representing the countless indigenous people of the Bastar region detained by the Unlawful Activities (Prevention) Act, 1967, the National Investigation Agency Act, 2008, the Arms Act, 1959 and the much-abused 'sedition' Sections of the Indian Penal Code, 1861. These indigenous people have thus been left with no lawyer to represent them before courts of law despite having been charged with such grave offences as sedition. Hostility against this human rights advocates' group has been on the rise from several quarters – the police, the Bar Associations of the trial courts at Bastar et al. Ever since SRP Kalluri was posted as IG of Bastar Range, he has been hounding them out.

From giving thinly veiled threats at press conferences that he is closely monitoring NGOs providing "legal aid to Naxalites", to informing their clients that they are about to arrest these two advocates for their alleged 'Maoist' activities, to claiming before visiting journalists and researchers that they are merely a "Maoist front", he has been out to get them.

Harassment and attacks against journalists who spoke out against counter-insurgency excesses

Malini Subramaniam, a journalist with *Scroll*, an online news portal, has been harassed and forced to leave Bastar district for her reportage of police excesses in the region. Malini Subramaniam was the first to report on mass sexual assaults by armed forces in Bastar district, including the November 15 report referenced above. Stones were thrown at her house, and the domestic worker who works at her residence was summoned by the local police and made to stay at the police station for hours

"Hours after the *Caravan* report appeared online, the police showed up at the house of Subramaniam's domestic worker, Prachi Saxena, a woman in her twenties. She was taken for questioning to the police station. Under the guise of investigating the attack on Subramaniam's house, the police was mounting pressure on her."

In the face of such assaults launched her and her entire family, she and her entire family were forced to relocate from Bastar by 19th February 2016.

Rise in new vigilante groups

The above mentioned incidents have closely coincided with the rise of new vigilante groups and provocateurs who have intimidated journalists and activists they perceive as sympathetic to Naxalites. Before stones were thrown at her house at night, journalist Malini Subramaniam's witnessed a group of twenty men chant life-threatening slogans outside her house:

Subramaniam immediately recognised two of the men: Manish Parakh and Sampat Jha. Both were part of another group of approximately 20 men who had visited her house on January 10. They had introduced themselves as members of *Samajik Ekta Manch*, which they described as a newly formed forum in Jagdalpur town to counter Naxalism in Bastar and support the police in its work. Later, Subramaniam found out that Parakh is the secretary of the Bharatiya Janata Party's Yuva Morcha and that Sampat Jha is a member of the Congress in Jagdalpur.

A recent report by *Current Magazine* details how this new organization has close ties to the Police, particularly Kalluri:

On 22 December 2015, the *Samajik Ekta Manch* had organised a Dhhikkar or a condemnation rally against Maoists in Jagdalpur. This was the organisation's first public appearance, attended by a large crowd... News reports also stated that RN Dash, the police superintendent of Bastar, attended the demonstration with Kamalochan Kashyap, the police superintendent of Dantewada district. According to a journalist who was there, Kalluri was present too. He reportedly said that the rally "increased the confidence" of the police force. While this was the first instance in which the *Samajik Ekta Manch* and Kalluri explicitly expressed their support for each other, it was not the only one. Since then, the leaders of the organisation have been spotted with the chief of police of Bastar at several public events.

Elsewhere, reports of attempts to revive the old Salwa Judum under the name of "Vikas Sangharsh Samiti"—led by the creator of Judum's son no less—have struck fear at the possibility of further escalating violence in Chhattisgarh.

Existing reports on human rights abuses in Chhattisgarh

Human Rights Watch recognises the abuse that human rights workers and activists are labeled terrorists by the state of India in the name of counter terrorism.

"Human rights workers and activists, particularly those that speak out against abuses by government forces, fear being labeled "Maoist" supporters and being taken into custody or worse. Local activists concede that they do come into contact with the Maoists: working in remote parts of in Chhattisgarh, Orissa, Jharkhand, and Andhra Pradesh makes that inevitable. State security forces, frustrated by their inability to track Maoist fighters who slip into the forests in the adjoining states often direct their attacks against "soft" targets—villagers from areas that support the Maoists and activists who criticize police abuses and state policies." (Human Rights Watch, 2012)

Much of what we know comes only from these few journalists, lawyers and activists. The countless violations committed by the Chhattisgarh state, Police and vigilante groups are only possible due to the little public knowledge or awareness of the plight of the people there who are primarily indigenous. Tribal political and human rights activist Soni Sori herself spoke of this disconnect between greater, urban India and rural adivasi communities:

When there is any violence committed against Adivasis or villagers, then the people in the cities do not come out and protest. Urban populations never raise their voices in support of the rural population. It does not matter to city people what happens to Adivasis and rural citizens, they have no sympathy for people like us that is for sure. Even in Bastar, if something happens to a non-Adivasi girl, the non-Adivasi population ensures that the city comes to a standstill. However

if something happens to a girl in a village just a few kilometres from the town the police and local population make no noise.

