

Inside :

EDITORIAL : Challenges before the Human Rights Movement in 2018 - V. Suresh (1)

ARTICLES, REPORTS & DOCUMENTS:

A Fatal Blow to be Judiciary - Rajindar Sachar (3); **Master of the Roster and Judicial Norms** - N.D. Pancholi (4); **Reflection on the Press Meeting of SC Judges** - Prabhakar Sinha (5); **Media Report of Meeting organised by PUCL Delhi** (6); **Report from Venkatesh Nayak of CHRI: RTI Reveals- Even After Four Decades** (10); **Ongoing State Violations of Human Rights in India Must End** - Pushkar Raj (13); **Triple Tallaq Bill – A Response** - Rajinder Sachar (14); **Caste Adrift: Violence at Pune, Mumbai speaks of distorted political economy, communities failed by political leaderships** - Suhas Palshikar (15); **Inciting Mutiny: Are Governments Complicit?** - Major General S.G. Vombatkere (17); **Account for Narmada Water Being Used By All** (18).

PRESS STATEMENTS, LETTERS AND NEWS:

PUCL Statement on Concerns Raised by 4 Seniorsc SC Judges (2); **Delhi PUCL: We Salute the Four Hon'ble Judges** (5); **Gujarat PUCL: Stand by the Judges in Defense of the Constitution** (6); **PUCL Maharashtra: Statement Condemning the Attack by Hindu Religious Extremists at Bhima Koregaon** (7); **Condolence messages: Prof Vinay Kantha Is No More** (8); **Rajasthan PUCL: Jaipur for Aman & Sadhbhavna Rally** (9); **Statement as given below is issued on current situation at Bhangor: Open Letter to CM, West Bengal** (14); **Press Statement of PUCL Tamil Nadu & Puducherry** (16).

Annual Subscription: <i>PUCL Bulletin</i> (w.e.f. January 01, 2017)	
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Challenges before the Human Rights Movement in 2018

In a very ominous manner, the 1st day of the new year of 2018 started with a planned attack by right wing caste Hindus and non-Dalits belonging to Hindutva / majoritarian groups on thousands of Dalits who had gathered at a place called Bhima – Koregaon, (about 30 kms from Pune) to commemorate the 200th Anniversary of the victory of Mahars over the Peshwa army led by Brahmins and upper castes by non-Dalit at the very spot. Despite ample evidence that the anti-Dalit Hindutva groups were planning to attack the Dalits who assemble every year at the site, neither the State Government nor the local police did anything to avert the attack which led to the killing of one person and injuries to scores and worse, of the Dalits being arrested on trumped charges. In the next days, the violence spread to Mumbai and other parts of Maharashtra which highlighted the planned manner in which right wing, Hindutva and majoritarian parties and groups were working in a systematic manner to exploit social divisions and differences. The violence in Bhima-Koregaon will have to be seen in the background of the December, 2017 elections to the Gujarat Assembly which saw a consolidation of Dalit groups challenging the ruling BJP party as being brazenly anti-Dalit as witnessed in the Una incident in which some Dalit youth were thrashed mercilessly on charges of skinning cows, despite their protestations that the charges were untrue. From a human rights perspective, the violent anti-Dalit violence and discourse is an ominous portent for the future, especially as all the parties gear up for parliamentary elections in May, 2019.

An event of great historical significance occurred on 12th January, 2018, when the 4 seniormost judges of the Supreme Court, after the Chief Justice of India, Justices Chelameshwar, Ranjan Gogoi, Madan Lokur and Cyriac Joseph, in an unprecedented manner conducted a Press Meeting in the lawns of the residence of Justice Chelameshwar raising serious issues about the manner in which the CJI, Dipak Mishra, was conducting matters. As the Judges clarified they were forced to publicly come out due to the lack of response of the CJI to the issues raised by them in a letter, as also other issues which they hinted at both in the letter, as also in the Press Conference. The trigger to the Press Conference, it appeared, was the manner in which a PIL raising questions about the suspicious death of **CBI Judge Brijgopal Harkishan Loya** was assigned to the Bench of Justices Arun Misra and MM Shantagoudar, considered relatively junior in the judicial hierarchy. This politically sensitive case related to the sudden death of Judge Loya on 1st December, 2014 when he was hearing the discharge petition in the criminal case of alleged encounter killing of Sohrabuddin and his wife, Kauser Bi, in which Amit Shah, the former Home Minister of Gujarat had been implicated as an accused. We carry a detailed statement we issued following the press meeting, expressing our concerns over this unprecedented action. The

issues raised by the 4 Judges strikes at the very heart of the Constitutional Scheme adopted in India – of an independent judiciary, which functions freely and fairly and whose institutional integrity is beyond question. We hope that the judges and the judiciary, will, at the earliest settle, amongst themselves, all the issues flagged by the 4 senior judges so that the judiciary plays the role it was envisaged by the constitution makers – as the sentinel of justice, functioning without fear or favour, not only seen to be acting but also

acting fearlessly and independently.

The continuing economic distress and growing inequality in the last few years was dramatically uncovered in a Report released by OXFAM on 22nd January, 2018 showing that 1% of India's wealthiest have cornered 73% of the wealth generated in 2017. The figures show that in the 3 years since the present NDA Government came to power, wealth concentration amongst the richest is continuously increasing each year. The reason this is an

important dimension is that as lakhs of youth who join the work force each year face the reality of crushing unemployment and joblessness, political parties will exploit their anger and frustration by stoking caste, community and religious divides both by way of diverting their anger from addressing the real causes of economic misery as also to mobilise them. This is particularly worrying from a human rights perspective, in an election year. The entire human rights community needs to be more vigilant than ever. **V.Suresh, Editor** □

Press Statement: 12 January 2018

PUCL Statement on Concerns Raised by 4 Seniormost SC Judges on 12th January, 2018

The People's Union for Civil Liberties (PUCL) is seriously concerned over the implication of issues raised by the 4 senior most SC judges after the Chief Justice of India (CJI) going public about their disagreement with the CJI over functioning of the judicial institution both in its administrative as also judicial sphere of functioning.

In the Press Conference today, all the 4 SC judges - Justices Chelameswar, Ranjan Gogoi, Madan B. Lokur and Kurian Joseph (2nd to 5th in order of seniority) informed that they have already raised these concerns with the CJI 2 months back itself, and even on 12th January morning; but owing to lack of response from the CJI they were compelled to take the extraordinary step of making public their concerns.

The issues raised by the 4 senior judges are central to the independence of the judiciary: manner of deciding the roster and composition and strength of Benches, integrity of judicial process, institutional integrity, transparency in appointment of judges, etc. They have clearly and openly indicated that these vital principles have not just been flouted but ethically compromised. As the judges point out, "There have been instances where **case**

having far-reaching consequences for the Nation and the institution had been assigned by the Chief Justices of this court selectively to the benches "of their preference" without any rationale basis for such assignment. ***This must be guarded against at all costs***". (emphasis ours)

In our view this is not just a matter of judges and lawyers and the judicial institution but a matter which concerns our Constitution and democratic system, and is the concern of all citizens and the nation itself. It is important that the several cases pointed out by the 4 judges group should be made public and appropriate remedial action must be taken to undo the improprieties inflicted upon the litigants concerned and the public. It should be pointed out that for the last 2 to 3 years there had been a lot of talk within the legal fraternity, as also the rights community and democratically minded citizens over increasing attempts to politicise and influence the judiciary, by way of undue influence of the process of appointments of judges, manner of constitution of benches, allocation of cases and so on. The Letter written by the 4 senior Judges only affirms the doubts people have had till now.

A time has come for the nation to seriously introspect and openly discuss these issues to ensure that the Indian Judiciary remains a truly independent institution. The judiciary is an important bulwark against attempts to dilute, change and limit the fundamental and constitutional rights of Indian citizens and against majoritarian tendencies that seek to undermine our constitutional values of Liberty, Equality, Democracy, and Secularism.

We believe that the issues raised in the letter and press conference of the 4 Supreme Court Judges must be addressed immediately and course correction must be ensured. We also hope that the CJI and other stakeholders will take the issues raised by the senior most companion judges of the CJI in the proper spirit and with utmost seriousness and give its resolution due importance; as otherwise the same would have unfortunate consequences for both the institution of the judiciary in India and democracy and the constitutional scheme in the country.

Ravi Kiran Jain, National President, PUCL; **V. Suresh**, National General Secretary, PUCL □

A Fatal Blow to be Judiciary Rajindar Sachar

There is a colloquial saying – 'this house got burnt with its own (House Stove)'. I was reminded of this on the day when 4 judges held a press conference and mentioned serious charges against the Chief Justice. To add to the mystery, one of judge signatory now said publically – "an issue was raised. Those concerned have listened to it. Such actions would not occur again, and there is no need for outside intervention". But now the press leakage of what transpired at all judges meet, remind me of another. The water of seven seas will not be able to wash this stain.

The not so acceptable is the suggestion that pending case in Judge Loya's death should be heard only by CJI and the top 4 judges only. This suggestion is obviously unacceptable as it touches the integrity of all other judges.

Let me give you an instance of how such a situation was handled in a leading high Court. It was in 1985 1st week of December that a petition was filed in the high Court asking for a direction to Rajiv Government to appoint a Commission of Enquiry to investigate the 1984 killing of Sikhs. The matter was listed before the first puisne judge. In spite of opposition by the Union of India the Bench issued a show cause notice to the Central government for a date in the middle January, as the high Court was closing for winter vacation.

A new roster was fixed after the vacation. When it came out, the first puisne judge found that in the roster he was put in a criminal bench, which obviously ruled him out from hearing the Enquiry Commission matter – obviously the judge was hurt/surprised at this openly unbecoming action of the Chief Justice. He had the choice of going public or at the minimum pass on this untoward act by the Chief justice to a few members of the Bar. But he did not do so. Instead he took leave for one week immediately on the reopening of the high Court. The message was conveyed to the Chief Justice without making a public display which would inevitably have caused a dent to the reputation of

the High Court. The new Bench dismissed the writ petition. But that is another matter. But here the matter has gone to the press and four judges have charged that, "There have been instances where cases having far-reaching consequences for the Nation and the institution had been assigned by the Chief Justices of this court selectively to the benches ... without any rational basis for such assignment. This must be guarded against at all costs". Thus keeping quiet is not an option for the other judges of the Supreme Court.

