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Am I an Urban Naxal?

Prabhakar Sinha*

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I have been a PUCL functionary in Bihar from 1981 to 1991* and at the national level from 1988 to 2016*. The Bihar PUCL had members from various political parties including the different CPI(ML) parties. Karpoori Thakur, the tallest leader in Bihar, was a member of the Executive Committee till his last breath. Ravi Shankar Prasad (the present Law Minister) was one of the Secretaries till 1987 and was unanimously elevated as General Secretary in 1988 (he left when he joined the BJP since a member of a political party cannot be an office bearer). The PUCL stood for the human rights of everyone including the Naxals. It enquired into the violation of rights committed even by organised non-State players like sensa and the Naxals. When we enquired into the violation of the human rights of the Naxals, the members of the team consisted of persons not sympathetic to them (PUCL has a rule to not have any person on the Fact Finding Team who is sympathetic to any of the parties to the dispute). Often Ravi Shankar Prasad and I were on the team constituted to enquire into the atrocities committed against the Naxals. PUCL spoke for any victim whether he was a victim of the police atrocity or Naxal violence or an atrocity committed by the landlords or the police against the Naxals or their followers. Bihar was an area of Naxal activities right from the early 70s (J.P. spent several years at Mushahari, Muzaffarpur where the Naxals had been very active). They were both victims and victimisers. PUCL spoke against them when they committed atrocity against anyone and stood by them when they were victimised (Bihar PUCL has published a 1000 page report of its activities from 1981 to 2006). PUCL has also published reports against the RJD government and the Nitish Kumar government. The organisation has no axe to grind and has been acting strictly according to its constitution.

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But no government called us Naxals for speaking against it for the violations of the rights of the Naxals. They could differentiate between an organisation opposing violations of the human rights of Naxals and supporting their politics including capturing power with gun. The BJP, which is a creature of the RSS also could see this difference under Atal Bihar Vajpayee because he was not a **creature** of the *Sangh* as Modi is. Atrocities were committed even under him. In fact, innocent individuals were implicated in false cases as supporters of Naxals by all governments, but the entire rights movement was never branded as Naxals as Modi has done. Modi, unlike Bajpayee, is 100% a child of the *Sangh*, which has been a great admirer of Hitler and Mussolini. He spent his life preaching the ideology of the *Sangh*, which is fascist and which views a section of our citizenry as unwelcome outsiders and is intolerant of dissent. Its intolerance has increased ever since strong dissent has obstructed its move to acquire the land and forest of the Adivasis and the others to give to his paymasters for their projects. Now, they want to

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bulldoze the Adivasis and the other poor and want to silence the rights organisations so that there is no one to speak against their terror.

Let the government take me as a sample of an "Urban Naxal" for the last 42 years*, enquire into my role as a PUCL functionary and otherwise to decide whether I could or did support the ideology or acts of the Naxals. If they find that I am not an urban Naxal, they should end this propaganda, but if they find I am really a Naxal masquerading as a human rights activist, they should proceed against me according to the law.

But I would like to reiterate that I would fight against the violation of the human rights of any human being (as I have been doing) regardless of the allegation against him. That does not make me an Urban Naxal 'or a terrorist or supporter of terrorists.

*Prabhakar Sinha, Former President,

PUCL National

Note:

*I have been with the PUCL since its inception during the Emergency. I have been Vice-President, Bihar PUCL and thereafter President from 1981 to 1991. National Secretary, PUCL from 1988 to 1990, National Vice-President from 1990 to 2009 and three term President from 2009 to 2016.

I am the best specimen to investigate whether I have been an 'Urban Naxal' working for the Naxals or not.

The other Urban Naxals have been Justice V.M.Tarkunde, Justice Rajinder Sachar, Prof. Rajani Kothari, Socialist Leader Surendra Mohan, Prof. Amrik Singh and many others, all of whom were with the PUCL till their last.

★ "The following is the criteria of the membership of the PUCL: Every adult person shall be eligible to be member of the organisation if he/she believes that civil liberties must be maintained in India, now and in the future, irrespective of any economic or political changes that may take place in the country".

Every member has to sign a declaration

that he/she subscribes to the aims and objects of the PUCL and pledges to abide by its Constitution.

The aims and objects of the PUCL exclude political ideologies and issues and and confine themselves to the issues of civil liberties to make it possible for the people committed to different ideologies and the members of different political parties to join the organisation to make it a powerful champion of civil liberties in India. Most importantly, the PUCL is committed to use of peaceful means for itself and does not accept violence as a means of achieving political objectives. The PUCL has been publishing a monthly bulletin since 1981 which may be referred to for finding its stand on violence including its disapproval of Naxal violence.

Note: Arun Shourie and Arun Jaitley were actively associated with the adoption of the PUCL Constitution at the Delhi conference of November 1980. Arun Shourie was elected General Secretary and Arun Jaitley a member of the Executive Committee.

September 5, 2018 □

***Note:** Recently the 3-Judge Bench headed by Chief Justice of the Supreme Court, Ranjan Gogoi, adjourned the Ayodhya Title Suit appeals case (involving the dispute over the land on which Babri Masjid was located and as to whether it was the site of Lord Ram's birth) to be heard by an appropriate Bench of the SC in January, 2019 on which date a fresh date will be fixed for hearing the final arguments in the appeals. This caused an uproar from right-wing majoritarian Hindu religious groups including the Sants Sammelan, and other organisations affiliated with the RSS and other groups demanding that the Appeals be heard without delay. In fact the Sangh Parivar has started a campaign to build the 'bhavay' Mandir at the site without waiting for the outcome of the verdict of Supreme Court. In view of the importance of the issue we are carrying below an article written in July 2011 by Ravi Kiran Jain, National President after the verdict of the Allahabad High Court in view of its topical relevance even today.*

Ayodhya Verdict: Affirmation of Hindu Majoritarianism

Ravi Kiran Jain*

The Ayodhya Judgment, based on the "Faith and belief of the Hindus", has forsaken the established principles of law of evidence and cannot therefore be said to be based on a fair-trial.

Two judges out of three have specifically given a finding that the place of birth of Lord Rama was at the disputed site. According to the judgment of Justice Sudhir Agarwal: "it is declared that the area covered by the central dome of the three domed structure i.e., the disputed structure being the deity of Bhagwan Ram Janmasthan and the place of birth of Lord Rama **as per faith and belief of the Hindus** belong to plaintiffs (suit no. 5) and shall not be obstructed and

interfered in any manner by the defendants"

According to the judgment of Justice D.V. Sharma, "a disputed site is the birth place of Lord Ram. Place of birth is a juristic person and is a deity. It is personified as the spirit of divine, worshipped as the birth place of Lord Rama as a child. Spirit of divine ever remains present everywhere at all times for anyone to invoke at any shape or form in accordance with his own aspiration and it can not be shapeless and formless also.

For determining whether Ram idols will stay where they are, the court framed an issue whether Ram was born at the disputed site? Whether or not Ram was born at a particular

place required evidence. It is impossible to prove the birth place of a particular person born centuries before by any **evidence**.. The court has held the disputed site to be birth place of Ram on the basis of "**faith**" "**Faith**" is not an "**evidence**" within the meaning of Evidence Act.

Much has been said criticizing the 6000 page Ayodhya Judgment on various aspects by eminent jurists. Many of them have expressed the view that "**faith**" cannot be the basis to determine a fact. One distinguished (Retd) Judge of Allahabad High Court Justice Kamleshwar Nath has however written in a column of Hindustan Times (Lucknow edition) dated 1st

Nov 2010 that "faith is a fact as defined in the Indian Evidence Act, it is a state of mind recognized by law". He expressed this view while adversely reacting to the speakers of the National Seminar in Lucknow on 30.10.10 in which the speakers expressed the view that 'Ayodhya, Mandir–Masjid' dispute is **"based more on faith than facts"** and is therefore **"extra-legal"**. According to Justice Nath "These comments are based on ignorance, they do not know that **faith** is a **fact** as defined in Indian Evidence Act 1872'. It is a state of mind recognized by law." It appears that the views expressed by Justice Nath and the finding given by two judgments of two judges of Ayodhya disputes are based upon the misreading of definitions of words '**fact**' and '**proved**' in sec 3 of the Evidence Act. According to sec 3 of the Evidence Act '**fact**' means the following:

"Fact" - "**Fact**" means and includes -

1. **Anything, state of things, or relation of things, capable of being perceived by the senses;**
2. **Any mental condition of which any person is conscious.**

And the word "proved" is defined in the Evidence Act as follows:-

"A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought under the circumstances of the particular case, to act upon the supposition that it exists."