We thus argue that the systemic violation of the human rights of lawyers, journalists and activists in Chhattisgarh by the State is occurring in the name of countering Maoist terrorism. This is severely impacting the local tribal populace, particularly vis a vis their rights to land and self-determination, and also impacting human rights activists, lawyers and journalists who speak against these excesses and violations. Without the presence of civil society organisations, we will have no

capacity to understand the full scale of oppression by the State and other counter-insurgency groups.

In this context, we would like to place the following pleas before you:

1) Please help us ensure that these basic human rights of the indigenous people and the rights of the human rights workers, lawyers, journalists and others are not breached by the Government of India and the Chhattisgarh State Government in the name of countering Maoist insurgency so as to ensure the adoption of a systematic approach by the government to the benefit of all human rights workers, lawyers and journalists especially those who are

in insurgency and counter-insurgency affected regions like Bastar, Chhattisgarh for the indigenous communities.

2) Please notify the other appropriate and relevant good offices of the United Nations including those under the United Nations Human Rights Council and the ECOSOC regarding the escalating violence in the name of counter-insurgency that has unleashed on the tribal people and human rights activists, lawyers and journalists who have taken up the causes of such people

Yours Sincerely

Atindriya Chakraborty, Advocate, Kolkata and endorsed by many others. □

PUCL Punjab & Chandigarh:

Haryana Jat Riots for Reservation in Jobs

There was a total anarchy in Haryana for 10 days; and horribly there was no government (State or Central) both had fallen in the hands of violent mob called 'Jat rights' who were local goons who, under the pretext for JAT Reservation, did full damage to the civil life of Haryana.

The government machinery had failed to anticipate such an extreme violence; anger and social unrest

was simmering against the non-Jat government of BJP, which is a tragic and highly condemnable.

It is feared that Haryana may further face big industrial and business losses; Maruti Udyog may shift its car production unit from Haryana to some other State.

The PUCL (People's Union for Civil Liberties) demands from the Haryana Government to order a Judicial Enquiry Commission under

a retired Supreme Court judge to know the truth behind the unprecedented violence and criminals be brought to the book of justice.

PUCL appeals to the People of Haryana to maintain Peace & Social Harmony.

Mr. Rajender Mohan Kashyap, State General Secretary of PUCL Punjab, Haryana & Chandigarh □

PUCL Gujarat:

“Make public M.B. Shah Commission's Report on 14 Cases of Corruption charges leveled against Gujarat's Modi Government” Statement issued by CFD, PUCL-Gujarat, Gujarat Social Watch and others, 08th March, 2016.

Gujarat Government's deliberate conspiracy aimed at striking at the roots of the democracy and full of fraudulent cheating.

- Report is not tabled in the Legislative Assembly for last three years.
- Governor is being kept in the dark.
- Report is not being made public to the people at large.
- Govt. had on its own, given 'clean chit' to itself.

We demand to immediately place before the Legislative Assembly, Report of the Inquiry Commission,

appointed under the Chairmanship of M. B. Shah, former Justice of Supreme Court of India, as per Notification issued on 16-08-2011 by the Legal Department of the Gujarat Government, to inquire into about 14 No. of corruption allegations leveled against the State Government. This Inquiry Commission was appointed under the Article 3 of the Inquiry Commission Act, 1952 of India and 6 crore people of Gujarat have right to know as to what has been contained in that Report as regards corruption indulged into by the Modi

Government. Here, it will also be necessary to note that Modi Government had not made appointment of Lok Ayukta for many years and in the face of severe criticism against it, Modi Government had hurriedly made appointment of M. B. Shah Commission.