May I give another instance of a high Court, which dealt with trial of a case involving the murder of Indira Gandhi. Under law the allocation of the trial court is decided by District judge or the High Court. The first puisne judge of High Court heard from the press that the case was marked to one particular additional District and Session judge who he felt was not upto mark. On enquiry he was told by the Registrar that Chief justice had so ordered. Now in law Chief Justice could not do so because the word "High Court" means a decision by the majority of all judges. This is done by circulating the suggested decision amongst the judges. The circulation is done by sending it to the junior most judge so that he could give his opinion uninfluenced by any view given by the senior judges. First puisne judge being consciously of this frailty told the Registrar to bring this to the notice of the Chief Justice and also tell him that he would sign first (against the usual practice) as a kind of assurance that there was unanimity amongst the judges and thus avoid an embarrassment if the order was to be challenged. Chief justice understood the delicacy of the matter and agreed to the suggestion so the order became legal. But this could only have been done if the loyalty of first puisne judge was to the judiciary rather than to take any advantage against the Chief justice.

I believe that the issues raised by the 4 senior judges are central to the independence and institutional

integrity of the judiciary. I believe that the issues raised in the letter and press conference of the 4 Supreme Court Judges must be addressed immediately and course correction must be ensured, by the full Supreme Court as otherwise the same would have unfortunate consequences.

I have no doubt that people at large will be wondering whether they are in danger of losing their entitlement to an independent judiciary as guaranteed by the constitution. I myself am reminded of the searing words of Bible which were strongly spread by Jaya Prakash Narain during the fight against Emergency – namely "but if the salt have lost his flavor, with which shall it be salted?"

I hope the Supreme Court does not take offence and make it a matter of undue superiority and take the stand that this matter, notwithstanding that it has disturbed the whole Bar of India, it will not discuss it with the Bar because it is its sole privilege. May I, in all humility, submit that this assumption proceeds on the belief that the judges are immune to human frailties even while making non-judicial decisions (such as appointments and transfers). This self-glorification is not accepted even by members of the judiciary itself vide expostulation of Justice Frankfurter of the US Supreme Court that "all power is of an encroaching nature. Judicial power is not immune to this human weakness. It must also be on guard against encroaching beyond its proper bounds and not the less so since the only restraint upon it is self-restraint".

If I sound a bit harsh, I can only invoke the caveat of Justice Holmes of the U.S. Supreme Court, who said, "I trust that no one will understand me to be speaking with disrespect of the law because I criticize it so freely.....But one may criticize even what one reveres.....And I would show less than devotion, if I did not do what in me lies to improve it."

New Delhi: Dated: 16/01/2018 □

Master of the Roster and Judicial Norms N.D.Pancholi*

Allocation of cases to several benches by the Chief Justice of India whether in the Supreme Court or in the High Court by the respective Chief Justices has always been a sensitive issue. Though the Chief Justice is supposed to be the master of the roster i.e. he has prerogative in allocation of cases to particular benches of the court but that cannot be done in arbitrary and selective manner. Certain precedents and rules have been evolved under which particular benches are fixed to hear particular types of cases and there cannot be departure from this practice. A well established precedent has further been evolved that if a matter is being heard by a particular bench, it cannot be transferred to any other bench by the Chief Justice so long that particular bench has been hearing that matter. These include part-heard matters also. Important and sensitive cases which may have serious repercussions in eroding democratic values and abridging fundamental rights, have to be assigned to the respective benches without any distinction. While allocating cases settled judicial discipline and decorum has to be maintained by the respective Chief Justice. However it appears that the present Chief Justice of India has been flouting these well established judicial norms and allocating cases in selective manner and even not listing the cases before those benches which had earlier been hearing and dealing with such cases. The senior four judges of the Supreme Court have rightly said that unless this institution i.e. the Supreme Court is preserved and it maintains its equanimity, democracy will not survive in this country. Flouting such settled judicial norms always create tensions and heartburning –not only to the litigants but also to the judges who are entitled to hear such cases. There have been instances when benches are changed and matters are

transferred from a particular bench to the bench which is suitable to the ruling party in power. For example in December 1984, in the wake of brutal massacre of around 3000 Sikhs in the capital of Delhi, a writ petition was filed on behalf of PUDR (People's Union For Civil Liberties) in the Delhi High Court praying for instituting a commission of inquiry. Govt. opposed the petition tooth and nail but Justice Rajindar Sachar issued notice and asked the govt. to submit its reply. The matter was fixed for some date in January 1985. However, to the surprise of all, when High court reopened in January 1985 after winter vacation, Mr. Rajindar Sachar was transferred to the different side of the roster and the said writ petition was fixed before the other judge who dismissed the petition. Mr. Rajindar Sachar was very angry but he maintained his cool.

I cite another example. When Mrs. Indira Gandhi came to power in 1980, her government constituted Kudal Commission to investigate allegations against the Gandhian institutions for using their charitable organizations for political purposes and thus charged them for misusing of funds. These institutions included Gandhi Peace Foundation, Sarv Sewa Sangh, Association of Voluntary Organizations, Citizens For Democracy etc.etc. These organizations were in the forefront during JP movement(1973-75) . They were also very active in opposing 'the emergency' which was imposed in June 1975. It was obvious that the motive of the then Congress government in establishing the Kudal Commission was to punish and victimize these organizations for their role in JP Movement. The Kudal Commission started issuing notices to these organizations on baseless allegations. The organizations had engaged senior advocate S.C. Malik for their defence. S.C.Malik was very reputed lawyer, was a

'Royist', had done many landmark cases. During the emergency he was the first one to take up cases on behalf of the detenués, including the case of Kuldip Nayar whose detention was soon quashed by the High Court of Delhi. Malik had the rare distinction of being the advocate in the judicial history of independent India who, on behalf of the combined opposition, had cross-examined the sitting President of India, namely Mr. V.V.Giri in the proceedings in the Supreme Court as Giri's election was challenged therein.

Kudal Commission started issuing notices to the said Gandhian institutions and the same were challenged in the High Court of Delhi. As per roster, the cases came to be heard by the court of Justice T.P.S.Chawla who started issuing stay orders against the various notices of the Kudal Commission. While these cases were being heard by Justice Chawla, one fine morning we found that the cases were listed before the bench of the Chief Justice. We were all surprised as it was very unusual and was against the norms. When the hearing started in the court of Justice Chawla, the conversation between the Chief Justice and S.C.Malik took place somewhat in the following manner, coupled with heated exchanges:

Malik to the Chief Justice: How this case has been listed before your Lordship? It was being heard by the Court of Justice Chawla!

Chief Justice: I have assigned this case to my court.

Malik: How can you do it? It is against the well settled precedents!

Chief Justice: I have the power to do it. It is for me to decide the allocation of the cases.

Malik, in heated voice: You cannot do it. You have committed the contempt of the court of Justice Chawla by taking away this case from his roster. You have to send the case back to the said court.

Chief Justice: I will not. I am acting under my prerogative.

Malik, shouting at the Chief Justice: If you keep this case with you for hearing, in that case I shall file contempt of court petition against you in the court of Justice Chawla." Malik came out of the court in anger.

Soon we came to know that the Chief Justice had sent the case back to the court of Justice Chawla.

I asked Malik as to how he could threaten the contempt proceedings against the Chief Justice! And what if Justice Chawla declined to issue contempt notice to the Chief Justice – a fellow judge of the court? Malik replied with confidence, "If the Chief Justice had not sent the case back, I would have filed contempt petition against the Chief Justice

and I am sure that Justice Chawla would have issued contempt notice to the Chief Justice." And he added with a smile "Chief Justice knew this."

Thus the Chief Justice was wise enough to avoid the confrontation.

**N.D.Pancholi is an advocate in the Delhi High court and Vice-President of PUCL National. □*

Delhi PUCL: Press Statement: 14th January, 2018

We Salute the Four Hon'ble Judges

The four senior most judges of the Supreme Court have done a singular service to the nation by highlighting their concerns by way of the Press conference. It is obvious that their main purpose was to warn the nation against the dangerous drift towards arbitrariness and questionable procedures adopted by the Chief Justice of India which adversely impact the administration of justice. The judges have rightly said that unless this institution i.e. the Supreme Court is preserved and it maintains its equanimity, democracy will not survive in this country or in any other country. No

doubt that the Chief Justice of India has the prerogative to fix benches for particular cases but this power cannot be exercised in arbitrary manner against established judicial norms. Present Chief Justice of India appears to have violated those settled judicial norms and healthy precedents in the garb of his prerogative. While it was the duty and obligation of the Bar Councils and Advocates associations to raise their voice against such undemocratic and arbitrary drift, we are anguished to note that these councils and associations, barring few distinguished advocates, have

miserably failed at this critical juncture of our nation.

We hope that the present Chief Justice, in league with fellow judges, would rise to the occasion and function in such a way that would restore the public confidence in the Supreme Court as a citadel of justice and a bulwark of democracy. We salute Justice Chelameswar, Justice Gogoi, Justice Madan Lokur and Justice Kurien Joseph for what they have done; and are sure that their names will be written in golden letters in the judicial history and democratic annals of this country.

N.D.Pancholi, General Secretary; **Anil Sinha**, Secretary, CFD □

From Prabhakar Sinha's Blog:

Reflection on the Press Meeting of SC Judges Prabhakar Sinha, Former President, PUCL

The four judges of the SC took the unprecedented step of calling a press conference (12.01.2018). We must realise that they are no less concerned* about the interest of the country than us and must have taken the step only after due deliberation and as a last resort. It must also be appreciated that that they have not raised an issue of their personal interest but of the national interest. It is also pertinent to note that the four are not just any four judges but the four senior most judges of the apex court, who are to be consulted on important issues including judicial appointments. Their opinion does not deserve to be treated lightly and should have been given due weight.

Nobody is disputing the right of the CJI to constitute benches and

assign cases to them, but if the senior brother judges feel that certain cases should not be assigned to a bench consisting of certain judges they should have been listened to. It was not a case which should have been made a prestige issue by the CJI. By making an issue of it the CJI has lent some credence to the suspicion that he was interested in the case going to a particular bench. It has hurt many including the apex court. It has hurt the standing of the CJI, the judge who was assigned the case and the judiciary itself. It creates the impression that the judges of the apex court do not decide cases on merit, can be influenced and even the CJI is a party to this unethical practice. Alternately, if the CJI had

acceded to the suggestion of the brother judges, he would have saved the prestige of the apex court as well as his own. However under the circumstances, the controversial case should be heard by a court which is not controversial.

It is no occasion for us to take sides and attack one or the other but to do and say only what is in the interest of protecting the honour, independence and prestige of this great institution.