It is thus clear that Justice Nath and the two judges deciding Ayodhya dispute have misconstrued the words, "any mental condition which any person is **conscious**" in the definition of "**fact**" in sec 3, by saying that "**faith**" is a "state of mind" and therefore '**faith**' is a '**fact**' as defined u/s 3 of the Evidence Act 1872. They appear to have misinterpreted the meaning of the word "**consciousness**" by equating it with "**faith**". According

to the new International "WEBSTER'S COMPREHENSIVE DICTIONARY" the meaning of the word '**faith**' is given as "**belief without evidence**" and the meaning of the word "**consciousness**" in the dictionary is "the state of being conscious ;sensation; knowledge; any form of intellectual activity or its product in direct and convincing knowledge, whether of external or internal objects".

'Faith' and '**consciousness**' are two different states of mind. Mental condition of which any person is "**conscious**" is a "**fact**" but a mental condition of a person having '**faith**' cannot be '**fact**' within the meaning of Sec 3 of the Evidence Act.

Mental condition is a fact but inference arrived at by a person by a process of ratiocination, being not a mental condition of that person, is not a fact. (see page 22 and 23 of **Law of Evidence** by Ratanlal and Dhirajlal 22nd Enlarged edition 2007).

Since "faith" is "belief without evidence" according to its dictionary meaning,

how can a court give a finding that the people had such "faith" that Ram was born at the disputed site and how they came to acquire such faith, in what manner and since when? It was for the first time in the night intervening 22nd-23rd December 1949 that the statues of the deity Ram were placed surreptitiously in the mosque, under the central dome. It was then that some Hindus started asserting their so called "faith" that it was the birth place of Ram and began to worship for the first time within the mosque and then obtained court order restraining Muslims to pray in the mosque. Can this fact be sufficient to hold that the disputed site was "birth place of Lord Rama as per faith and belief of Hindus"? Obviously not.

Whether Masjid was built at the site of a Hindu Temple?

The other finding which has been given by two of the three judges is

that the Masjid was built at the site of a Hindu temple. None of the parties could lead any evidence on this issue and the finding is based solely upon the controversial report of the Archaeological Survey of India.

Paragraph 3672 and 3673 of the judgment of Justice Sudhir Agarwal read as follows: "**What lie underneath?** This question is of extreme complication ranging in a period of more than 500 years' of history. No clear picture emerges from various history books etc. In fact, the contemporary record did not answer the issues, one or the other way, with certainty Extraordinary situations demand extraordinary steps and strategy. In the peculiar circumstances, this Court decided to appoint an Expert body for scientific investigation, well recognized in the field of archaeology /history and ordered ASI to go for excavation at the site in question and submit report. The question formulated for ASI, was "whether there was any temple/structure which was demolished and a mosque was constructed on the disputed site."

It is thus clear that there was no evidence for "**what lie underneath?**" It means there was no evidence to establish the fact of there ever being a temple. If excavation had not been ordered and ASI report had not been obtained the court had no option but to give a finding that there was no evidence of a temple being existing few hundred years ago. The order for excavation was passed on 5.3.2003, more than 10 years after the demolition in 1992. If the mosque had not been demolished there would have arisen no question for excavation.

The idea to pass an order of excavation struck to the Court on 1.8.02 when the Court considered the observations of D Mandal archaeologist in his book "**Ayodhya –Archaeology after demolition**",. Para 212 of the Judgment reads as follows:

"On 1.8.2002, this Court referring to

issues No. 1(b) (Suit-4), 14(Suit-5) and the reference made to the Hon'ble Supreme Court by the President of India, noticed that one of the basic issue engaging attention of the Court in these suits is "Whether there was a Hindu temple or any Hindu religious structure existed or the alleged Babri masjid was constructed after demolishing temple at the site in dispute". Considering the observations of Sri D. Dhaneshwar Mandal, Archaeologist in his book "**Ayodhya-Archaeology after demolition**" that sufficient archaeological material is available regarding temple-mosque prompting need for further excavation at Ayodhya, this Court required the parties to give their views/suggestions, why the disputed land be not allowed to be excavated by Archaeological Survey of India. Para 214 of the judgment reads as follows:

"The objections were considered and decided by Court's order dated 23.10.2002. The relevant extract thereof is as under:

'Having heard the learned counsel for the parties, we are of the opinion that we should get a report in regard to foundations, if any, of any structure at the site in question. One of the issues in suit is whether there was any Hindu temple or any Hindu religious structure existed and the alleged Babri Masjid was constructed after demolishing such temple /structure at the site in question".

It is extremely necessary to notice here that the objections were summarily disposed of by this order on 23.10.2002 and excavation was ordered by order dated 5.3.2003 and report obtained. It may also be noticed here that on 23.10.2002 and 5.3.2003 when these orders were passed none of the three Judges' who have delivered the final judgments on 30.8.2011, was a member of the bench. The bench was presided over by Justice S N Agrawal with Justice S. Rafat Alam and as two other Judges. Thereafter parties argued at length

that the court had no power to order excavation. These arguments have been met now in the final judgement by Justice Sudhir Agrawal on which the other two judges including Justice S.U. Khan agreed. In Para 214 the judgement says:

"The question is whether the court has power to take this course without any of the parties requesting the court for tracing out the foundations on the disputed site.....The second question is why the Court should exercise its power *suo-moto* in the matter. The reasons are twofold-Firstly, to remove any suspicion or doubt as to the facts of the case which is in dispute and secondly to find out the truth regarding contentious truth laid by the party.....The third question is why the Court should exercise its power at this stage when the evidence of all the parties have not closed as yet.....Lastly, it is contended that the report, if obtained, may not be very accurate and the exercise may be futile". After putting all these questions to itself the Court answered these questions by observing: "As noted above, the plaintiffs of O.S No. 5 of 1999 have themselves relied upon the evidence in regard to excavation, leveling entrenches laid near the site of disputed areas. It would be appropriate that the matter may be thoroughly investigated to find out the truth". The finding given by the two judges out of three that the Masjid was built at the site of Hindu temple relying upon the controversial ASI report which was based upon excavations done during the BJP regime in the Centre was criticized by all concern.. The court did not take into account all the evidence contrary to this fact turned up by ASI's own excavation: "The presence of animal bones throughout, as well as the surkhi, lime mortar (all characteristics of Muslim presence) ruled out the possibility of Hindu temple having been there beneath the mosque by the

archaeologists" says a statement jointly given by the following persons which has been published in Economic and Political Weekly of October 9, 2010.

Romila Thapar, KM Shrimali, DN Jha, KN Pannikar, Amiya Kumar, Shireen Moosvi, Jaya Menon, Irfan Habib, Suvira Jaiswal, Kesavan Veluthat, D Mandal, Ramakrishna Chatterjee, Aniruddha Ray, Arun Bandopadhyay, A Murali, VRamakrishna, Arjun Dev, RC Thakran, HC Satyarthi, Amar Farooqui, BP Sahu, Biswamoy Pati, Lata Singh, Utsa Patnaik, Zoya Hasan, Prabhat Patnaik, C P Chandrashekhar, Jyati Ghosh, Archana Prasad, Shakti Kak, VM Jha, Prabhat Shukla, Indira Arjun Dev, Mahendra Pratap Singh, Ram Rahman, MK Raina, Sohail Hashmi, Parthiv Shah, Madan Gopal Singh, Madhu Prasad, Vivan Sundaram, Geeta Kapur, Rajendra Prasad, Anil Chandra, Rahul Verma, Indira Chandrashekhar, Sukumar Muralidharan, Supriya Verma, NK Sharma, SZH Jafri, Farhat Hasan, Shalini Jain, Santosh Rai, Najaf Haider, R Gopinath, RP Bahuguna, GP Sharma, Sitaram Roy, OP Jaiswal, KK Sharma.

These persons have demanded that the site notebooks, artefacts, and other material evidence relating to the ASI's excavations be made available for scrutiny by Scholars, historians and archaeologists.

By giving this finding, the High Court has given a legal shape to the political agenda of the *Sangh Parivar* "*Mandir wahin Banaenge*" and has legitimized the Masjid demolition on 6th December 1992 giving them a way to construct a "Grand Temple" at the site of the demolished temple. The political campaign of *Sangh Parivar* appears to have influenced the judicial proceedings in the ordinary course, the suit was to be tried by a Munsif. It was only in 1989, after the 5th suit had been filed and the two major political parties had already come in race with each other

regarding *Ram Janam Bhoomi*, that the suit was got transferred to High Court, and that too to be tried by a bench of three Judges. Thereafter the composition of the bench went on changing because of retirement, elevation, transfers etc. of the Judges from time to time. There used to be two Hindu Judges in the bench and one Muslim Judge. The first suit was filed on 16.1.1950 and the fifth and the last suit was filed on 1.7.89. It was thereafter on 10.7.89 that the High Court transferred the suits to itself. It was obviously on account of the reason that the Mandir–Masjid controversy became a matter of high–profile politics, that the suits were got transferred to the High Court to be tried by a bench of three Judges. From 1950 till 1989, 4 suits remained pending before the Munsif and the Mandir–Masjid dispute remained confined only to be decided in the litigation in the lower court as it did not become part of agenda of political parties by then. It started becoming agenda of political parties after 1984 elections.