Here, it will also be noteworthy that the then Leader of Opposition in Gujarat Legislative Assembly and the then President of Gujarat Pradesh Congress Committee had handed over to H.E. the President of India, on 03-06-2011, a

Memorandum, containing 17 allegations of corruption charges indulged into by Modi Government and giving reference of that, this Inquiry Commission was appointed. 14 Nos. of allegations for which inquiry was entrusted to M. B. Shah Inquiry Commission include:

- allocation of lands at much lower or throw away price, to industrialists including Adani, Ruiya and Ratan Tata,
- Scam about fodder for animals
- Scam of fortified flour issued to Anganwadis
- Scam of Gujarat State Petroleum Corporation,
- Scam of 'Sujalam Sufalam' Schemes.

If the inquiry was entrusted to inquire into these scandals then do not the 6 crore people of Gujarat have a right to know about factual position?

Gujarat Government in its aforesaid Notification stated that "when strong opinion is emerging in the country against corruption in public life then, in the public interest of the people of Gujarat it is necessary for them, to know as to whether there is some substance in these allegations... it is necessary to bring to the notice of the people of Gujarat as to what is factual position in respect of each of the above allegation..". In spite of such clear statements pronounced at the time of appointing the Inquiry Commission, Modi Government and Anandiben Government of Gujarat have indeed maintained uncanny and ungraceful secrecy over this Report.

Modi Government had played the trick of hiding from public, the report that was obtained from the Inquiry Commission which was appointed for making facts known to the public in the larger interest of the people and same game plan is being resorted or replicated by Anandiben Govt. also. In this way, the State Government is smacking at constitutional protocol and 6 crore

citizens of Gujarat are being kept in the dark. The State Government ought to table the Report of the Inquiry Commission upon receiving it but even after lapse of 8 sessions of Legislative Assembly, it has not been presented in the Assembly. Not only that, even H. E. the Governor is kept in the dark by Modi and Anandiben Governments.

In the public interest and for the sake transparency, State Government should make public this Report so as to keep the people informed as to what M.B. Shah Commission, reports on the 14 allegations of corruption. By not making public this Report, the State Government has made breach of public trust and thoroughly nullified principles of transparency and answerability or accountability, which form the basis of Indian Democracy.

Interim Report of M. B. Shah Commission was handed over to the Gujarat Govt. on 27-9-2012. Of course, this Commission was asked to submit its Report by 31-03-2012 but the Commission had made delay for about six months, in handing over its Report. Thereafter, final report was handed over to the State Government by the Commission on 06-11-2013. The Interim Report was placed in the meeting of the cabinet of Gujarat State ministers and same was approved in the cabinet meeting. Thereafter, on the same day itself, an announcement was made by Jaynarayan Vyas, as the spokesman of the Government, that M. B. Shah Commission has given 'clean chit' to the then Modi Government and that its Govt. had not practiced any corruption at all. Here, it will be worth noting that on the day on which announcement was to be made on coming into force of code of conduct of assembly elections on the same day itself, announcement was made of having been given this clean chit. This is nothing else than fraudulent cheating of the public at large. Until this date, Government

has neither given this Report before the media nor even tabled it in the Legislative Assembly. Thus, the then Modi Government, by quoting reference and by relying on this Report, had tried to encash political gain prior to the Assembly polls and committed an act of cheating 6 crore people of Gujarat. No one knows as to whether final report of M. B. Shah Commission has been placed in the cabinet meeting of the Ministry of the State.

When demand for this Report was made under the "Right to Information Act" then the Public Information Officer of General Administration Department of the State Govt. had informed on 31-07-2013 that this Report is with the General Administration Department of the State Govt. Whereas, in the year 2013, the present Chief Minister, Anandiben Patel had informed in the Legislative Assembly that the said Report is lying with H.E. the Governor. When an inquiry was made under R.T.I. Act, with the office of the Governor, then his Information Officer had replied on 13-11-2014 that this Report is not at all available with the Governor. Thus, the present Chief Minister, Anandiben had told a lie in the Legislative Assembly and has also misled the Assembly. Moreover, it has been informed through the application made under the R.T.I. Act, on 14-11-2014 that this Report has neither been received in the secretariat of the Legislative Assembly.

Here, it will also be noteworthy that as per Article 167 of the Constitution of India, responsibility lies with the Chief Minister that he should keep the Governor informed about administrative matters of the State but it appears that the then Chief Minister, Narendra Modi had not performed his duty of apprising the Governor about any information of this Report. The present Chief Minister is also following in the footsteps of the heritage or legacy of same grand vibrant and dynamic Gujarat !!! Thus, it clearly means

that the Government is not willing to present M. B. Shah Commission Report in the Legislative Assembly nor does it want to give its copy to the people. If no corruption has been practiced in the Govt. in the context of 14 different charges, then why the Govt. is afraid of placing it before the Legislative Assembly? In accordance with our opinion, making an appointment of Inquiry

Commission and thereafter not presenting its report before the public is a serious lapse or crime on the part of the Govt., since the expenditure of the Inquiry Commission is funded only from the public money. Hence, in the interest of people of Gujarat and also in the interest and for the sake of democracy and transparency, we demand that the Report of M. B.