Prabhakar Sinha

**It is natural for us to think that the judges should not have gone to the press or the CJI was wrong in not listening to the judges, but our approach should be to avoid adding fuel to the fire. □*

Stand by the Judges in Defense of the Constitution

We, the concerned citizens of the country, are sincerely disturbed and deeply anguished by the shocking description by the senior most judges of the Supreme Court about what is going on in the highest court of the country as of late. We congratulate these judges for their bold, courageous and unprecedented step of addressing directly the people of India at the Press Conference highlighting certain judicial orders passed by the Court which has adversely affected the overall functioning of the justice delivery system and the independence of the High Court besides impacting the administrative function of the Office of the Hon'ble Chief Justice of India". The arbitrary exercise of the powers of the Chief Justice regarding fixing roster comprising of the benches of the judges and the allocation of cases to the benches, departure from the well-established conventions and traditions guiding the exercise of these powers, assigning the cases of far-reaching consequences for the nation and constitution selectively to the benches "of their preference, important cases by

postponing the review of these cases such as demonetization, Adhar Card etc." would lead to unpleasant and undesirable consequences of creating doubts in the body politic about the integrity of the constitution. "The compulsion on the part of these highest judges to tell the truth to the people of India – unprecedented action would show the depth of the cases about the justice delivery system. The most dangerous problem is the politically disguised intention of the government in the functioning of the court and openly stated by these judges, but what can be easily inferred from what they have stated. This would undermine the very authority, integrity, independence and legitimacy of the highest court of the nation. The Supreme Court is the most important institution to protect the Constitution of India and any attack upon it either from outside or from within is a direct assault to the Constitution. Once Indira Gandhi during declared Emergency did try to attack the independence of the judiciary. Now the present Govt. is trying to

destroy all constitutional authorities one by one and now attempts to destroy Supreme Court, forms a classical symptom of "undeclared emergency". This is the worst attack upon the Supreme Court of India – the last citadel of democracy and freedom. Instead of criticizing these senior judges for the Press Conference, we must be thankful to them for pointing out the great danger to the democracy and constitution. The people must remember that this is not simply institutional crisis to be resolved from within but a serious crisis affecting the people and the constitution. Time has come for "We, the People of India" to stand by the judges and to defend the judiciary from "political authoritarianism".

Gautam Thaker, General Secretary, PUCL Gujarat; **Girishbhai Patel**, Senior Advocate, Gujarat High Court; **Suresh Mehta**, Former Chief Minister Gujarat; **Indukumar Jani**, Editor, *Naya Marg*; **Prakash N. Shah**, Editor, *Nirikshak*; **Rohit Shukla**, Editor, *Abhidrashti*; **Rajani Dave**, President, Gujarat Sarvodaya Mandal; **Prof. Hemantkumar Shah**, National Council Member, PUCL; **Mahesh Pandya**, *Gujarat Social Watch*. □

Media Report of Meeting organised by PUCL Delhi

Govt trying to take away independence of judiciary, alleges Prashant Bhushan

Bhushan was speaking at a discussion on the topic - 'Felling of the Last Bastion: Is Indian Democracy in Peril'.

Press Trust of India (PTI), New Delhi: Jan 19, 2018 21:53 IST

Activist lawyer Prashant Bhushan on Friday accused the Centre of trying to take away the independence of judiciary and again targeted Chief Justice of India Dipak Misra over the medical college bribery case in which the Supreme Court has already dismissed two petitions.

The activist lawyer, who has been raising the issue under the banner of Campaign for Judicial Accountability and Reforms (CJAR), brought up the same issues under the banner of 'Janhastakshep', an activist body

and Peoples Union for Civil Liberties (PUCL), a human rights organisation.

Bhushan was speaking at a discussion organised by 'Janhastakshep' and PUCL on the topic - 'Felling of the Last Bastion: Is Indian Democracy in Peril'.

He raised questions on the method adopted by the government in selecting judges.

Bhushan has come under attack from senior advocate Vikas Singh, who has been appearing for the Medical Council of India (MCI), for his allegations against the judiciary. In a letter to the four dissenting judges Justices J Chelameswar,

Ranjan Gogoi, M B Lokur, Kurian Joseph and also A K Sikri, Singh had condemned the conduct of the CJAR in filing a complaint with them accusing the CJI of alleged misconduct in the medical college bribery case related to Prasad Education Trust.

Singh alleged that a group of activists under the banner of CJAR was trying to "scandalise the judiciary" by levelling "false charges" against the CJI in connection with a medical college bribery case.

At an unprecedented press conference on January 12, Justices J Chelameswar, Ranjan Gogoi, M B

Lokur and Kurian Joseph attacked the CJI on the issue of allocation of sensitive and important PILs in the apex court.

Singh has said in his letter that he

was "quite confident" that there was no wrong doing by the apex court while dealing with them and sought contempt action against the activist lawyers for allegedly maligning the judiciary.

<http://www.hindustantimes.com/in-dia-news/govt-trying-to-take-away-independence-of-judiciary-alleges-prashant-bhushan/story-ERKMjHf0MLsWUE0YxMGymL.html> □

PUCL Maharashtra

Statement Condemning the Attack by Hindu Religious Extremists at Bhima Koregaon

PUCL condemns the pre-planned attack by Hindu religious extremists on people gathered at Bhima Koregaon, on 1st January 2018.

Thousands of people predominantly from the Dalit community gather every year on 1st January at Bhima Koregaon (30 kms from Pune) to pay homage to the Dalit warriors who won victory over the Brahminical Peshwai rule in the year 1818. This war was fought between British East India Company which had warriors from the Mahar caste and the Brahminical Peshwas of the Maratha Confederacy. The Peshwas had a long history of treating persons from Mahar caste as untouchables, and had exploited and persistently meted injustices on them. The offer of the Mahars to serve the Peshwa army was, reportedly, also unceremoniously rejected. It is said that five hundred Mahar soldiers defeated the 25,000-strong Peshwa army. The British erected an Obelisk in memory of the soldiers who lost their lives. The inscription on the obelisk features the names of 22 Mahar soldiers. This victory was significant for the Dalits, who had been marginalized and oppressed for so long.

More than ever today, Dalits view this place with pride as a battleground on which they fought and won against the tyrannical Brahminical rule of Peshwas, steeped in Caste discrimination. Dr. Ambedkar himself visited the site on 1st January 1927 and since then the respect for this place amongst Dalits has spiraled.

This year was the bicentenary of the victory and it was expected that people in lakhs will congregate. Just the day before, on 31st

December 2017, in Shaniwarwada, Pune, which is historically considered as bastion of Brahminical forces, the seat of the erstwhile Peshwa empire, various progressive organizations had held a public event "Elgaar Parishad" attended by thousands and addressed by various leaders from Justice P.B Sawant (Retd. Judge, Supreme Court), Justice Kolse Patil (Retd. Judge, Bombay High Court), Soni Sori, Ulka Mahajan, Jignesh Mevani, Prakash Ambedkar, Umar Khalid, amongst others calling upon the people to overthrow "nai peshwai" or the new form of Brahminical Peshwa rule prevalent in society today.

The awakening of Dalit community, demanding equal rights, respect, dignity and citizenship rights is seen as danger to the rule of Brahminical Caste hierarchy by the Hindu extremist forces which are backed by RSS, as well as BJP. On 29th December 2017 itself in village Vadhu Budruk, (near Bhima Koregaon) some people desecrated a memorial built in memory of Govind Gopal Gaikwad or Ganapat Mahar, a dalit icon, who is said to have performed funeral rights of Sambhaji, son of Shivaji Maharaj. A complaint was filed against those people who desecrated the memorial. There was police action against some of the persons involved in the desecration. In response to these arrests, nearby 10 -12 villages decided to boycott the occasion on 1st January 2018.

A morcha was taken out on 1st January 2018 by the upper caste villagers from Vadhu towards Koregaon. This morcha turned violent and started targeting all the vehicles which were carrying people to Bhima Koregaon. The

buses were reportedly stoned even from the terrace of buildings adjacent to the road and around 40 vehicles were burnt and shops, which were open, were vandalized, burnt and looted. One person Rahul Phatangale (28), even got killed and many were wounded in this pre-planned violence unleashed by the morcha with a view to disrupt the commemoration.

As the news of this violence unleashed on people reached Mumbai, there were spontaneous protests, which broke out in various areas of Mumbai on 2nd January 2018. Prakash Ambedkar, CPI, CPM and around 250 organizations from Maharashtra came together and gave call for a Maharashtra Bandh on 3rd January 2018. The Bandh was widely successful and largely peaceful, with sporadic violence reported across Maharashtra.

Only by the evening of 2nd January 2018, the police in Pimpri, on the outskirts of Pune, registered cases against two men with strong Hindu right-wing links, Sambhaji Bhide (85) who leads the Shiv Prathisthan and Milind Ekbote (60) who heads the radical Hindu outfit Samasta Hindu Aghadi. Both these "leaders" have strong links not only with BJP and its ideologue, RSS, but also with Prime Minister Narendra Modi. They also have history of violent demonstrations. In 2008, Bhide along with his followers ransacked movie halls protesting against the release of movie Jodha-Akbar. In 2009, too he created violent situation in Sangli when a Ganesh pandal was denied permission. Mr. Ekbote has 12 cases of rioting, trespassing, criminal intimidation, and attempts to spread enmity between two communities against

him. He has been reportedly convicted in five of these cases. During his first term as a BJP Corporator in Pune between 1997 and 2002, he had come to fisticuffs with a Muslim Corporator over the construction of Haj house.

On 4th January 2018, police also filed cases in Pune against Jignesh Mevani and Umar Khalid accusing them of instigating violence and giving provocative speeches, though they were not even present in Koregaon. Police even denied permission for a public event in Mumbai on 4th January 2018, which was planned for students many days before, wherein Jignesh Mevani and Umar Khalid were to interact with students. In fact, police also detained organizers of the program and several other students.

From a consideration of the facts underlying the recent incidents, PUCL expresses its concerns regarding the questionable role of the Maharashtra Government and State Police in allowing violence to build up and not taking appropriate preventive action, which could have ensured that the violence did

not spiral out of control. It has been reported that one of the accused in orchestrating the Bhima Koregaon violence, Sambhaji Bhide met the SP, Sangli and gave a representation to drop all cases. The impunity with which both the accused have carried out the attacks and the failure of the State Police to arrest both the accused to date is a clear indication of the state's complicity.

- **PUCL demands that the Maharashtra State Government launch an inquiry into the role of government officials and take action against those guilty of dereliction of duty. The role of the state in allowing non-state players like the Shiv Pratishtan and other group to stoke and indulge in violence needs to be investigated and action ought to be taken against the erring officers.**
- **PUCL demands that Sambhaji Bhide and Milind Ekbote be arrested and an independent probe be ordered into the death of**

Rahul Phatangale and culprits be punished.