Justice SU Khan joined the bench by the order dated 21.12.09 of the then Chief Justice as Justice Rafat Alam (whom Justice SU Khan replaced) took oath as Chief Justice of Madhya Pradesh High Court on 20.12.09. The name of Justice Rafat Alam for being appointed as Chief Justice of Madhya Pradesh High Court was cleared by the collegiums of the Supreme Court, some time in October 2009. The Ayodhya matter had reached a concluding stage of hearing by that time. It was a matter of common knowledge in the corridors of the Bar that Justice Sudhir Agarwal had already dictated a substantial part of the judgment by then. Justice Rafat Alam took a view that as his name had been cleared for Chief Justice ship of another High Court, he would not continue to sit in the bench to hear the matter. There was no justification for him to take such

a view. If he had not taken such a stand the suits could have been disposed of by the time he took oath as Chief Justice of Madhya Pradesh High Court on 20.12.2009. Justice SU Khan joined the bench with a handicap, that the other two judges had virtually heard the matter finally and had already made up their minds and also started dictating the judgments. At this stage, hearing started afresh because, it became a different bench, although, the other two judges still remained in the bench. In a situation like this, it is quite obvious that the re-hearing of all the counsel in all the suits, before a bench of three judges, out of whom the two judges had already heard the matter at great length, the third judge would not be able to cope up with the process of deciding independently and he would be influenced by the opinion already framed by the other two judges. This aspect is reflected in the following observations of the Judgment of Justice SU Khan.

“My judgment is short, very short. Either I may be admired as an artist who knows where to stop, particularly in such sensitive, delicate matter or I may be castigated for being so casual in such a momentous task. Sometimes patience is intense action, silence is speech and pauses are punches.

I have not delved too deep in the history and the archaeology. This I have done for four reasons. First, this exercise was not absolutely essential to decide these suits. Second, I was not sure as to whether at the end of the tortuous voyage I would have found a treasure or faced a monster (treasure of truth or monster of confusion worst confounded). Third, having no pretence of knowledge of history I did

not want to be caught in the crossfire of historians. Fourth, the Supreme Court, in Karnataka Board of Waqf vs. Government of India, 2004 (10) SCC 779 has held in Para 8 as follows:- “As far as a title suit of civil nature is concerned, there is no room for historical facts and claims”.

It seems that Justice SU Khan was over conscious of his being a Muslim Judge, in this Mandir Masjid dispute. He also appears to have the apprehension that, there may be violent agitations by one party or the other after the Judgment, which is quite evident by the following observations in his Judgment.

“As this judgment is not finally deciding the matter and as the most crucial stage is to come after it I remind both the warring factions of the following. “The one quality which epitomized the character of Ram is tyag [sacrifice]. When Prophet Mohammad entered into a treaty with the rival group.....”.

It appears that Justice SU Khan had to take a short cut on account of the aforesaid handicap. His over consciousness of being a Muslim Judge impelled him to make an appeal to the minority community which virtually amounts to suggesting them to accept that they are Second Class Citizens in a country where the Hindus are in Majority and therefore they should accept the Majority Verdict. This aspect is reflected in the following observations in his Judgment.

“Under the sub-heading of demolition, I have admired our resilience. However we must realize that such things do not happen in quick succession. Another fall and we may not be able to rise again, at least quickly. Today the pace of the world is faster than it was in 1992. We may be crushed. “Only those species survived which collaborated and improvised” Muslims must also ponder that at present the entire world wants to know the exact teaching of Islam in

respect of relationship of Muslims with others. Hostility, peace, friendship, tolerance, opportunity to impress others with the Message, opportunity to strike wherever and whenever possible, or what? In this regard Muslims in India enjoy a unique position. They have been rulers here, they have been ruled and now they are sharers in power (of course junior partners).

They are not in majority but they are also not a negligible minority (after Indonesia, India has the highest number of Muslims in the world). In other countries, either the Muslims are in huge majority, which makes them indifferent to the problem in question, or in negligible minority, which makes them redundant. Indian Muslims have also inherited huge legacy of religious learning and knowledge. They are therefore in the best position to tell the world the correct position. Let them start with their role in the resolution of the conflict at hand."

Over consciousness of Justice SU Khan and his feeling of short coming for joining the bench late is also reflected by the following observation of his Judgment:

"Before parting I thank Hon'ble the Chief Justice CK Prasad (now an Hon'ble Judge of Supreme Court) for giving me the responsibility and providing opportunity to me to decide this historical case by inducting me in this Bench. We are also thankful to Hon'ble the Chief Justice HL Gokhale (now an Hon'ble Judge of Supreme Court) for inducting Hon'ble Sudhir Agarwal, in this bench who is extremely laborious, very upright and considerably balanced".

The Race between two Major Political Parties

In 1984 Elections in which Rajiv Gandhi had a clean sweep, BJP could secure only 2 seats in Lok Sabha. The *Sangh* Parivar started a campaign for the construction of a magnificent Ram Janam Bhoomi Temple at the site and by 1985 built up a sizeable support in the Hindu Community. In January 1986, locks were removed from the mosque

and Ram bhakts were permitted to offer prayers to Ram lala. It is said that the Prime Minister Rajiv Gandhi ordered the Chief Minister Veer Bahadur Singh to do so who got the District Administration to ensure this. The two major political parties BJP and the Congress started a race on pandering to communal Hindu sentiments. In 1988, Hindutva Organizations led by the RSS organized a mass campaign for building a grand temple exactly where the Mosque stood. They claimed that the Mosque stood at the precise site where Ram was born. By the time of the fifth and final suit was filed in July 1989 the political climate had changed beyond recognition

Union Home Minister Buta Singh signed an agreement with the VHP on 17th August 1989, that bricks for constructing the temple would be allowed to be brought from all over UP without hindrance and collected at the plot No. 586 near the mosque. This agreement was in violation of an order of the Allahabad High Court given on 14th August that no construction activity could be taken at that spot.

Later, the VHP announced that *Kar Sewa* would be performed to lay the foundation stone. This was also a violation of the judgment given two days ago, prohibiting any such activity. This repeated defiance, of the orders of the court did not weigh with the Prime Minister who inaugurated the campaign of Congress Party the next day from twin city of Faizabad, and announced that the objective of the party was to establish Ram Rajya. Soon thereafter the BJP President Advani, at Palampur, after the National Executive Meeting, announced that the inclusion of the construction of the temple in its Election Manifesto "would fetch votes "for it. It would thus appear that the two major political parties were in a race on this issue.

"A new dimension was added to the campaign for the construction of the temple with the formation of the Government in Uttar Pradesh in

June 1991 by the Bhartiya Janta Party (BJP) which declared its commitment to the construction of the temple..... The focus of the temple construction movement from October 1991 was to start construction of the temple by way of *Kar-Sewa* on the land acquired by the Government in Uttar Pradesh while leaving the disputed structure intact, "has been noticed by (The Supreme Court in M. Ismail Farooqui's case,(AIR 1995 SC 605)

"The judgments delivered by the Lucknow Bench of Allahabad High Court on September 30 on the Babri Masjid cases not only flagrantly violate the law and the evidence but a binding unanimous judgment of the Supreme Court on the Babri Masjid case itself (*M. Ismail Faruqui and Others Vs Union of India and Others* (1994)6 Scc 360. It sanctified the conversion of a historic mosque, which stood for 500 years into a temple." Says AG Noorani in his article "Muslims Wronged" in October 22, 2010 issue of *Frontline*.

Noorani further says in the same article, "On the Babri Masjid, for 60 years from 1950 to 2010, Muslims have been woefully wronged by every single court ruling, including that of the Supreme Court after the demolition of the mosque on December 6, 1992".

"The absence of any condemnation of the vandalism of the demolition of the Babri Masjid on December 6, 1992 is a conspicuous aspect of the Ayodhya verdict of the Allahabad High Court." says TR Andhyarujina, an eminent jurist and Senior Advocate of Supreme Court in his article (*The Hindu*) October 5, 2010.

TR Andhyarujina further says in the same article: "The Ayodhya judgments of the Allahabad High Court make no note of the vandalism of December 6, 1992. On the other hand, they take the demolition as a *fait accompli*, as if the disputed 2.77 acre site was vacant land. After holding that the area beneath the central dome of

the erstwhile Masjid must be allotted to Hindus because of their faith that Lord Ram's place of birth was there, and the areas covered by the Ram Chabutara and Sita Rasoi should be allotted to the Nirmohi Akhara, the court has said that the remaining area of the disputed site should be divided, two-thirds to the two Hindu plaintiffs and one third to the Muslim plaintiff by metes and bounds. These judgments, therefore legalize and legitimize the 1992 demolition, as the decree of the court proceeds on the basis that there is no Masjid on the disputed site today.

It is an elementary rule of justice in courts that when a party to a litigation takes the law into its own hands and alters the existing state of affairs to its advantage, (as the demolition in 1992 did in favour of the Hindu plaintiffs), the court would first order the restitution of the pre-existing state of affairs."