Shah Commission should be tabled in the present session of the Legislative Assembly.

Prakash Shah, President, PUCL Gujarat, **Gautam Thaker**, General Secretary, Citizens for Democracy, Mahesh Pandya, Gujarat Social Watch, Prof. Hemant Kumar Shah, Suresh Chandra Mehta, former Chief Minister, Gujarat. □

Meeting of PUCL (Delhi Unit) on 1st April, 2016 at GPF Delhi

To,

All members of PUCL (Delhi unit) and special invitees.

This is to inform all the members of the PUCL, of Delhi unit and others, that a meeting of the PUCL (Delhi) will be held as per following programme:

Agenda:

1. To discuss the present situation arising out of sedition charges and disciplinary action foisted on JNU students and campaign for repeal of Sedition Law.
2. Consolidation of the programme for students who join PUCL for internship.
(A large number students have been enrolled (around 50) for internship in April, May and June 2016).
3. Strengthening of PUCL at Delhi.
4. Any other subject with permission of the chair.

Time: 5.15 PM, Friday, 1st April, 2016

Venue: Gandhi Peace Foundation, 223, Deen Dayal Upadhyay Marg, New Delhi.

All members of Delhi and also of other states who may be stationed in Delhi as well as special invitees to whom this letter is addressed are requested to attend the meeting.

Sheoraj Singh, General Secretary, PUCL Delhi □

PUCL Mysore statement on Mysore Communal Incidents, 13-14th March, 2016

The violent incidence that occurred on 13-14th March, 2016 following the murder of Raju BJP worker at Mysore could have been avoided by the District administration.

The PUCL team of Dr V. Lakshminarayana, Mr TR Nataraja, Prof Kumaraswamy, Com Javaraiah, Mr Budha & Dr Rati ER, visited Devraj market, the disputed madrasa and murder spot at Udayagiri and met the Police Commissioner on 15-03-2016. Miscreants entered Devraja market from clock tower side into fruit stall street.

Though shops were closed, the mobs lifted the coverings, started looting breaking hanging bulbs and decorations with sticks, and in the process beat up a youth on his head causing head injury. Metal

vendors in the next street were attacked. We spoke to shop owners who were all Muslims. Some affected had gone to police station to record statements.

Next we proceeded towards Udayagiri through Mahadevpura road when we witnessed the flag march of RAF, KSRP, mounted police, & police band & others. They were all armed. Next a quick visit to disputed madrasa site, teashop the murder site was made. Heavy police force was manning these areas. We met police commissioner.

PUCL press statement

1. PUCL condemns barbaric killing of BJP activist Raju.
2. If District Administration had resorted to firm action, vandalism by BJP workers could have been

contained. It would have prevented attack on Muslim shops and persons.

3. Team opined that for two days the State at Mysore city was inactive thus helping BJP's political advantage.

4. The PUCL urges the State to arrest the murderers immediately. Also to arrest every person who were involved in vandalism and attack on Muslim persons.

5. After 2009 Kyathmarahalli communal riots at Mysore Sangh Parivar is accusing Muslims for imagined crimes for their own political gains.

PUCL urges all democratic forces to be on guard against the machinations of Sangh Parivar.

Secretary, PUCL Mysore. □

Judges and Citizens in a Constitutional Democracy

Kalpana Kannabiran*

“[W]hen you are a judge ... it's important to be able to imagine what other people's lives might be like, lives that your decisions will affect. People who are not only different from you, but also very different from each other. ... And this empathy, this ability to envision the practical consequences on one's contemporaries of a law or a legal decision, seems to me to be a crucial quality in a judge” (Justice Stephen Breyer, *The New York Review of Books*, November 7, 2013).

We have again found ourselves in the thick of the debate on whether and how literature might figure in the law, through the medium of the court. Justice Breyer speaks eloquently of his fascination for Proust. On home ground, while in 1976 Justice Krishna Iyer invoked Oscar Wilde's incomparable writing in prison to assert that if a “sex pervert” can write *De Profundis* in custody, why are we unwilling to grant the capacity for self-reformation to a person convicted of rape? Justice Sudarshan Reddy in 2011 recalled Joseph Conrad's *Heart of Darkness* in the celebrated judgment on Salwa Judum and the oppression of adivasis in Chhattisgarh.