- **PUCL also demands that the false and motivated criminal case filed against Jignesh Mevani and Umar Khalid, with a clear intention to shift the blame from the Hindu religious extremists led by Shambhaji Bhide and Milind Ekbote, be unconditionally dropped.**
 - **PUCL also demands that attempts to curtail the indivisible constitutional freedoms of speech or movement of Jignesh Mevani, Umar Khalid and all the citizens of India be immediately stopped.**
 - **PUCL calls upon all democratic minded citizens to reject the politics of hate and intolerance and assert the importance of respecting diversity, communal harmony and peaceful coexistence of all communities and castes.**
- Mihir Desai, Convener, Ad-Hoc Committee, PUCL Maharashtra
□

Condolence messages:

Prof Vinay Kantha is no more. Our deepest condolences!

NAPM expresses its deepest condolences at the sudden demise of Prof. Vinay Kantha on 25th December 2017 at PSRI hospital, Sheikh Sarai, Delhi. Vinay Kantha ji was suffering from non alcoholic cirrhosis of liver and we were hoping for his quick recovery. However, he suffered brain haemorrhage on 17th and could not recover from there.

Vinay Kantha Ji was a champion of human rights and National Vice President of PUCL. He was known as a vibrant left liberal intellectual and active proponent of progressive causes including those raised by the NAPM. He will be deeply missed by many activists whom he used to nurture with his deep understanding of social issues.

We offer deep sympathies to the family of Prof. Kantha and hundreds of others for whom he was loving figure.

Sudha Bhardwaj, Secretary, National PUCL □

Dear Friends

I have just come to know from a mail of NAPM that Prof. Vinay Kantha is no more. He was a soft spoken, pleasant looking civil rights activist and intellectual. He has made many valuable contributions and suggestions for the better working of the PUCL. We all shall really miss him now. I convey my sincere condolences to the bereaved family of Prof. Kantha.

Mahi Pal Singh, former secretary, National PUCL □

It is a shocking news and hard to hear untimely demise of Prof. Vinay Kanth,

On behalf of all the members of PUCL - Karnataka, convey deep condolences to his family members and friends across India.

Y J Rajendra, President, PUCL Karnataka □

He shall be missed by us forever!

Ram Naresh Jha, Bihar PUCL □

Jaipur for Aman & Sadhbhavna: Rally Demands cases against MLA Gyan Dev Ahuja and Banwari Lal Singhal and arrests of all accused and conspirators for all killings lynchings
Report of the Rally in Jaipur on 3rd January. Savitri Bai Phule Jayanti.
"Against Hate, for Peace, Harmony and Justice"
Nafrat ke Virudh, Aman, Sadbhavna aur Nyaya ke liye,

Rally demands* Arrest of MLAs, Gyan dev Ahuja and Banwari Lal Singhal, for their hate speech utterances.

Vasundhara Raje as CM, ensure justice for all those killed due to lynchings and an end to Targeting of Muslim.

Decision taken to form Aman Committees at District and block level and launching Samvidhan yatras in every city , village in this month and conclude on 30th January

On the birth anniversary of Savitri Bai Phule, who represented women's empowerment and a society with equality and justice, Jaipur saw a big rally of people demanding peace and justice in Rajasthan, bringing an end to lynchings of Muslims. Between April and December series of 5 lynchings of Muslims had taken place in the State. SLOGANS in the rally included "Vasundhara Raje stop hate politics", "Bring justice to all killed in hate politics", "Samvidhan Zindabad, Constitution Long Live", "Sanghwaad murdabad- Death to RSS ideology", "Vasundhara Raje ensure peace now", Arrest the real killers of Pehlu Khan, Zafar Khan, Umar khan, Talim hussain and Afrazul.

The rally was organised jointly by Dalit groups, muslim organizations, citizens organizations, trade unions, student organisations, womens organization, civil society based groups, left parties and their organizations.

It was felt that the State was burning in the fire of Hate and the brutal killing in Rajsamand of Afrazul by one Shambhu Lal Regar had opened a new chapter in the book of Hate. A killing which shocked the nation as it was a killing which was video taped and then several videos including that of the killing and of justifying the

killings were put on social media by the killer before his arrest. Instantly making him a Hero of Hate politics. It was not a mere coincidence that the killing was done on the day that the demolition of Babri Masjid happened. A day observed by the Hindutva forces as Shaurya Diwas. A day to celebrate Hindutva domination over Muslims.

In almost all the cases of lynchings the culprits were still at large with complete impunity to the killers. To top it all the hate speech was at its worst with lead being taken by MLAs Gyan Dev Ahuja, who said all cow smugglers should be shot dead and MLA Banwari Lal Singhal from Alwar too made a statement that Muslims ate reproducing at the rate of 12 to 14 children per family as they want to out do the Hindus in terms of population and grab the President, PM and other constitutional seats. No cases had been filed against them. The rally demanded booking them for hate speech along with their arrests.

The rally also demanded that peace be restored which consisted of arrest of all the accused in all the lynching matters including those provoking such killings along with making a policy of ending all targeted violence against Muslims, Christians and Dalits.

Several questions were raised by the rallyists of the CM which included whether the State had made a policy of lodging false FIRs against cow rearers and dairy farmers if they were Muslims, at the behest of the so called Gau Rakshaks.

Why did the Government have the agenda of destroying Muslim livelihoods in the Mewat area who were only dairy farmers, cow rearers and agriculturalists. Would the killers named by Pehlu Khan before he died never be arrested. Would Pratapgarh's Zafar Khan killing be treated as a death due to

natural circumstance and the killers never be arrested and would the killers of Umar Khan be arrested after the bypolls of Alwar. Would Talim Hussain's killers in Khakhi ever be booked for their crime.

The rallyists decided to set up Aman, Sadbhavna and Nyaya committees at all district and the tehsil levels. They also decided to do a Constitution yatra in the run up to Republic day. Along with other plans. A resolution condemning the Government of Maharashtra for not protecting the dalits and letting the Manuvadi forces attack the dalits brazenly which led to the killing of one Dalit in Koregaon who were observing the 200 years since the defeat of the peshwa rulers in the hands of the Mahar regiment, was also passed.

Timeline for the 2017 which was a year of horror for Rajasthan was read out to. March saw a near lynching situation where at the behest of one Kamal didi and her goons of the Rashtriya Gaurakshak Mahila Dal the staff of Rabbani Hotel was beaten up, the hotel sealed that night and a false case filed against the Hotel owners that they had fed beef to stray cows. April saw Pehlu Khan a farmer from Jaisinghpur, Nuh in Haryana who died on 3rd of April in Behror, Alwar District when he was brutally attacked by So called Gau rakshaks when he, his sons and two other villagers were transporting cattle just bought from a cattle fair in Jaipur, back to their village on 1st April. June saw Zafar Khan killed by safai karamcharis and the Nagar Palika Adhyaksh of Pratapgarh as Zafar Khan objected to women being harassed by them when they were defaecating in the open. This was the first Swachh Bharat killings. November saw Umar Khan from Ghatimika, Kaman, Bharatpur who was transporting cattle with two other

colleagues attacked with bullets and killed near Govindgarh, Alwar. His colleague Tahir too got a bullet who managed to escape with the driver Javed from the scene of crime. As if the murder was not enough his body was taken 15kms away on to a railway track so that by trains running over him, there would be no identification of the person. Only two of the murderers were arrested and 6 others were at large, instead those travelling with Umar were in Jail. In the case of Talim Hussein which also took place on the night of 6th and 7th December which saw the Alwar police do the job of the Gau Rakshaks and killed one Talim Hussain the driver of one truck which was carrying stray cows, calling it an encounter. No cases had been lodged in this matter calling Talim Hussain a cow smuggler. The last case being that

of Afrazul.

The rally ended with a memorandum being handed over to a magistrate on duty at the CIVIL Lines phatak where the sabha happened. The CM we were told was out of station. The memorandum was handed by former MLA Ayub Khan from Alwar who wept at the deteriorating condition in the state.

The speaker's included, Suman Devathiya of All India Dalit Mahila Manch, Iqbal Siddiqui of JIH, Rajasthan, Bhanwar meghwanshi of the PUCL, Ravindra Shukla, CPIM, Nisha Sidhu CPI and NFIW, Manjulata CPIML Liberation and AIPWA Trade unionist Harkesh Bugalia, Maulana Hanif of Insaf, Alwar, NoorMohammed from the PUCL, Lad Kumari Jain from RUWA, Sawai Singh, Samagra Sewa Sangh, Ayub Khan, ex MLA Alwar, Abrar from muslim forum,

Baluji from the MKSS, Dashrath kumar Hinuniya, Ambedkarite Party. There were about 30 organization who had come together. The meeting was coordinated by Sumitra Chopra, CPIM and AIDWA and **Kavita srivastava**, Secretary, PUCL National.

Contact persons: Sumitra Chopra (9462171994), Nisha Sindhu (9414443607), Sawai Singh (9413200004), Iqbal Siddiqui (7737509669), Bhanwar Meghwanshi (95710-47777), Kavita Srivastava (9351562965), Nishat Hussain (9829334500) Mukesh (9468862200) Basant Haryana (9887767688), Tek Chand Rahul (9414238153), Dashrath Kumar Hinuniya (9460084593), Harold Singh, (9829856789), Rashid Hussain (8233575757), Latif Arco (9314501325), Abid Khan 950903040, Harkesh Bugalia (9314506344), Tara Chand Verma (9783441116), Kailash Meena (9928136988), Rahul. □

Report from Venkatesh Nayak of Commonwealth Human Rights Initiative (CHRI):

RTI Reveals- Even After Four Decades, Rules and SOPs Do Not Exist for Ordering Preventive Detentions Under J&K PSA

While replying to an RTI application filed by members of the J&K RTI Movement (led by Dr. Shaikh Ghulam Rasool), the J&K Home Department, has admitted that the State Government has not made any Rules or Standard Operating Procedures (SOPs) under the *Jammu and Kashmir Public Safety Act, 1978* (J&KPSA) during the four decades of its existence. District Magistrates and Divisional Commissioners have been issuing hundreds and sometimes even thousands of detention orders every year, under the controversial J&KPSA, without much else to guide them except the reports and dossiers prepared by the J&K Police.

Section 23 of the J&KPSA empowers the State Government to make Rules to implement this law. It is common practice for Legislatures to delegate powers to the Executive to make Rules to provide detailed procedures for implementing the bare bone provisions of the laws they enact. Yet, by the Home Dept.'s

admission, J&K Government has not invoked Section 23 to make any Rule for implementing J&KPSA even after forty years of enactment.