It may be noticed here that the Supreme Court in its judgment of 1994 said of the demolition: "Within a short time, the entire structure was demolished and razed to the ground. Indeed, it was an act of 'national shame'. What was demolished was not merely an ancient structure, but the faith of the minorities in the sense of justice and fair play of the majority. It shook their faith in the rule of law and constitutional processes".

The Muslims today are once again feeling dismayed and betrayed by legitimization of the Masjid-demolition by the Ayodhya judgment.

The suits were transferred to the High Court to be tried by a Special Bench of three Judges in the wake of a high-profile campaign, after the trial started in the High Court, the profile became all the more high on subsequent developments, starting from the demolition on 6th December 1992 followed by setting up of Librahan Commission and CBI Investigation and prosecutions of L.K.Advani and other big-wigs, who even came into power in the Centre and many States, while the investigations were still going on.

But for this hype, this Judgment instead of running into 6000 pages would may well have been given only in 6 pages. The two points which required verdict in these suits were:-

1. Was the place under Babri Masjid the birth place of Lord Ram.
2. Was there or not a temple on the land on which Babri Masjid was built.

Justice Rajindar Sachar only 4 days before the verdict came i.e. on September 26, 2010, in an article which was published in *JANATA* rightly said that it was impossible for any Court to give a finding about place of birth of Lord Rama and even if there was a temple on the land 400 years ago on which Babri Masjid was built, the suit would be barred by time. He said in the aforesaid article:

"I say this in view of the precedent of the case of Masjid Shahid Ganj in Lahore decided by the Privy Council in (1940). In that case there was admittedly a Mosque existing since 1722 A.D. But by 1762, the building came under Sikh rule and was being used as a Gurdwara. It was only in 1935 that a suit was filed claiming the building was a Mosque and should be returned to Muslims. The Privy Council while observing "their Lordship have every sympathy with a religious sentiment which would ascribe sanctity and in violability to a place of worship, they cannot under the Limitation Act accept the contentions that such a building cannot be possessed adversely" and then went on to hold "The Property now in question having been possessed by Sikhs adversely to the waqf and to all interests there under for more than 12 years, the right of the mutawali to possession for the purposes of the waqf came to an end under Limitation Act. "On the same parity of reasoning even if temple existed prior to the

building of Masjid 400 years ago, suit by VHP etc has to fail".

The controversy was thus concluded by Judgment of Privy Council in Masjid Shahid Ganj case and could have been decided by a Short Judgment.

India became Independent on 15th August 1947. The idols were surreptitiously placed in December 1949. The first suit was filed on 16.1.1950. We became Republic on 26.1.1950 The first Parliamentary Elections took place in 1952. Looking back, we find that the people of this country had an urge to participate in the political process, and this was evident in the elections that took place till 1967 and then in 1977 and 1989, and even a common man could then hope to get elected, because by that time poll politics had not come in the vicious grip of casteisation, communalization and criminalization. It was in 1989, when the 5th suit was filed and all the suits were transferred to the High Court that the Poll politics came in the vicious grip of Casteisation, communalization and criminalization. In 1991, when the coffers were found empty, the Government led by Narasimha Rao with Dr. Manmohan Singh as his Finance Minister threw the country into the debt trap of the World Bank under the guise of liberalization and economic "reforms". All these gave rise to nexus between criminals, unscrupulous politicians and corrupt bureaucrats. After 1989, issues started becoming non-issues and non-issues became issues. There is a terrible economic in-equality, disease, illiteracy and human sufferings. Millions are exploited. We require a United India to restore our economic and political sovereignty and achieve the objectives contained in Part IV of the Constitution.

**Ravi Kiran Jain is the national vice President of PUCL and a practicing Senior Advocate in Allahabad High Court.*

Published in the PUCL Bulletin July 2011 (Page No.9) □

PUCL Maharashtra Statement in Solidarity with Residents of Mahul

PUCL Maharashtra expresses its solidarity with the 5,500 families who were relocated to Mahul, a critically polluted industrial area in southeast Mumbai, in 2017, and are now in a desperate struggle to fight for their very right to live. It also strongly condemns the criminalising of their protest and the undemocratic and repressive measures to silence them, instead of addressing their legitimate concerns.

In the past year-and-a-half, more than 100 residents of Mahul have died due to the appalling conditions of toxic air pollution, water contamination, and unsanitary state of the housing units. On October 28, 2018, hundreds of relocated families in Mahul staged a *Jeevan Bachao Andolan*—literally a movement to save lives— by camping at a spot in Vidya Vihar, Ghatkopar. This is the same spot from where they had been evicted over a year ago. Around 5,500 families, comprising 30,000 people from various slums along the Tansa pipeline, were moved to Mahul after a court-ordered demolition in 2017. For Mahul residents, this is a last-ditch effort to safeguard their health and future, after a year-long struggle to get justice from the government and the court of law. While the country was celebrating Diwali festivities, the Mahul residents, faced with the government's apathy, were constrained to observe a Black Diwali on the 10th day of their protest.

Various state agencies, including the National Green Tribunal, have termed Mahul unfit for human habitation. Surrounded by a vast complex of oil refineries like the BPCL and HPCL, and chemical factories like RCF and Sealord Containers, the air in Mahul is not fit for breathing. A study by the KEM hospital in 2014 found high concentrations of dangerous chemicals like nickel and

benzopyrene, which were 7 and 37 times the permissible safety limits. The presence of another toxic chemical, toluene diisocyanate, was found to be 83 microgrammes per cubic metre, or 166 times the permissible limit. The KEM report states: "Learning from our experience regarding methyl isocyanate tragedy in Bhopal in 1984, it may be worthwhile to undertake monitoring of toluene diisocyanate, which is toxic in concentrations as low as 0.5 ppm." The state of housing lies in shambles. Almost every other building has broken sewerage lines raining waste water on the road below. The sewage water also seeps into the underground storage tanks that supplies potable water. Many residents have contracted chronic illnesses like tuberculosis, asthma, cancer, heart ailments, paralysis, and many other health disorders, after moving here. Skin infections and allergies are rife because of the contaminated water and air. Infants and the elderly are the most vulnerable, and form the majority of the seriously ill. Almost every household in Mahul has at least one family member incapacitated by disease.

Many working men and women have lost their livelihoods due to lack of proper connectivity, while children have had to drop out of school for the same reasons. While families have been uprooted from their place of stay, children have become the silent, hapless victims. Because the demolition had taken place in the middle of the academic year, many of these children have dropped out of school. Those who can afford to end up travelling 10 to 20 km one way every day. It has been found that the provisions of Right to Education Act, 2009, were not taken into consideration while making the rehabilitation plan for the Tansa pipeline Project Affected Families. Children below 6 years

are unable to go to the Anganwadis they were attending at Tansa pipeline. This has violated their right to Early Childhood Care and Education (Section 11 RTE Act). Children's right to health, nutrition is also violated due to this irresponsible and callous act and is bound to have serious ramifications on development, growth and learning.

The families have not been rehabilitated but dumped there, in gross violation of human rights. The Bombay High Court, in an order dated August 8, had asked the state government to come up with plans for relocating Mahul residents by October 1. There was however no movement by the government in that direction. Frustrated by the inaction of the government, and anguished by the regularity of freakish deaths in the colony, residents of Mahul have been forced to flee this toxic cesspit. Shockingly, the Maharashtra Housing Minister Prakash Mehta, in a phone call to the distressed protesting residents, claimed he did not have a solution for the 5,500 displaced families. This is despite information to the contrary, accessed by RTI, which revealed that Mumbai has close to 80,000 vacant flats specifically designed for rehabilitation. Meanwhile the aggrieved protestors have been met with continuing police action and repressive state measures to silence their voices. On November 5, a few protestors were detained by the Maharashtra police for attempting to hold black placards saying "Chief Minister Save our Life" outside an event at Fine Arts Cultural Centre, Chembur. While some talks have recently taken place, there has been no initiative on the part of the government to offer permanent solution to the distressed residents.

We at PUCL Maharashtra stand by the residents of Mahul, and strongly condemn the shocking disregard

shown by the government towards its own citizens. The right to life, as enshrined in Article 21 of the Constitution, also includes the right to clean and sound environment, as interpreted by various judicial pronouncements in the past decades. The state has failed in its obligation and duty under Articles 39(b), 47 and 48A to improve the health and protect and improve the natural environment. It is criminal of a government to be unwilling to follow this mandate and remain mute spectators to the slow poisoning of its citizens.

PUCL Maharashtra demands that:

1. All repressive measures by the

state against the protesting families stop immediately, and the government reach out to the residents of Mahul for redressal of their grievances and immediate rehabilitation.

2. The government urgently intervene and start the process of allotting safe and permanent accommodation / housing with facilities in a clean and habitable living environment for the residents of Mahul, in areas close to their original homes.
3. The government immediately start providing free medical treatment and healthcare for the residents of Mahul who

have been rendered sick and incapacitated at a reputable centre, and also compensate them adequately.