There have undoubtedly been other occasions when courts have found that the irrepressibility of literature grants more robust interpretive routes to imagining freedom, empathy and justice under the Constitution.

And the literary by definition spills out of the narrow straitjacket of law. So I have no quarrel with Justice Pratibha Rani quoting Manoj Kumar's (sorry, Indeevar's) song *Mere Desh Ki Dharti* in JNU students' leader Kanhaiya Kumar's interim bail order. She believed the verse cradled her judgment in a lyrical lilt. I would sincerely recommend she read Balraj Sahni's 1972 convocation address

at JNU instead.

The problem of course is with a constitutional court using a particularly narrow interpretation of four lines of a cinematic “patriotic” song to frame the entire reasoning in a bail order, with no reference at all to the law that must determine the ruling in the case.

“Spring season is a time when nature becomes green and flower blooms in all colours. This spring why the colour of peace is eluding the prestigious Jawaharlal Nehru University (JNU) situated in the heart of Delhi needs to be answered by its students, faculty members and those managing the affairs of this national university” (para 3, emphasis added).

Even before going into the facts of the case and the prayer before the court, the judge has already determined with no ambiguity that the colour of peace is eluding JNU and it is the university community that is responsible for this. The lawyers for the petitioner, Kanhaiya Kumar, gave evidence of Kanhaiya's assertion that he did not engage in any activity that derogated the Constitution and, on the other hand, that he acted responsibly as president of the JNU students' union.

The additional solicitor general produced statements of “witnesses” that “merely because the petitioner is not a signatory on the application form for seeking permission for the programme, is not sufficient to infer that he has nothing to do with the event” (para 22). These witnesses were not willing to be publicly identified, as they feared for their security.

The ASG also conjectured that the petitioner's speech upholding constitutional values was a deliberate strategy in anticipation of the consequences of his involvement in the “anti-national” event. The judge absorbs the accusation against the petitioner

that the events were “anti-national”: Her order speaks of free speech and opposition to the government as an infection threatening amputation (paras 47-48); compares the student, who has been unjustly charged on the basis of ‘proof’ that was either non-existent or doctored (evidence of the falsity of which was before the court), with soldiers dying on borders in wars (not of their making, be it noted); rebukes the petitioner by saying that the court hopes custody has given him the opportunity of introspection (meaning he is deemed guilty of the offence he is accused of and not yet convicted for, para 49); and requires of him an undertaking that he will not actively or passively participate in anti-national activities while out on bail (para 52). What we have, therefore, in the name of a bail order is an untenable rendering of the right to dissent guaranteed under the Constitution — and this by a constitutional court.

READ: JNU row reflects debate within India on intolerance: Foreign media

An intense debate on the constitutionality of the death penalty in India is going on. If one believes, as I do, that the death penalty is unconstitutional, the severity of the crime does not calibrate the position — there are no exceptions in an abolitionist position. My rejection of retributive judicial action is total. It is a debatable position with supporters, detractors and those that are not quite sure. But debating cases where the death penalty has been awarded and discussing the political circumstances in which sentences have been confirmed in the past can by no stretch of constitutional interpretation be termed anti-national. Speaking about Kashmir, the death penalty, the injustice of the Armed Forces

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Announcement of National Executive Meeting in Jaipur on 14th & 15th May 2016 (Saturday & Sunday)

To

All National Office Bearers & All Presidents and General Secretaries of State Units

Members of the National Executive of PUCL,

Kavita has just informed that they have fixed the venue for the next National Executive Committee meeting of the PUCL in Jaipur on 14th and 15th May, 2016 (Saturday and Sunday).

All members are requested to make their travel arrangements immediately as the period is summer vacation season and it may be difficult to get train tickets.

This meeting is taking place in a very challenging situation in the country as we need to have detailed discussions amongst ourselves to understand the situation and figure out how to respond.

So our request is for all the NE Committee members to plan to attend the meeting. We specially request those members who have not been attending previous National Executive and National Council meetings to make it a point to attend this meeting at least.

Our further request is for members to plan to reach Jaipur at least on Friday evening or latest early morning Saturday so that we can start our discussions at 1030 am sharp on Saturday. We plan to meet the whole of Saturday including in the evening / night and conclude the meeting on Sunday, 15th May by 400 pm.