More than 1,000 detentions between March 2016 and August 2017

The RTI reply also revealed that **1,003 persons had been detained across J&K, for varying periods under this law, between March 2016 and August 2017** - a period which included several months of turmoil across J&K. The Home Department which is part of the portfolio of departments retained by the Hon'ble Chief Minister, refused to reveal the identities of the detainees, citing Section 8(1)(f) and 8(1)(g) of the *J&K Right to Information Act, 2009* (J&K RTI Act). While Section 8(1)(f) exempts disclosure of information that may endanger the life or safety of a person or reveal the source of information given in confidence to law enforcement agencies, Section 8(1)(g) exempts the disclosure of information that may impede the process of investigation,

prosecution or apprehension of offenders.

The RTI application was originally sent to the District Magistrate, Jammu. The Public Information Officer (PIO) of the DM's office simply transferred the RTI application to the J&K Home Department. (Click the 3rd pdf file for the RTI application and the reply of the J&K Home Department at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPi-nM5bUpwCqe8VF2Vcszj2K>)

Contradictory replies from the districts about Rules and SOPs under J&KPSA

Members of the J&K RTI Movement and other civil society activists filed common RTI applications across all districts of J&K in June 2017 with the following queries:

- "1) A clear photocopy of the latest version of the Rules framed under the *J&K Public Safety Act, 1978* (J&K-PSA);
- 2) A clear photocopy of the Standard Operating Procedures

(SOPs) that provide guidance to the District Magistrate for the purpose of making decisions regarding the detention of any person under the J&K-PSA, based on police reports/dossiers;

3) The total number of persons detained under J&K-PSA from 04 March, 2016 till date and the complete list of detainees indicating the name, age, parentage, postal address and grounds for detention and exact place of lodgement of each detainee;

4) A clear photocopy of any official document that contains the procedure for ascertaining the age of a detainee under J&K-PSA when such person is suspected to be a minor;

5) Inspection of all detention orders issued under J&K-PSA and the related police reports and dossiers related to such detainees as on date of this RTI application."

Despite the J&K Home Department's admission about the non-existence of Rules and SOPs under the J&KPSA, the districts gave contradictory and even funny replies to similar queries. Given below is a sampler of these replies:

1) RTI reply from DM, Anantnag: Although the Assistant Commissioner, Revenue is the designated PIO for the DC/DM's office, the PA to the DC's office sent the reply stating that "the J&KPSA is a rule book consisting upon 711 pages and is in binding shape. It is not possible to Photostat the book. The Book is available at Govt. Press, Srinagar." As regards the SOPs issued under J&KPSA, the PA replied: "The Standard Procedures (SOPs) is a rule book consisting upon hundreds of pages. It is not possible to photostat the same. The book is available at Govt. Press, Srinagar." (see 1st pdf file at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPinM5bUpwCqe8VF2Vcszj2K>)

It appears that the office of the

DM Anantnag (one of the worst affected districts during the turmoil) is following a rulebook for detaining people under J&KPSA about which the J&K Home Department is also not aware. This office replied only after the RTI applicants filed a first appeal after waiting in vain for the PIO's reply for the first 30 days.

2) RTI reply from DM Srinagar: The PIO of the DM's office, Srinagar attached a copy of the complete text of the J&KPSA to his reply and advised the RTI applicants to approach the proper forum, namely Home Department for the Rules and the SOPs. (See 6th pdf file at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPinM5bUpwCqe8VF2Vcszj2K>)

3) RTI reply from DM, Kulgam: The PIO of the DM's office, Kulgam attached a copy of Section 8 of the J&KPSA to his reply, indicating that these were all the Rules and SOPs that were being followed while issuing detention orders in that district.

The PIO replied only after the RTI applicants filed a first appeal after waiting in vain for 30 days- the statutory deadline for the PIO to send a reply. (See 5th pdf file at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPinM5bUpwCqe8VF2Vcszj2K>)

4) RTI reply from DM, Kishtwar: The PIO of the DM's office, Kishtwar also attached the text of the J&KPSA and an amendment made to this law in 2012 (which prohibits the detention of persons below the age of 18 years) to his reply and stated that they are the Rules as well. (See 4th pdf file at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPinM5bUpwCqe8VF2Vcszj2K>)

5) RTI reply from District Police Budgam: The Budgam DM's office did not bother to send any reply to the RTI applicants for 30 days. After they filed the first appeal, the RTI application was transferred to the Budgam District Police, without even informing the applicants about such transfer as is required

under Section 6(3) of the J&K RTI Act. The PIO (who is of Dy. Superintendent of Police rank) replied as follows:

"1. The latest version of the rules framed under the J&K Public Safety Act, does not pertain to us. It can be had from concerned government department or agency.

2. The law in this regard is clear that subjective satisfaction of the District Magistrate is required on the dossier provided to him for making detention. The mention of SOP made by you in point No. 02 is factually as well as, (sic) legally misconceived." (See 2nd pdf file at this link: <https://drive.google.com/drive/folders/1RTLvfV6EPinM5bUpwCqe8VF2Vcszj2K>)

In other words, the Budgam District Police treated the act of even asking questions about the existence of SOPs under J&KPSA as an affront to their power and authority. This is another indicator of the deep levels of impunity that exist within the administration armed with extremely harsh laws like the J&KPSA. Home Departments and Police Headquarters in other States issue SOPs on a range of operational matters such as registering FIRs, investigating crimes, handling cases of sexual assault against women and children, providing them counselling services, handling complaints of atrocities against dalits and adivasis etc. SOPs are issued in order to provide detailed procedures for implementing statutory provisions or rulings of High Courts and the Supreme Court on specific matters. This is common practice across other States.

No detention of minors under J&KPSA claim public authorities

The Home Dept. replied that no minors were being detained under J&KPSA. The certificate of date of birth issued by the competent authority was treated as proof of age. Similar replies were sent by the PIOs of other DM offices who bothered to respond to the RTI applications. No SOPs seem to

have been issued on this subject either, especially when a detainee suspected to be a juvenile is unable to furnish proof of age.

Lack of responses from several districts and unreasonable orders of the PIO & FAA of the Home Dept:

Several districts have not bothered to send replies even after first appeals were filed. Second appeals are being filed against them to the State Information Commission.

The Home Department rejected an RTI application for information about Rules and SOPs under J&KPSA sent to them directly on the ground that the IPO was left blank. According to Section 5(3) of the J&K RTI Act a PIO is required to provide reasonable assistance to an RTI applicant which includes curing any technical defects in the RTI application. According to Section 7(1) of the RTI Act, a request for information may be rejected only by invoking the exemptions listed in Sections 8 or 9 of the J&K RTI Act. Despite the applicants pointing out this requirement in their first appeal, the First Appellate Authority of the Home Department upheld the PIO's decision to reject the RTI application. **More than 60 days have passed since the submission of the second appeal. The J&K State Information Commission has not yet fixed a date for hearing this matter** (see RTI applications, replies and appeals in the 7th pdf file at this link:

<https://drive.google.com/drive/folders/1RTLvfV6EPi-nM5bUpwCqe8VF2Vcszj2K>)

Grounds for detaining any person under J&KPSA

Many residents of J&K believe that the State Government enacted J&KPSA during the late 1970s, in order to tackle timber smuggling, so this law does not affect common citizens much. Nothing can be farther from the truth. J&KPSA is not a substantive criminal law like the *Ranbir Penal Code, Svt. 1989* which recognises specific criminal offences. Instead J&KPSA is a law

that empowers the administration to detain a person in order to prevent him or her from committing certain specific actions. According to Section 8 of J&KPSA, a District Magistrate or a Divisional Commissioner may detain any person in order to:

- i) prevent him or her from acting in a manner that may be prejudicial to the security of the State or the maintenance of public order;
- ii) if a person is a foreigner as defined in the *Foreigners Act, 1946*, including a person residing in the area of the State occupied by Pakistan in order to regulate such person's continued presence in the State or in order to make arrangements for his or her expulsion from the State.

According to the J&KPSA, the following acts *inter alia* will be considered "prejudicial to the maintenance of public order":- *promoting or attempting to create enmity or hatred on grounds of religion, race, caste, community or region, use of force or making preparations for using force to provoke or abet or disturb public order or commit, instigate or incite mischief as defined under Section 425 of the Ranbir Penal Code, commit or attempt to commit or instigate or incite or provoke an offence punishable with death or life imprisonment, or an offence inviting punishment of a jail term of seven years or more where the commission of such an offence disturbs or is likely to disturb public order.*

Timber smuggling and abetting such smuggling and other related acts were added as grounds for detention under J&KPSA, seven years later, in 1985.

Under the J&KPSA, a person may be locked away for a period of up to two years on any of the grounds listed above, without the right to be produced before a Judicial Magistrate or hire a lawyer to defend oneself. In recent years, the Government itself issues such orders and confirms them despite the law requiring every such detention order to be placed before a 3-member Advisory Board for confirmation. In 2011, Amnesty

International published a detailed study highlighting the serious human rights violations that had occurred in hundreds of cases of preventive detentions made under J&KPSA.

Motivation for the RTI interventions

Deeply concerned by rampant use of J&KPSA in 2016 (during the turmoil), J&K RTI Movement invited Commonwealth Human Rights Initiative (CHRI) to conduct sensitisation sessions for civil society activists, lawyers, law students and media-persons on the provisions of the J&KPSA and other related police procedures. After understanding the statutory provisions and their human rights implications, **they decided to submit RTI applications across all districts in order to document evidence based on official records about the manner of implementation of J&KPSA.** Venkatesh Nayak and Shikha Chhibbar of CHRI conducted the sensitisation sessions and provided technical assistance to the group on the RTI procedures. In order to prevent possible harassment by the administration all RTI applications were filed in groups taking advantage of a 2012 judgement from the Punjab and Haryana High Court which permits such group action in solidarity [*Ved Prakash & Ors. vs State of Haryana & Ors, (2012) 168 PLR 741*]

All RTI applications, replies and appeals cited in this email alert are accessible at:
<https://drive.google.com/drive/folders/1RTLvfV6EPi-nM5bUpwCqe8VF2Vcszj2K>

Please circulate this email widely. Friends in the media may kindly note that this email alert is not being shared with anybody exclusively. It is being circulated sufficiently in advance during the day so that you may make use of this material in your writings as you deem appropriate with due acknowledgment to the source.