4. Immediate free transport arrangement to-and-fro Tansa pipeline schools be made available to the children till alternative arrangements are put in place and the government ensure that the education of the children is not adversely affected or interrupted.

Mihir Desai, Convenor, Ad-Hoc Committee, *People's Union for Civil Liberties (PUCL)*, Maharashtra ☐

PUCL Rajasthan:

Joint letter by Women and Human Rights Organisations to the DG Police, Rajasthan

Shri OP Galhotra,
Director General, Rajasthan Police,
Jaipur

Date: 3rd November, 2018

Subject: Proactively contacting and providing support to Ms. Pallavi Gogoi, (Chief Business Editor of the National Public Radio, USA), in filing an FIR against MJ Akbar regarding her charge of being raped in Jaipur 23 years ago.

Dear Mr. Galhotra,

We attach the link to the article written by Ms. Pallavi Gogoi, published in Washington Post dated 1st November 2018. Ms. Gogoi is currently the Chief Business Editor for the NPR in the US. She clearly says that she was sexually assaulted by MJ Akbar when she was a 22 year old in Delhi, and raped by him a few months later in Jaipur 23 years ago, when she was a journalist for the AsianAge.

Please see the link for the entire story:

[https://www.washingtonpost.com/news/global-opinions/wp/2018/11/01/as-a-young-journalist-in-india-i-](https://www.washingtonpost.com/news/global-opinions/wp/2018/11/01/as-a-young-journalist-in-india-i-was-raped-by-m-j-akbar-here-is-my-story/?utm_term=.5503006d2083)

[was-raped-by-m-j-akbar-here-is-my-story/?utm_term=.5503006d2083](https://www.washingtonpost.com/news/global-opinions/wp/2018/11/01/as-a-young-journalist-in-india-i-was-raped-by-m-j-akbar-here-is-my-story/?utm_term=.5503006d2083)

She has described what happened to her in graphic detail.

"....Soon after the Bombay incident, one story took me to a remote village a few hundred miles from Delhi to cover the appalling saga of a young couple who were hanged by members of the village because the lovers were from different castes. The assignment was to end in Jaipur. When I checked back, Akbar said I could come discuss the story in his hotel in Jaipur, far from Delhi.

In his hotel room, even though I fought him, he was physically more powerful. He ripped off my clothes and raped me. Instead of reporting him to the police, I was filled with shame. I didn't tell anyone about this then. Would anyone have believed me? I blamed myself. Why did I go to the hotel room? What was worse was that after that first time, his grip over me got tighter. I stopped fighting his advances because I felt so helpless....."

Sir,

The young woman, Ms. Pallavi Gogoi, has had the courage to speak out loud against the serial sexual violence she suffered on the hands of a powerful journalist, now a politician, after 23 years. She speaks of her fear in going to the police at that young age to report an attack on her that has been a source of trauma all her life. She says, "I've always felt that Akbar is above the law and justice doesn't apply to him. I felt he would never pay the price for what he had done to me."

We therefore believe the Rajasthan police should be proactive and contact her through the Home and the External Affairs Ministry (GOI) requesting the Indian Embassy in the US to contact the aggrieved woman and ask her if she would like help and support in filing an FIR. We believe that in particular cases such this, it is possible to file it online or via email, whatever be the facility. She should also be assured that there will be a just, fair and speedy investigation. In the interest of a speedy investigation her testimony can be also recorded via video conferencing by the police and the magistrate in order to facilitate the investigation process

without the victim having to go through unnecessary travel and trauma.

In the eventuality of her filing an FIR investigation should be completed urgently, so that the law can take its course and Ms. Pallavi Gogoi can get justice.

We are, certain that as is your motto, "**Committed to serve**", you will pursue this.

With regards,

Dr. Renuka Pamecha, WRG, Rajasthan; **Kavita Srivastava**, PUCL, Rajasthan; **Meeta Singh**, **Seema Azad**, **Sister Leena**, **Vijaylakshmi Joshi**, PUCL; **Aruna Roy**, MKSS; **Kamla Bhasin**, Social Activist, Delhi; **Nisha Sidhu**, NFIW; **Kusum Sawal**, AIDWA; **Bharat**, Vishakha; **Chanda Asani**, Author, Political & Social Activist, Jaipur; **Avanika**, Writer & Editor; **Saraswati**, Development

worker; **Indu Mathur**, Teacher; **Manju Sharma**, writer; **Komal Srivastava**, BGVS; **Mamta Jaitley**, Vividha; **Devyani Bharadwaj**, Writer and Poet; **Kanchan Mathur**, Researcher; **Indira Pancholi**, MJAS; **Shakuntala Pamecha**, RJVS; **Tara Ahluwalia**, **BMCS**; **Rooplata**, Sangath; **Radhika Ganesh**, **Aabha Muralidharan**, **Kasturi Adhikari**, **Somasundaram** - Activists. *Ek Potlee Ret Ki Collective*, (Rajasthan, Tamil Nadu, Madhya Pradesh); **Shabnam Sheikh**, Student, Mumbai; **Aparna**, Computer Programmer; **Veena**, Retired Principal; **Manju**, Retired Teacher; **Archana**, Housewife; **Shubha Jindel**, Lawyer; **Aysha Khan**, RTFC; **Tuhina Sharma**, Student, Mumbai; **Nisha Biswas**, Scientist and Social Activist; **Arundhati Dhuru**, NAPM; **Bittu**, Writer & Feminist Activist; **Puja**, Independent researcher; **Pyoli**, Advocate; **Malini Subramanian**, Independent

Journalist; **Shabnam Sengupta**, Journalist; **Padmaja Shaw**, Academician; **Dr. Asha Kaushik**, **Dr. Lad Kumari Jain**, **Dr. Malti Gupta**, **Dr. Alka Rao**, **Dr. Madhulika Sharma**, **Dr. Neeti Chaturvedi**, **Dr. Rashmi Jain**, **Dr. Ritu Saxena**, **Dr. Prerna Puri**, **Dr. Shashi Lata Puri**, **Dr. Joya Chakravarty**, **Dr. Asha Vyas**, **Dr. Darshan Kaur Narang**, **Dr. Divya sharma**, **Dr. Anita Rathi**, RUWA; **Geeta Nambisan**, Jagori; **Abha Bhैया**, Jagori Grameen; **Uma Chandru**, Writer & Activist; **Ananya Bhattacharya**; **Dr. Sylvia** - Public Health Doctor & Researcher; **Usha**, *Vikalp*, Udaipur; **Anita Mathur**, **Purwa Kushwaha**, **Shabnam Aziz**, **Saswati Ghosh**, **Mamata Dash**, **Nancy Pathak**, **Ganga Gupta**, **Richa Minocha**, **Vineeta Srivastava**, Social Activists; **Renu Singh**, Research Scholar, Delhi; **Sudha Arora**, Writer □

PUCL Tamil Nadu & Puducherry: 21st November, 2018

Press Statement of PUCL on the judgement of Madras High Court which ordered the destruction of Pazha Nedumaran's book -- "*Tamil Eezham Sivakkirathu*" (Red Haze over Tamil Eelam)

Pazha Nedumaran had written a book by the name "*Tamil Eezham Sivakkirathu*" and published it in 1993. The said book describes the struggles of Tamils in Sri Lanka and the situation of war in 1993.

The author and Sahul Hameed who possessed the books were arrested in 2002, when they tried to export the 1709 copies of the book. Cases were booked under Sedition Clause 124 (A) 153 (B) of the Indian Penal Code and Clause 10 of Unlawful Activities Prevention Act (UAPA) Thereafter Section 505 of the Indian Penal Code was also added as per the G.O of the Government of Tamil Nadu.

In 2006, cases were withdrawn by a GO (Government Order) of the Government of Tamil Nadu and both of the persons mentioned above were released. But much to their dismay and consternation, the books were not returned to them. So Pazha Nedumaran filed a case in the Additional Sessions Court to duly return the confiscated books valued at about Rs. Ten lakhs. Stating that the said book will affect the public harmony of the country,

his case was dismissed on March 2, 2007.

Pazha Nedumaran appealed against this ruling in the Madras High Court in the same year. This case was kept in cold storage for 11 years and the judgement was delivered recently on 14th November 2018.

The High Court opined that the book "*Tamil Eezham Sivakkirathu*" (Red Haze over Tamil Eelam) supports the LTTE, a banned organisation in India, and if the books were returned to the author, they will be distributed to the public at large, causing disturbance to the public harmony. Hence the High Court dismissed the petition. The media reported that the High Court ordered to destroy all the books forthwith under section 452 of the Criminal Procedure Code.

Dismissing of petition is quite natural. But the order to destroy the books is shocking. Anybody can disagree with the content of a particular book but preventing people from reading what is written in the book is not acceptable. If there is no bar for the book already

published, people will naturally absorb the ideas advocated in the book prudently, irrespective of the content. That will be the firm belief of a civilised society.