So kindly make arrangements to leave after 400 pm on Sunday. Many key decisions will have to be taken so it will be good for members to stay back for as long as possible.

regards,

V. Suresh, General Secretary, PUCL National

PS: Please send suggestions for the agenda of the meeting; also circulate papers in advance so members can prepare for the discussions. ☐

PEOPLE'S UNION FOR CIVIL LIBERTIES MEMBERSHIP FORM

The General Secretary,
People's Union for Civil Liberties

Dear friend,

I subscribe to the aims and objects of the People's Union for Civil Liberties and agree to abide by its Constitution. Please enroll me as a member.

I remit herewith Rs 50/- (yearly)/ 1000/- (Life)/ 2000/- (Patron) membership fee. [See Clause 3(c) and (d) of the Constitution].

I also remit herewith Rs.100/- at concessional rate as the subscription of the PUCL BULLETIN (optional).

I am not a member of any political party/I am a member of _____

_____ (Party).

Name : _____

Address : _____

State : _____ Pin Code : _____

E.mail : _____ Contact Phone : _____

Signature

NB: Please send money in the name of the 'People's Union for Civil Liberties', preferably by DD/MO. In case of outstation cheques, please add Rs. 70/-. Please do not send Postal Order. Always send the Membership Form to the State/Local branch.

National Off.: PUCL, 270-A, Patparganj, Opp. Anand Lok Apptt. (Gate-2), Mayur Vihar-I, Delhi-110091 (Phone: 011-22750014)

Contd from page no. 18

Special Powers Act (which has now been lifted in Tripura) and the resistance of Irom Sharmila, documenting governmental lawlessness and excesses — whether in Kashmir, the north-eastern states, Chhattisgarh or elsewhere — are not anti-national activities. The Supreme Court itself has in *Nandini Sundar vs State of Chhattisgarh* ruled on the consequences of state impunity in Chhattisgarh. It is perfectly lawful to debate values, politics and governance because every one of us as a citizen has a stake in the Constitution, in good government, the rule of law, and the right to speak about how we think the constitutional dream is best realised — what Habermas calls “constitutional patriotism”.

At the heart of the matter is Section 124-A Indian Penal Code:

“124A. Seditious — Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.”

This is a case before a constitutional court. The Constitution must temper the interpretation of laws of the colonial period — a non-negotiable responsibility of a constitutional court. Can we forget that “exciting disaffection towards the government” may well be a capital crime under colonisation, but in a democracy, criticising government, lawlessness, impunity, the absence of due diligence and arbitrariness are at the core of constitutional freedoms. A plain reading of Section 124A IPC tells us quite

clearly that it is antithetical to the Constitution of a free country, especially when you have constitutional courts frequently ruling against governments and state authorities and admitting petitions that challenge governmental arbitrariness. How does one reconcile the daily business of a constitutional court with the letter and text of this section? It is these questions that require a creative and robust application of the judicial mind — not questions of whether cinematic “truths” are validated in our everyday actions as citizens.

READ: Strike down misuse, not sedition law: Former attorney general Sorabjee

I rest my concern regarding this bail order by quoting Justice J?Chelameswar's dissenting opinion in the recent NJAC (National Judicial Accountability Commission) case in the Supreme Court, extending his observations to judicial action: “Judiciary is the watchdog of the Constitution and its fundamental values. It is also said to be the lifeblood of constitutionalism in democratic societies...It is a formidable authority necessarily implying an awesome responsibility. A wise exercise of such power requires an efficient and independent Judge...[W]isdom is to perceive with precision whether the legislative [judicial] action struck the constitutionally demanded balance between the larger interests of society and liberties of subjects” [para 18].

***Kalpana Kannabiran is Professor and Director, Council for Social Development, Hyderabad**

Published in *Hindustan Times*,
March 11, 2016
[<http://m.hindustantimes.com/analysis/judges-and-citizens-in-a-constitutional-democracy/story-Q7JLmJpMvbPsa5vOIkSMI.html>] □

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PUCL BULLETIN

Editor : V. Suresh

Editorial Board : Rajindar Sachar

Assistance : Babita Garg

Printed and Published by:

V. Suresh, General Secretary, PUCL,
270-A, Patparganj, Opp. Anandlok
Apartments, Mayur Vihar-I, Delhi-110091
for *People's Union for Civil Liberties*

Printed at: Dixit Printers, 108, Basement
Patparganj Indl. Area, Delhi-110092