Yours sincerely,

Venkatesh Nayak, Programme

Coordinator

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*"The people of this country have a right
to know every public act, everything,
that is done in a public way, by their
public functionaries. They are entitled
to know the particulars of every public
transaction in all its bearing": Justice K
K Mathew, former Judge, Supreme
Court of India, (1975)*

*""Where a society has chosen to accept
democracy as its credal faith, it is
elementary that the citizens ought to
know what their government is doing":
Justice P N Bhagwati, former Chief
Justice, Supreme Court of India, (1981)
"Information is the currency that every
citizen requires to participate in the life
and governance of society": Justice A.
P. Shah, former Chief Justice, Delhi and
Madras High Courts, (2010) □*

Ongoing State Violations of Human Rights in India Must End Pushkar Raj

The continued incarceration of Dalit youth leader Chandrashekhar Azad Ravan in an Uttar Pradesh jail is symptomatic of alarming human rights violations by the state in India, made worse by a steady emasculating of the constitutional institutions meant to protect civil rights.

Ravan, the founder of a Dalit organization, **Bhim Army**, is accused of inciting violence in the aftermath of tension between upper caste (Rajputs) and lower caste (Dalits) resulting in many casualties and the **burning of several Dalit houses** in May this year. He was arrested in Himachal Pradesh in **June**, was denied bail by a lower court and sent to jail.

After 146 days, the High Court granted him bail suggesting that it was a **political** and therefore illegal detention. However, within 24 hours, the government booked Ravan under the **National Security Act (NSA)** and sent him back to jail. It will take Ravan at least six months before he gets to court in a bid for freedom.

The NSA was enacted in 1980 after the Maintenance of Internal Security Act (MISA) expired in 1977. MISA was used to jail some of the members of the current parliament and government during the 1975 emergency.

Protest in 1919 brought sweeping crackdown

The law's roots go back to the Rowlatt Acts that led to the *JallianwalaBagh* protest and massacre in 1919. Currently, it allows the state to detain a person on the ground that it is necessary for national security and "maintenance of public order."

Besides the NSA, the law of sedition is arbitrarily used against activists across the country. For example, Akhil Gogoi, a farmer's leader and **social activist** was arrested in Assam for **sedition** and sent to jail in September this year.

In Tamil Nadu, T. Jayaraman, an environmental campaigner, was booked in October for **sedition** for publishing a book criticizing the government of India's project interlinking the major rivers of the country that he termed "snatching and selling river."

And Gujarat police arrested Tushar Bhattacharya from Maharashtra where he has been living for the last three years after serving six years under the Unlawful Activities *Prohibition Act* (UAPA) for which he was later acquitted. After his arrest, Gujarat police described him as an absconder in a 2010 case which, say police, now merits a sedition charge.

Sedition conviction could mean life in prison

Section 124 A of the Indian Penal Code, makes creating disaffection "by words, either spoken or written, or by signs, or by visible representation, or otherwise," towards "the government established by law in India" an act of sedition punishable with life imprisonment.

The law was introduced in 1870 to suppress the demand of rights and freedom in the aftermath of the 1857 Indian Rebellion (some historians call it the First War of Independence) and later, in 1922, Mahatma Gandhi was jailed for six years for sedition.

The sedition law, besides being a diabolically vague statute that puts

espionage against the state and political cartooning on the same pedestal, is incompatible with democracy. Its continuation means the right to criticize the elected government does not exist, and if exercised would invite punishment. Civil liberty organizations have **appealed to the Indian parliament** to repeal a law that flies in the face of representative democracy, legal justice, and human rights.

One glaring victim of human rights violation by the state is G.N. Saibaba, a severely disabled former teacher of Delhi University who is **dying while he awaits** a bail hearing, pending his appeal in Supreme Court against conviction for sedition and other charges.

Ideally, the National Human Rights Commission (NHRC) should have intervened on behalf of a "political prisoner" who is merely asking for an early hearing in a court of law. The chairman of the NHRC — the former chief justice of the Supreme Court — knows why and against whom anti-terror and sedition cases are filed and the consequences.

Out of a total of 77,500 persons arrested under Terrorist and Disruptive Detention Act (TADA), only 8,000 were tried; 725 (**0.81 per cent**) were convicted and some of them are still believed to be in jail, though the act expired in 1995.

According to a National Crime Research Bureau (NCRB) 2016 report, out of 112 sedition cases laid in last three years, only **two** have led to conviction. There is no data as to how many prisoners are awaiting trial for sedition across the country because the NCRB only

began compiling data on section 124 A after 2014. Even then, many states reported zero cases during three years when apparently there were people booked under the law. One example is Tamil Nadu where the government booked 8,856 people for sedition in one mass-protest incident, but reported zero cases to the national database. These people remain in jail for years. The NCRB report documents that 67.2% of the total prison population — 419,623 — are awaiting trial. Moreover, at the end of 2015, there were 3,599 accused who were waiting in jail for more

than five years without a court appearance.

Judiciary unable to provide legal justice

The judiciary is severely handicapped and is unable to provide bare legal justice. To expect the protection of rights and liberties from the judiciary is like asking an overworked and unmotivated doctor to perform brain surgery in a stable.

According to the ministry of law and justice, 26.4 million cases were pending in the country at the end of 2014. Out of these, 2.04 million were pending for more than 10

years. Furthermore, 4.15 million cases were pending before 24 high courts of the country with 777,630 cases remaining pending for more than 10 years.

The Indian criminal justice system is badly damaged, defying piecemeal solutions promised by politicians. Only a prime minister with the will and the vision can fix it. The question is: will Narendra Modi be that prime minister, or will the country have to wait until Rahul Gandhi takes over his job?

<http://www.atimes.com/institutions-fail-stop-state-violation-human-rights-india/> □

Statement as given below is issued on current situation at Bhangor:

Open Letter to Chief Minister, West Bengal

To,
The Chief Minister,
West Bengal

Madam,
Women against Sexual Violence and State Repression (WSS), a nationwide network of women who oppose and resist state repression and sexual violence against women and girls, strongly condemns your government's anti-people, anti-democratic actions in unleashing state terror against the struggling people of Bhangor.

Madam, your misuse of state power to crush a people's movement is even more ironic, given that you came into power on the promise of a pro-people, democratic government. Instead, in the eight years of your rule, your government has grown ever more autocratic and anti-people.

Earlier you gave your word in the West Bengal Vidhan Sabha that the Power Grid Project would not be set-up in Bhangor against the peoples' wishes. But the reality is that hooligans and miscreants owing allegiance to your party have

been deployed to suppress the people's movement against the project through brutal attacks, false cases and an undeclared economic blockade for almost a year.

We are deeply concerned and apprehensive about the safety of the struggling people of Bhangor against whom a new wave of state terror unleashed after your so-called "peace meeting" with the local TMC leaders on December 29, 2017. Villages are being repeatedly attacked, houses are being ransacked, bombs and guns are being indiscriminately used against peaceful protestors

WSS also condemns the violent attack and detention of nearly 100 democratic activists from Kolkata who were on their way to a public meeting organized by Jomi Jeevika Vastutanro O Parivesh Raksha Committee at Bhangor on January 4, 2018. The activists were stopped at Chinar Park and are in illegal custody in Beliaghata PS since January 4, 2018. We also unequivocally oppose and condemn the detention by the STF of leading activists of Kisan Mukti

Sangharsh Samity from Assam who were on their way to attend the same meeting.

Madam Chief Minister, we earnestly request you to resolve the ongoing tension in Bhangor by initiating dialogue with Jomi Jeevika Vastutanro O Parivesh Raksha Committee, which represents the people of the area and has been calling for a dialogue on the issues raised by them. We also demand withdrawal of all false and malicious cases instituted against the protestors.

We urge you to take immediate steps to stop the violence unleashed by the local leaders of your party and their goons and re-establish the rule of law and democratic dialogue with the people. In particular, we demand immediate registration of FIRs and criminal prosecution of TMC leaders like Arabul Islam who are openly at the forefront of violent attacks against the people of Bhangor.

Rinchin, Ranjana, Nisha & Kalyani, Coordinators, On behalf of WSS □

Please Note: In case of: (1) Change of Address - Always send your old address along with your new address with PIN Code. (2) Money Order - Please give instructions (if any) with your complete address in space provided for communication. (3) Postal Order – Please do not send Postal orders. – **General Secretary, PUCL**

Triple Talaq Bill – A Response **Rajinder Sachar, former President, PUCL**

BJP is feeling triumphant that it has got the Triple Talaq passed in Lok Sabha making it criminal offence, which is motivated by its communal approach and especially prejudice against the Muslims. I hope Rajya Sabha where it is in Minority will reject this mischievous legislation. The Supreme Court having declared Triple Talaq at one sitting as unconstitutional where is the need to make it criminal. Under Hindu marriage Act law, a Hindu can not have more than one wife, with the result that the second marriage is a nullify. This is specially provided by Sec 8(1) of the Act. This has not been made

criminal and will only have civil consequences. So also will be the position in law of Triple Talaq at one go after the Supreme Court judgment.

Pakistan's law on this subject is more progressive. It provides that any man seeking to give Talaq to his wife will have to inform the prescribed authority every month for 3 successive months. It is only then that Talaq is recognized as legal. The authority is also directed to fix maintenance for the wife, and other facilities.

Having thus declared Talaq at one go as void, there is no need for making it criminal. I am afraid the

mindset of RSS dominated Modi Government is acting under the mandate of its leader Bhagwat who atrociously said that all persons born in India are Hindu, a mischievous statement which is anti Muslim and anti christen and which would be in violation of the preamble to the constitution which unambiguously directs that India is a secular country and thus all have the same rights. Any violation of this settled principle would invite impeachment and dismissal of Modi government.

Rajinder Sachar

New Delhi: 08/01/2018 □

Caste Adrift

Violence at Pune, Mumbai Speaks of Distorted Political Economy, Communities Failed by Political Leaderships **Suhas Palshikar***

As tensions simmer in many parts of Maharashtra, allegations and counter allegations continue to be hurled. While the state government is on the back foot, allegations of incitement by sections close to Hindutva organisations are being levelled by Dalit leaders and the Opposition. A narrative pushed by the apologists of Hindutva suggests that Jignesh Mevani be held responsible for the flare-up because of his speech at a rally at Pune on December 31. At the historic Shaniwar Wada, a fort-cum-palace that was the seat of the Peshwas, Mevani made a plea befitting the Ambedkarite legacy, to end the "peshwai" of both caste domination and capitalist domination. The word peshwai, in common understanding, does refer to Brahmin rule but also has a connotation implying oppressive and illegitimate domination.