Article 19 of the Indian Constitution guarantees the citizens the Right to Speech and expression. Several judgements exist of the Supreme Court expanding on the citizen's right to know as an element of freedom of speech and expression, all of which are based on the fact that freedom of speech and expression is elementary to democracy.

Even before Independence, people disseminated the idea of changing the political structure or throwing it away. But the courts even under a foreign rule, upheld the rights of people to free speech. (Examples - *Krishna Vs. Emperor*, AIR 1935, Cal 636; *Niharendu Dutt Majumdar Vs. Emperor*, AIR 1942 FC 23).

Even in independent India, a Tamil film by name "*Ore oru Gramaththiley*" (In one village) criticised the Reservation policy of the government but the Supreme Court refused to cancel the U

certificate issued to it, despite the fact of major resistance to the film. (*S.Rangarajan Vs. P.Jagjivan Ram, decided on 30.3.1989*).

In 2016, Madras High Court refused to confiscate the copies of Tamil novel "*Maadhoru Bagam*" written by noted writer Perumal Murugan and its English version "One part woman". Also it had issued a historical verdict, stating "To read a book or not is solely the discretion of a reader. If you don't like a book, just throw it away". People still remember this

monumental judgement.

That apart, In September, 2018, the former Chief Justice of India as part of a 3-Judge Bench stoutly refused to ban the Malayalam Novel "Meesa" and declared, "We don't dwell in a dictatorial regime. We live only in a democratic country. So everybody has the right to exchange freely our ideas." It is noteworthy that the Right to free thinking is upheld and celebrated by the courts on and off.

So the order of the Madras High Court to destroy the book "Tamil

Ezham Sivakkirathu", which is in government's possession, may admittedly become a contradictory precedent against the Right to free think.

PUCL firmly believes that conscientious justice will be fortified by protecting the Right to free thinking, when an appeal petition is filed in the Supreme Court by Pazha.Nedumaran.

Gana Kurinji, President and K. Saravanan, General Secretary, PUCL – TN & Puducherry □

PUCL Maharashtra: 09th November 2018

PUCL Statement in Solidarity with #MeToo Campaign

As national conscience acknowledges the long-standing problem of hostile workspaces for women, it is time to closely examine the legislative framework in place to protect a women's fundamental right to work with dignity. It has been over a decade since the Supreme Court guidelines in the landmark judgment *Vishaka v. State of Rajasthan and others*, established the responsibility of employers and persons of authority to delineate a complaints and redressal mechanism to ensure accurate and timely reporting of incidents of sexual harassment at the workplace. After 16 years, Parliament passed the Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013 "**the Act**". While the Act has to some extent clarified the definition and broadened the ambit of what a workplace constitutes, we must address the systemic failure of legal remedies and social support systems in addressing complex issues that arise from incidents of sexual misconduct and harassment of women, and the gross non-implementation of the provisions of the Act by the state. In January 2018, Supreme Court in a Public Interest Litigation filed before it, was constrained to call on multiple State Governments to implement the provisions of the Act, including the setting up of a Local Complaints Committee (LCC) in

each district.

We acknowledge that the Law as of today does not provide adequate safeguards to protect a survivor of sexual harassment against the social and professional sanctions imposed on her once she decides to report an incident of sexual harassment. The Law further fails in its objective to ensure that a survivor of sexual harassment is protected against intimidation in the form of defamation cases that are strategically used to disempower and deter a survivor who takes the step to report a case of sexual harassment. While the Vishaka Judgement did not contemplate a limitation period within which a complaint ought to have been filed, the Act reflects the patriarchal notions of justice in mandating that a complaint ought to be filed within 3 months of the incident or at the latest within 6 months of the incident, if the aggrieved woman can justify the delay in the filing of the complaint. This restriction does not cater to the interests of the women as Parliament has failed to acknowledge the lasting psychological impact that a traumatic incident of sexual harassment can have on a survivor of sexual harassment. This is more so important in the light of the number of cases that go unreported and the number of offenders who face no consequences for their misconduct. It is our responsibility as members of a healthy society to

strive to create an equal, gender empowering society and community, which harbours a safe environment for all members to live a life of dignity and to work with dignity.

It is in this interest that we urge all organisations with more than 10 members to constitute an Internal Complaints (IC) Committee and urge organisations with lesser than 10 members to inform their employees of the Local Complaint Committee constituted / to be constituted in each District.

The recent social-media movement or the '**#Metoo campaign**' in an Indian context effectively began in the year 2017 and has since opened up issues of sexual harassment to the public gaze. This movement has made it accessible for women to speak publicly about incidents of sexual harassment. The first phase called out numerous academicians and professors for having abused their positions of power for many years. The current phase of the movement has led to several media personalities, journalists and persons in the NGO and development sector being investigated for misconduct and sexual harassment.

We acknowledge that this is a significant movement as social media has facilitated and empowered women to speak openly (even anonymously) on

social platforms. The movement is significant for it urges us as a society to take stock of how effective the law and intended 'due process' is in addressing issues of women's safety and health at the workplace. It is clear that many women have chosen to exercise their freedom of expression to inform society, peers, and colleagues of the prevalent culture of sexual misconduct and abuse of power by persons in a position of authority or otherwise. These women have chosen to speak

despite the social and professional consequences faced by them and their families.

PUCL extends its support to all persons who have taken the step to come out with their personal and truthful accounts of sexual harassment. We acknowledge that to speak out and share these experiences is hard and that the backlash faced by these persons sometimes leads to further harassment.

We are committed to protecting the civil rights and liberties of all

individuals and have zero tolerance towards sexual misconduct of any kind. We are also committed to finding solutions to social problems faced by the community.

We extend our support and would like to intimate any persons who are keen on pursuing any remedies that PUCL if approached, would guide and support to our best ability.

Mihir Desai, Convenor, Ad-Hoc Committee, *People's Union for Civil Liberties (PUCL)*, Maharashtra ☐

PUDR Press Statement: November 10, 2018

Condemning the Continuing Violence by CPI (Maoist) in the Name of Election Boycott

People's Union for Democratic Rights (PUDR) condemns series of incidents triggered by members of CPI(Maoist) in Bastar Sambhag (region) of Chhattisgarh in just over a fortnight.

November 8: Four civilians and one CISF Head constable were killed when an IED (improvised explosive device) exploded in a bus hired by CISF for their use during the election, near Bacheli in Dantewada. Two other CISF personnel were grievously injured.

November 7: A former Sarpanch and a local member of CPI Dhurva Kalmu, out on election campaign, was killed in Bodko village under PS Phoolanbagdi, Dantewada.

November 6: A bus carrying passengers on its way between Jagdalpur and Usoor was intercepted. The 35 passengers were asked to get off and the bus was set on fire.

November 4: Two persons, Aaytu Hemla and Sonu Penam were abducted near Baddepara village, under P.S. Gangaloor. Aaytu Hemla was beaten to death while Sonu Penam was released.

October 30: Doordarshan camera person Achyutnanda Sahu and Sub Inspector Rudra

Pratap, Constable Manglu and Assistant Constable Rakesh Gautam died in an ambush in Aranpur sector of Dantewada district in Chhattisgarh.

Although the Maoists have apologized for the killing of Doordarshan cameraman, they have defended the ambush, the IED explosion as well as the killings of Aaytu Hemla and Dhruva Kalmu. While it is not possible to ascertain the degree of association of these events with the upcoming Assembly elections and the Maoist opposition to the same, these events have occurred in the immediate run up to these elections.

PUDR finds the Maoist defense specious and unacceptable. PUDR holds that contesting, campaigning, voting and boycotting are perfectly legitimate political activities and the use of force and violence in any of these is condemnable. For the Maoists who insist that they are waging a People's War, these violent acts water down their claim.

For long years the Adivasis of Bastar have been fighting the state over issues of forest land acquisition for mining, systematic dilution of constitutional and legal protection provided to Adivasis, filing of false cases and their

prolonged incarceration in jails. The democratic space to raise these issues has already been heavily criminalized by the state. In this context, the wanton acts of the CPI (Maoist) give impetus to the state to further inflict harm through criminal and military means.

The war being waged in Bastar by the Central and state governments against the CPI Maoist is now in its 14th year. According to a recent news report, "the CRPF has deployed close to a lakh armed personnel and a heavy assortment of weapons and gadgets" in a bid to end Maoism in the country." (*PTI*, September 2, 2018). This scale of militarisation is not conducive for the maintenance of people's constitutional rights, including the right to free and fair elections.

PUDR hopes that saner counsel will prevail, and that at the very minimum both sides will abide by norms of International Humanitarian Law extended via common article 3 of the Geneva Convention read with Protocol II to ensure that civilians/noncombatants are not put to harm by any of their activities.