But the attack on those congregating at Bhima-Koregaon near Pune and the subsequent eruption at Mumbai-Thane has shifted the issue from debate to street violence. Violence does not allow two things to happen. One,

there is no upfront recognition of the cracks that are betrayed by such inter-group violence because the entire focus is on restoration of peace and "normalcy". Two, in the haste to gain political mileage, not much energy is devoted to thinking about the deeper causes and trends that the violence signifies. The recent developments in Maharashtra represent the many cracks in Maharashtra society. Caste mobilisations have marked the politics of brinkmanship. An eerie normalcy has prevailed and has now been broken.

The socio-political trajectory of the Dalit community is marked by frustrations and entrapments. Sections of Dalit political activists have risen to political prominence thanks to their alliance with the ruling dispensation, the BJP. But as a community, Dalits routinely fail to make an impact on the political process. There has been a slow emergence of the "middle class" among the Dalit community characterised by organisations like the Dalit Indian Chamber of Commerce and Industries (DICCI). But joblessness, informalisation

and consequent lumpenisation have been afflicting the community. As elsewhere in the country, inter-caste differences and stratifications among Dalits have also persisted, if not exacerbated. This situation forces the community to take recourse to assertions of pride and status through symbolism. Thus, a community in search of justice has to fall back upon struggles for historical memories as much as struggles for material existence.

In the past couple of years, the Maratha community of Maharashtra has been mobilised on an unprecedented scale. This mobilisation has happened not only on the roads — through silent marches across the state — but fundamentally in the minds of the community, particularly the youth. While many have marvelled at the political novelty of silent yet vocal marches that have unsettled political equations, the significance of mobilising the state's single largest community on caste basis has hardly been realised. Thus, we have two connected but contradictory dimensions of the Maratha mobilisation: On the one

hand, it has brought to the forefront the internal stratification within the community; on the other hand, it has brought the community together with a sense of pride located in history combined with a sense of injury in the present.

Nowhere have these similar yet contrasting life situations of two large communities from Maharashtra been exemplified more succinctly and tragically than in the bizarre theatre of the judiciary. Two cases that have hit the headlines in the state had two distinct journeys. In a case involving the accused from the Dalit community and the victim a Maratha girl, evidence was marshalled to result in conviction while in another case where a Dalit youth was killed and the accused was from the Maratha community, prosecution failed to get a conviction because most witnesses turned hostile. The anger over the rape and murder of the girl became caste-ridden and the frustration over the acquittal of the accused became a reminder of caste-based handicap. Neither became an issue to prick the civic conscience. This brought the Dalits and the Marathas close to an unidentified brink.

Trapped in the distortions of the political economy and rendered rudderless by the political bankruptcy of their leaderships, both communities inevitably fall back upon three things: Mutual suspicion, assertion of caste pride/identity and a confrontation in the shadows of history and memory. This is a sure recipe for

inter-community violence. Maharashtra has been on the boil for some time now and the provocation at Pune was only a trigger.

This trigger was caused because of another long-standing crack in Marathi society: The Brahmin vs non-Brahmin division. The Brahmanetar politics (of mobilising all non-Brahmin communities against Brahmin oppression) has a contemporary history of over a century. But the near-withdrawal of Brahmins from politics allowed this crack to subside for much of the past six to seven decades. During the past decade or so, however, assertive mobilisation of the Brahmins resumed under the auspices of caste-based platforms of the Brahmins who, apart from the usual murmurings about reservations on economic basis and about the poor among the Brahmins, focused on the tools of history and memory. Thus, they often went back to the myth of Parashuram who is believed to have annihilated the Kshatriyas. Closer home, these mobilisations sought to reclaim the glory for the Brahmin Peshwas — the 18th century rulers. When last month Dalit groups were planning the commemoration of 200 years of the defeat of Peshwa rule at Bhima-Koregaon, resistance came from groups who claimed that celebrating the defeat of native Peshwas at the hands of the British was a violation of nationalism and national pride. In one stroke, then, those seeking to celebrate the fall of the Peshwas became non-

nationalist (if not anti-national) and the Peshwas became a symbol of the national fight against colonialism. Thus, history as memory of struggle against an unjust social order and history as reading of contemporary nationalism into past battles for the throne confronted each other.

It would always be an enigma as to how the contending narratives of history descended on the streets and by-lanes of Bhima - Koregaon. But the lesson is clear — when the mirror of memory is cracked, it can only widen the cracks of the present reality.

The latest violence has brought into sharp focus three cracks Marathi society is made up of. The Brahmin-non-Brahmin crack which operates at the subterranean level, the Dalit-Maratha crack that often plays out in a brutal manner and the divisions internal to caste blocs that ironically strengthen caste identities rather than weakening them. The violence at Pune and Mumbai has alerted us to these cracks once again. It has alerted us, also, to our unwillingness to recognise them as cracks leave aside overcome them. And to the consequences that have costs both in terms of human lives and the capacity to argue.

**The writer taught political science at Savitribai Phule Pune University, Pune, and is chief editor of 'Studies in Indian Politics'*

Courtesy:

<http://indianexpress.com/article/opinion/columns/caste-adrift-pune-bhima-koregaon-dalit-protest-5010559/> □

Press Statement of PUCL Tamil Nadu & Puducherry: 19th January, 2018

Note: On 8th January, 2018, noted Tamil poet and lyricist, Vairamuthu, gave a speech in a public platform chronicling great Tamil writers and poets from the ancient Sanga period to modern times. One amongst the prominent women writers he chose to talk about was Poet Andal, the only woman amongst the 12 Alvar saints of Srivaishnava faith, in South India. Said to have lived in the 7th Century, Andal is famous for 2 works, the Thiruppavai and Nachiar Tirumozhi, which are still recited to this day, especially during the winter month

of mid-December to mid-January every year. While describing the literary quality of Andals writing, Vairamuthu quoting an academic research paper, refers to her probably being of Devadasi origin. The article was later on published in a Tamil paper. The reference to Andal of being from a Devadasi family kicked up a major furore with the BJP, RSS, Hindu Munnani, Hindu Makkal Katchi and a range of other Hindu-religious based organisations organising protests condemning Vairamuthu for defaming

Andal and hurting the sentiments of Vaishnavites in particular and Hindu community in general. Vairamuthu expressed regret for making the statement; however the demand was for a public apology. Very orthodox, publicity shunning religious heads were mobilised to publicly protest against Vairamuthu. Open threats were given threatening personal violence against him by a number of Hindu majority groups. At the time of releasing the PUCL statement, the issue remains unresolved with many more groups

getting involved in pro-and-anti campaigns. We are carrying the statement issued by PUCL – Tamil Nadu and Puducherry.

After carefully studying the text of the speech delivered by Poet Vairamuthu at Rajapalayam, PUCL has felt that Poet Vairamuthu had portrayed Poet Andal with great veneration. In his deliberation, he had quoted a statement from another article to enhance his interpretation and unfortunately this reference has been used to create a conflict and commotion among a group of people.

The quote by him from a research article need not necessarily go with the faith of a group of people. It is quite natural. So there must be space for alternate views. Discourses in public sphere would always pave way for development of ideas and disclose the kernel truth at length. We are living in an age of criticism. Critical reflections on any faith should not be taken as an offence against a religion or religious faiths. Indian tradition is valid for its diverse views and it has always given enough space for critical interactions from time immemorial. If there is disagreement, scholars used to register their dissent through proper discussions and in their reasonable writings.

But the recent protests against

Poet Vairamuthu for his depiction of Poet Andal had taken a vulgar turn in Tamil Nadu. By instigating innocent people in the name of religious faith, the fundamentalist political forces attempt to exploit this issue for political mileage.

It is a tragedy many of the people who are taken away by this misguided propaganda are not aware of the exact facts. Only a few have read the original article and many are blissfully ignorant. Poet Vairamuthu categorically stated that he had no intention to denigrate the faith of a particular community. Also he said that if his article had offended the feelings of some devotees, he had no hesitation to apologize. But even after his apology, some fanatic leaders took advantage of this situation and provoke the mass not only against the poet but also against the people who ever makes any criticism against their faith. This is a very dangerous trend which should be stopped forthwith by the State government.

Hence, PUCL strongly condemns the open life threat given by the BJP leaders of Tamil Nadu to Poet Vairamuthu. PUCL views that this kind of instigation is against the freedom of expression. It is quite unfortunate that the Government of Tamil Nadu keeps silence on this very sensitive issue and permits

anti democratic forces to instigate communal violence in the state.

PUCL demands the TN government to immediately take firm action against the persons who indulge in instigating people to go for violence by wrong propagation. We are afraid that if these kinds of protests are permitted, then there would be no critical academic contributions from anyone. These kind of anti democratic protests are nothing but violent way of suppressing the alternative voices. The silence of the state government in this regard would no way help to safeguard the democracy.

Whenever genuine democratic voices from the common people rose for the rights in various other issues, they were all suppressed with iron hand by Tamil Nadu government. But on the contrary, the present State government is keeping cunning silence to take firm action against these divisive and fanatic forces. To safeguard the democracy and rule of law, PUCL demand the Tamil Nadu government to take stern action immediately against the divisive forces.

Gana Kurinji, President, **R.Murali**, General Secretary, PUCL Tamil Nadu & Puducherry □

Inciting Mutiny: Are Governments Complicit?¹ Major General S.G. Vombatkere*

Sanjay Leela Bhansali's blockbuster movie *Padmavati* raised the hackles of the Rajput community across several states, who vandalised the film sets and threatened further violence on the grounds that it distorted the history of Rajput Rani Padmini, and hurt their sentiments.

Various persons threatened specific targeted violence like Mahipal Singh Makrana allegedly threatening to cut off Deepika Padukone's nose if *Padmavati* was released, and Abhishek Som publicly announcing a reward of Rs 5 crore to the person who beheads

Bhansali and Padukone.

Padmavati was sent to CBFC for certification and clearance. CBFC recommended change of title to *Padmaavat* – the name of Sufi poet Malik Muhammad Jayasi's ballad written in 1540, which reportedly triggered Bhansali's film – along with five modifications, and cleared its release.

The Shree Rajput Karni Sena (SRKS) and other Rajput outfits in several states were still adamant that *Padmaavat* should not be released, and publicly threatened violence at the movie halls which may attempt to screen it. Even

CBFC chief Praseon Joshi was threatened for clearing the film. The matter reached the Supreme Court, which ruled that the CBFC clearance was sufficient and ruled that the film should be released.