Shahana Bhattacharjee and Sharmila Purkayastha, Secretaries PUDR, www.pudr.org ☐

Note: The following statement was issued by retired IAS and other officials commenting on statement of Amit Shah, President of ruling BJP party, in Kerala, in the context of the controversy over entry of women to the Sabarimala Temple following the SC verdict.

The Caravan, 29 September 2018:

Public Statement and Appeal by Retired Senior Civil Servants and Diplomats on the Comments violative of the Constitution made by the President of the main Ruling Party in his Public Speech at Kannur, Kerala

We are a group of former civil servants of the All India and Central Services, who have worked for decades with the Central and State Governments during our careers. We wish to make it clear that, as a group, we have no affiliation with any political party but believe in impartiality, neutrality and commitment to the Indian Constitution. We continue to uphold the oath of allegiance to our Constitution we took when we entered service.

Addressing a public meeting at Kannur, Kerala, on Saturday, the 27th October 2018, the President of the main ruling party at the centre made two interrelated comments: That the Supreme Court ought to have issued implementable orders; and, that the State Government in Kerala would be brought down for its temerity to enforce the Supreme Court orders regarding the entry of women from a certain age group into the Sabarimala temple by arresting and suppressing 'Ayyappa devotees.' Taken together, these two comments make for a scary reading that the President of the main ruling party at the centre is casting aspersions upon and questioning the lawful authority of the highest court of the land, asking the State government to refrain from implementing the Court's orders, and is explicitly threatening to bring it down by vigilante action of political workers in the streets by fuelling their religious sentiments. There is also an implicit threat of the dismissal of the State Government by the Union Government.

Under the Election Symbols (Reservation and Allotment) Order, 1968, framed by the Election Commission India (ECI) under the

plenary powers vested in it by Article 324 of the Constitution, the Commission has codified the provisions relating to the functioning of political parties. This Order provides for the registration of political parties and its general bases by the ECI. It also provides for their recognition on the basis of their poll performance in the general elections. In 1989, the Parliament inserted a new section 29A in the Representation of the People Act, 1951, which provides that the registration of political parties by the Election Commission India (ECI) would involve an additional condition: every political party must include in its constitution/by-laws an undertaking that it 'shall bear true faith allegiance to the Constitution of India as by law established, and to the principles of socialism, secularism and democracy, and would uphold the sovereignty, unity and integrity of India'. The main ruling party at the centre too has made the necessary insertion of this additional condition in its Constitution. Further, the ECI has the power to suspend or withdraw the recognition of a recognised political party for its failure to observe the Model Code of Conduct or to follow lawful directions and instructions of the Commission.

It is well within the rights of any individual to critically opine upon a judicial decision without casting aspersions on the juridical intent. Indeed, judicial decisions do vary between one juridical level and another, and also from one bench to the other in the High and Supreme Courts. There is a due process in place to seek redressal from a decision that has caused

one to feel aggrieved; this even applies, in some cases, to the decisions taken by a particular bench of the Supreme Court. There have also been instances of legislative interventions in the Parliament by the executive to countermand an inconvenient judicial decision within the parameters set out in the Constitution. It is not open to any individual, group, or a political party to subvert the due constitutional process by threatening street action or adverse political action by the Union executive.

The cited public speech of the President of the ruling party at the centre amounts to a gross Constitutional misconduct. It is likely to have far-reaching adverse implications for our national polity if it passes unnoticed. The Hon'ble Prime Minister has been a great votary of strengthening federalism during his long innings as the Chief Minister of one of India's frontline states. As a Prime Minister, he has enthusiastically spoken of the cooperative federalism among the Union and the States. Therefore, the cited content of the public speech of the powerful President of the ruling party is as worrying as it is inexplicable even in the present times when political discourse touches a new low every day.

We respectfully ask:

1. The ECI to take cognisance of the cited public speech by the President of the main ruling party at the centre, to seek necessary explanations from the political party concerned, and to initiate thereafter such steps as deemed fit for defending the sanctity of the Constitution and of the laws made thereunder;

2. The Head of the Government, the Hon'ble PM, to counsel his party President as appropriate and to categorically delink the executive's support of his cited public speech.
3. The Hon'ble Supreme Court to take *suomotu* cognisance of its contempt in such a blatant manner at a public forum, and to proceed forthwith with necessary legal action.

4. The Head of the State, The Hon'ble President of India, to give his sage counsel to all concerned to maintain constitutional decorum and to enforce the corrective executive action to rectify its breach.

Signatories: (All officer are retired officials of IAS, IPS and other Services)

SP Ambrose, IAS, Former Additional Secretary, Ministry of Shipping & Transport, GoI; **N. Bala Bhaskar**, IAS,

Former Principal Adviser (Finance), Ministry of External Affairs, GoI; **G. Balachandran**, IAS, Former Additional Secretary, Government of West Bengal; **Vappala Balanchandran**, IPS, Former Special Secretary, Cabinet Secretariat, GoI; **Gopalan Balagopal**, IAS, Former Secretary, Government of West Bengal; **Meeran Borwankar**, IPS, Former DGP, Bureau of Police Research and Development, GoI and 45 others. □

SPI Press release: 28th October 2018

CBI Feud: Supreme Court Must Take Steps to Restore Trust

Whatever happened and is happening within the Central Bureau of Investigation (CBI), is reminiscent of the conspiracies hatched in the middle ages or in a gang war. Due to its politicization, CBI has undergone tough times earlier too. The story as to how the Congress government used it for its political motives is clearly described in B. R. Lal's book 'Who Owns CBI: The Naked Truth'. But the current government has crossed all limits. It is known to all that the CBI has been white washing in the Vyapam scam. It is also known to everyone how the CBI softened its look-out notice in the case of Vijay Mallya. In the case of Neerav Modi and Mehul Choksi, central investigation agencies, including the CBI, took a soft stand. Not only this, Special Director of CBI Rakesh Asthana became a favorite of Narendra Modi by giving him a clean chit as chief minister in the Godhra carnage. Ironically, the government that is erecting the tallest statue of Sardar Patel is destroying his dream institution, the CBI. Sardar had wanted the CBI to investigate corruption in princely states and to help in the implementation of a fair and lawful order there.

The height of political intervention is when the director of CBI, who is appointed by the highest committee of the country, is challenged by the special director, who was thrust into the department. The director files an FIR against the

special director and takes the initiative to arrest his own officials! If the director (Alok Verma) is accusing his junior (special director Rakesh Asthana) of taking Rs 3 core bribe, then the junior has accused him of taking Rs 2 crores. If a bribe had been taken to divert the investigation into a different direction in the case of the meat exporter Moin Qureshi, and the special director was running a racket for ransom along with the officers in the PMO, ED and RAW, then there could be no more serious matter than this! The connection of this entire feud leads straight to the Prime Minister, because special director Rakesh Asthana is said to be his favourite. It seems, not without reason, that the whole government is standing with the junior instead of taking the side of the director. One after the other, Rakesh Asthana's deeds are unfolding in front of the public.

Unfortunately, the political parties of the country have been divided between Alok Verma and Rakesh Asthana. If the BJP and its ruling allies are in support of Asthana, then the Congress and the other opposition parties are in support of Alok Verma. The Congress alleges that Alok Verma was taking the initiative to investigate the Rafale deal, and, therefore, he was removed from his job. It believes that for the same reason, the CBI office was sealed overnight and officers have been transferred on a large and sudden scale, like a coup.

The allegation of the Congress and the lawyer Prashant Bhushan related to Rafale deal, points to the affidavit given to the Supreme Court by the director, that he was conducting some special investigation which made the government uncomfortable. That's why he has been sent on leave.

The Supreme Court is hearing the case. While perhaps not trusting the Central Vigilance Commission (CVC), it has deputed retired Judge AK Patnaik for monitoring the investigation and has sought a report in two weeks. Along with this, the Supreme Court has taken action against Nageshwar Rao, the fourth number officer appointed as the executive director, by limiting his powers to take policy decisions. Whatever decisions he has taken or would take will be presented before the Court.

The scab of the dirt is that Nageshwar Rao is also surrounded by allegations of misconduct. His greatest qualification is that he is close to Ram Madhav and is involved in the *Sangh's* communal Hindutva agenda. He is active in finding ways to stop export of beef and in writing 'History of Hindu pride'. This shows the intention of the government to communalise the bureaucracy. That is why the Narendra Modi government is making efforts to run the country's bureaucracy on the lines of Gujarat model. If one pays attention to the Gujarat model then it is known that there were at least a dozen IPS

officers either opted for VRS or were convicted and imprisoned in jails. Those who made an autonomous attempt to follow the law of the land were so disturbed that they stopped going out of their houses. Modi government wants to bring the same situation at the center. In this anti-Constitution and anti-national work, the so-called secular and social justice parties/leaders of the National Democratic Alliance (NDA) are equally responsible.