The open threats of violence against *Padmavati* (and later *Padmaavat*) did not receive even a mild rebuke from the state governments or the central government. Rather, the state governments of Rajasthan and Madhya Pradesh (and also Haryana and Gujarat) banned the movie in their states, thereby kneeling before the violent right-

wing elements.

Even after the order of the Supreme Court that lifted the ban imposed by four states on the release of *Padmaavat*, SRKS and other outfits have reiterated their stand of not allowing its release. Following a petition by the states of Rajasthan and Madhya Pradesh seeking to stall its release citing insurmountable law and order problems, the Supreme Court directed that the states must comply with their earlier order allowing the release, and deal with any law and order problems. Perhaps the state governments plan to call the army to handle the law and order situations when they arise.

Most recently, Shree Rajput Karni Sena (SRKS) leader Mahipal Singh Makrana is reported to have called on all Kshatriya soldiers in the Indian Army, asking them to boycott their mess food for a day to protest against the release of *Padmaavat*. He also reportedly asked the soldiers to "lay down their arms for a day" if the government does not listen to their demands. ["Boycott mess food to protest '*Padmaavat*' release, Karni asks Kshatriya jawans"; The Times of India, Jaipur; 21 January 2018;>].

It is clear that Makrana has little idea about the army and the manner in which it deals with "caste" and religion. The Indian Army is the national icon that it is, precisely because, in its day-to-day functioning whether on Siachen glacier, in a counter-insurgency (CI) role, or in a "peace" station, it is not politicised into caste and religion. In every army unit and headquarters, there are places of worship of more than one religion or faith, and all unit personnel, regardless of their military rank or individual religious conviction, participate in all cultural and religious functions at these regimental religious institutions. Also, all soldiers of all faiths and "castes" dine together, live in the same premises, train together, fight

shoulder-to-shoulder in CI operations or any other life-threatening combat situations, and face bullets, grenades and bombs together.

In the Army (as also in the Navy and Air Force), a soldier refusing food as a mark of protest renders him liable to punishment under Army Act, 1950. Perhaps even more serious, is a soldier laying down his weapon in a mark of protest. If more than one soldier protests in these ways, it would amount to mutiny, a very serious offence for soldiers. Clearly Makrana is unaware of how the fighting forces function. Indeed, it is worth considering how a Rajput soldier of the times of Rani Padmini would have been treated if he put down his sword or lance as a mark of protest.

Whatever be the validity or otherwise of Makrana's and other protestors' arguments, the Supreme Court has ruled that *Padmaavat* will be screened. But what remains unaddressed is Makrana's call to "Rajput soldiers" of the Indian Army to protest against screening of *Padmaavat*, by refusing food and laying down their weapons, even if only for a day.

Whether Makrana knows it or not, his statements are clear attempts to incite soldiers and seduce them from performing their duty. This is very dangerous to leave unpunished, as it can snowball to others inciting soldiers for whatever narrow partisan reason. Section 131 of the Indian Penal Code concerns "abetting mutiny by a soldier, or attempting to seduce a soldier, sailor or airman from his allegiance or his duty". It is punishable with imprisonment for life, or with imprisonment for a term which may extend to ten years, and shall also be liable to fine.

It is clear that no Indian soldier, "Rajput" or not, will respond to Makrana's call. On the other hand, they, along with their Commanding Officers, will surely treat it with the contempt it deserves. But even if

Makrana is ignorant of IPC Section 131, he has laid himself open to prosecution under that Section.

The central and state governments (e.g., Rajasthan, Madhya Pradesh, Gujarat, Haryana, Karnataka, Uttar Pradesh) which have seen such open threats concerning the film *Padmaavat* the CBFC-cleared film *Padmaavat*, need to file FIRs against those who have publicly threatened violence and disturbance of public order, instilling fear among the general public to exercise their right to view the film of their choice. More specifically, Makrana inciting soldiers of the Indian Army is a cognizable offence under IPC Section 131.

Failure to take cognizance will send the message that governments are weak-kneed and incapable of governance, or that they implicitly support the right-wing protestors against *Padmaavat*. It is very difficult to believe that governments are weak-kneed, since there has been no hesitation in various state governments filing cases of sedition and of "waging war against the state" against protestors in other circumstances. Very sadly, one is left with the uncomfortable feeling that elected governments are taking the side of a vociferous and violent minority of wrongdoers, and neglecting their Constitutional duty towards the silent majority. This is utter failure of governments in upholding the Constitution and performing their sworn Constitutional duties.

As a parting shot, one can well imagine what would happen if Indian soldiers (including sailors and airmen) get politicized and thereby justify Pakistan's long-held erroneous view that India is a Hindu state with a "Hindu army".

24 January, 2018

¹ <<http://www.thecitizen.in/index.php/en/NewsDetail/index/4/12837/-Inciting-Mutiny-Are-Governments-Complicit>>

**Major General S.G.Vombatkere is retired from the Indian Army.*

Courtesy: thecitizen.in □

Account for Narmada Water Being Used By All, Provide Details of Jobs Created By Industries Using It¹

Khedut Samaj – Gujarat (KSG) general secretary Sagar Rabari's open letter to JN Singh, chief secretary, Government of Gujarat, and SS Rathore, chairman, Sardar Sarovar Narmada Nigam Ltd (SSNNL) regarding their press conference on Narmada water, dated January 22, 2018, which, he says, "raises more questions than it answers":

We have noted the contents of your press conference. Earlier, I wrote an open letter about Narmada waters to the chief minister, a copy of which was sent to you too. We expected that your press conference would put out some data on the availability and usage of the Narmada waters in the public domain, a demand that we had raised; you mentioned no such thing.

You have not mentioned how much water is being supplied to industry; the way various industries and special purpose vehicles (SPVs) mention their water usage, it is hard to believe the figure that the Chairman of the Sardar Sarovar Narmada Nigam Ltd (SSNNL) stated, i.e. only 0.06 MAF! Which water are industries in Jamnagar and Kutch using? How can anyone, especially farmers, be expected to trust your words?

A perusal of the data on rainfall in the Narmada basin (available on Narmada Control Authority [NCA] website) does not show much deficit.

Water distribution was: 1.06 MAF for drinking water use; 0.20 MAF for industrial use and 7.74 MAF for agriculture use for 18.45 lakh hectares (ha) of land. Have we irrigated 18.45 lakh ha of land for Kharif and Ravi crop? How much land has been irrigated?

Why have both of you, yourself and Chairman of SSNNL, failed to provide details of area, crop and quantity of water for both crops? If

the numbers are low then where has all that water gone? We demand an account of water meant for us.

If Industries are being supplied only 0.20 MAF, why did Mr BN Navlawala, then adviser to the chief minister, disclose the figure 0.25 MAF to industries in 2014 in a conference in Mahatma Mandir? Was he misleading then or is the Chairman misleading now?

We also want the following data:

How much water (the exact quantity) SSNNL is releasing in the Sabarmati River Front? How much land can be "potentially" irrigated by that quantity of water?

How much water does SSNNL supply to Kensville Golf Course? How much of irrigation "potential" does that carry?

How much water does SSNNL supply to Shantrigram? Who bypassed the engineer's advice and overruled the decision to not supply water to Shantigram? How much land can be irrigated by that water?

What about Gujarat International Finance Tec (GIFT) City? How much water does it consume?

How many Gujarat Industrial Development Corporation (GIDC) estates and which big industries are getting Narmada water? Why did not you reveal it at the press conference? We need to know the names and quantity of water; please enlighten us.

How much water does Coca Cola get from Narmada water? How much land can be irrigated by that quantity?

We, as a farmers' organization, request you not to mislead real masters (the people) to please the nominated masters (the political bosses). If you are true to your calling then:

Release the data on Narmada water – availability and usage for each head – drinking water,

irrigation and industry.

What were the priorities when Gujarat pleaded its case before Tribunal and Supreme Court? When was it changed? Who changed it? When was it discussed in the Assembly?

Can you and the Chairman say on affidavit that not a single industrial unit is drawing water from the canal illegally?

Is the water supplied to small or big industries legal?

How much quantum of water is lost to evaporation?

If there is transparency in the present government, why is this data not available on the SSNNL website?

Can we jointly check entire canal to find where the pipes fitted during canal construction reach? Let us check it!

We not only demand water, we demand transparency in accounting of water, money spent, employment generated in industries that use Narmada water and water distribution and management. We request you not to harass farmers; we are aware of the massive police force at your disposal to threaten farmers and your ability to summon more paramilitary forces too but, ultimately, this is not good governance, which this government and administration claim to be. Every threat by government/SSNNL reminds us of the World Bank warning of Water Wars! Please avoid it.

The state has brute force at its disposal; we too have a non-violent force, we can invite our brother farmers from other states to participate in non-violent Satyagraha to lift water from canal. Even Amnesty International and International Human Rights Commission too can witness what brute force government uses on farmers in Gujarat. We have not

forgotten that brutal lathicharge on Sanand farmers demanding water last year.

Let us reassert: Come clean with true figures; if you want to, we can debate all issues related to Narmada water in the presence of the media.

Please do not compel us to lift water from Narmada canal. Narmada water is farmers' right, not theft. Farmers are not thieves; institute inquiries into the accounts and doings of the real thieves.

We believe that both of you have nothing to hide, so do please release the data that we are demanding., and come clean with an account of every drop of Narmada water used before and after the election.

I hope these questions will be answered in the larger interest.

¹<https://counterview.org/2018/01/24/account-for-narmada-water-being-used-by-all-provide-details-of-jobs-created-by-industries-using-it/> @ 24Jan2018

Courtesy: Counterview.org ☐

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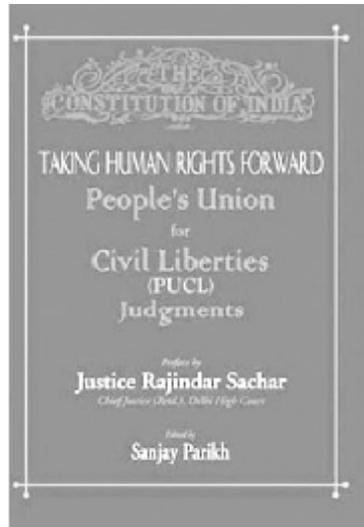
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PUCL BULLETIN

Editor : V. Suresh

Editorial Board : Rajindar Sachar

Assistance : Babita Garg

Printed and Published by:

V. Suresh, General Secretary, PUCL,
on behalf of **People's Union for Civil
Liberties; Printed at:** Royal Offset,
489, Patparganj Indl. Area, Delhi-92;
Published at: 270-A, Patpar Ganj,
Opp.Anand Lok Apartments,
Mayur Vihar-I, Delhi 110091;
Editor: V. Suresh.