The Socialist Party believes that all the institutions of the country should be answerable to the Constitution of the country and the rule of law, and not to any individual leader or party. Given the CBI's current feud, the Socialist Party makes an earnest appeal to the Honourable Supreme Court to give a firm order in the whole case. So that the confidence of the citizens of the country can be restored in the constitutional institutions, which have been badly shaken by the

current central government. The Socialist Party demands that the politicization of the CBI should be stopped and it should be given full autonomy under the Lokpal. The Socialist Party further strongly condemns the irresponsible and misleading rhetoric such as 'no institution is bigger than country', made by a senior leader in the government.

Dr. Prem Singh, President, Socialist Party India □

NAPM Press Release: October 27, 2018:

The Golden Triangle of the Indian Constitution, Article 14, 19, 21 under threat in Telangana

Govt. failed the People's Struggle for Telangana, People of Mehboobnagar and Vemulaghat Revealed Worsening Situations in Telangana

More than 1.5 lakh acres of Land for Development Projects and Corporates, Where as mere 13,500 acres of Land for Landless in the State

Unprecedented Betrayal by KCR Govt.; Landless, Cultivators, Adivasis, Workers, De-notified Tribes Communities are Worst Affected

Vemulaghat Standing Strong against Mallanasagar Reservoir, People Declared such Big Developmental Projects Anti-People and Anti-Constitutional

Mehboobnagar / Vemulaghat, Telangana: Samvidhan Samman Yatra is consistently receiving huge support from people and movements across the country. Today, Yatra reached Mehboobnagar in Telangana. Farmers, Adivasis, De-notified tribes, local activists of Telangana VyavasayaVruthidarula Union (TVVU), Telangana VidhyarthiVedika and many others joined the yatra and taken out a rally at Mehboobnagar Chowk. Revolutionary tribute was paid to B. R. Ambedkar and BabuJagjivan Ram.

After the rally, everyone assembled for a public meeting at Revenue Bhawan and discussed the issues of land acquisition, agricultural crisis, workers rights, PalamaruRanga Reddy lift irrigation project and others.

The Constitution of India gives directions to States to safeguard the rights of people and intervene to achieve equity and justice in the society, but presently, the state in connivance with centre is disrespecting the objectives of freedom struggle of Telangana and its people and the Constitution as well, said **Meera Sanghamitra** while introducing the yatri of Samvidhan Samman Yatra to the people gathered for the meeting.

Srinivas from Telangana VidyavanthalaVedika said that the whole village got devastated by Sangam Banda project. Since 2004, the resettlement sites have not been able to make the lives of people any good than before.

"I work with NREGA workers in dry area of Mehboobnagar. In spite of working in dry and difficult terrain, the workers are getting low wages. Even the payment of wages gets generally delayed by more than a month", said **Venky** from Gadwal.

Recounting experiences from Uttar Pradesh, **Mahendra Singh** working with MNREGA Mazdoor Union shared the same plight as Venky shared. The Modi Govt. is paying their dues back to Adani, Ambani against their donations during electoral campaigns. People are rendered unemployed and forced to migrate to different states for living. Workers are forced to work overtime at low wages in factories and many a times that too without any contract. Everyone witnessed the violence against migrant workers of UP, Bihar in Gujarat recently and can imagine how many people migrate to other states leaving their families back in the villages for their livelihood.

Kiran Vissa from Rythu Swaraj Vedika raised the issue of farmer

suicides and said that since the formation of Telangana State, Tenant farmers are continuously suffering. The much-discussed scheme of Rs. 8000 per acre started by KCR is actually only applicable to landed farmers and not for the cultivators, who actually work day and night to secure nation's food security.

"We have 3 acres of land but since last 3 years, the crops had failed. We were in debt and in February this year my husband committed suicide as bank officers had started harassing and humiliating us consistently. The Govt. also refused to recognize it as suicide due to agri-crisis and termed it a cause of family disputes", said **Laxmi**, widow of a farmer.

"The Govt promised 3 acres land to all the Dalit families but we never got any benefit despite being eligible. The scheme was only a fake promise as every political party does from General elections to state elections", said another widow.

Nagayya from TVVU said that we are fighting for land distribution among landless. The state has allotted 1.5 lakh acres through land bank for development projects which are in turn dispossessing people from land again and have distributed only 13,500 acres of

land to the landless. People are still waiting to receive their entitlements under Forest Rights Act, 2006. More than 1 lakh 70 thousand applications were filed when the TRC Govt. came into power. After coming to power, people faced biggest betrayal from the govt when the CM ordered not to take up those applications for regularization.

“Once Mehboobnagar demanded for the lift irrigation project but now the design is such that the area is not getting benefitted from Ranga Reddy Lift irrigation project. Instead, the people are getting displaced from their land.”, said **Raghavacharyulu** from PalanaruAdhyayanaVedika.

Iconic Ballad Singer belonging to Arunodaya Cultural Troupe and famous activist **Vimalakka** raised the issue of Uranium mining in Adivasi area of Nalamalla forest. She said that the scale of repression by the Central and State governments have crossed all limits and it touching almost all sections of people. The basis guarantees provided in the Constitution can be seen nowhere in this region. **The soul of our constitution, article 21, right to life and liberty is also struggling for its existence in this region.**

“The De-notified tribes are not even recognized by any government. When the state announces for two-bedroom houses for poor under different housing schemes, I have to live on the pavement with my one-month old baby like others from my community living in abject state”, said **Jyoti** from De-notified tribe community.

Venkatanna from TVVU said that legislations prohibiting bonded labour and child labour are not being implemented strictly in the state. Migration rates are very high and violations of various pro-people legislations are wide-spread.

“In Mehboobnagar, 18 lakhs out of 40 lakh population migrate to secure their livelihood. We also face the similar pattern in Bihar as people are largely landless and a few holds majority of land in the state. The government says that

they don't have enough land and are themselves contradicting Bandhopadhyay report which mentions that it is possible to give every lakh families at least 1 acre of land. Now that real estate is taking over our land, commons, and forests, we must assert our rights over resources and whatever coming up on those lands”, said **Ashish Ranjan** from Jan Jagran Shakti Sangathan and NAPM, Bihar.

Dalit feminist **Anjamma** exposed the casteist-patriarchal practice of Jogini, a worst combination of patriarchy and caste oppression. The practice is still continuing ignoring the recommendations given against the practice by judicial commission appointed to investigate into the matter of injustices accrued to the people under the practice. Young girls are now being trafficked under the garb of migration.

Social activist, **Lubna Sarawath** said that the Telangana Government is falling flat left, right and centre. Govt. says one thing to the people, another to the court and does none. The Waqf land is encroached and despite Govt's promise in the past, it is not yet freed.

Renowned social activist and academician, **Gabriele Dietrich** highlighted that how capitalism is destroying our right to life and existence. The struggle for land rights is going on in Tamilnadu as well and everywhere else in the country where the land still resides under the control of people. Agriculture has been destroyed to facilitate factories with cheap labour and abundant land, which are currently under agriculture.

After the meeting, Yatra moved towards **Shadnagar** where the yatra was welcomed by a large delegation of representatives from Hawkers Union, Street Vendors Union, Painters Union, and members of the De-notified tribes' community. The Yatra expressed strong solidarity to their struggles.

In the late evening, Samvidhan Samman Yatra reached **Vemulaghat village**, an epicenter of struggle against the famous

Mallanasagar Reservoir, a part of Kaleeshwaram Lift Irrigation project that is being built over River Godavari. The dream project of Chief minister KCR is being proved to cause havoc in lives of people. The constituency is represented by Harish Rao, nephew of the Chief Minister of the state and thus the resistance against Mallanasagar have faced massive repression from the state forces. There have been instances of brutal lathicharge by police forces and activists framed under false cases. The project threatens to submerge 14 villages spread over more than 22000 acres and going to affect directly more than 25000 people.

Meera Sanghamitra introduced the participants of Yatra to the villagers gathered for the meeting in detail. She also highlighted the anti-people move by the state in grabbing the land for irrigation projects in the state. The project to build huge reservoirs to store million gallons of water will only be used for industries and projects under Industrial Corridors and Sagarmala. We are witnessing the utilization of water from the Sardar Sarovar Reservoir in Gujarat for big industries and cities and not for the farmers and irrigation purposes. Farmers of Telangana are being fooled by none other government but who was established after historic Telangana movement. The state brought 'GO 123' in place of Central Land Act to grab the land from people for irrigation projects bypassing the consent provisions and social impact provisions. **How can a state formed after historic people's movement can take such measures oppressing their own people, dispossessing them of their land and livelihood?**

Arundhati Dhuru from NAPM Uttar Pradesh said that Vemulaghat people have lived here for generations and it is their first right to decide whether to give land or not and State is no one to take it forcibly.

Senior activist **Jeevan Kumar** from Human Rights Forum, **Lubna Sarawath** of Socialist Party of India, **Usha Seetalakshmi**,

Kiran Vissa, Kondal, BaluGadi from Rythu Swaraj Vedika and many others from Hyderabad accompanied the Yatra. **Vimalakka**, the only female balladeer of Telangana, who played an active role in the Telanagana movement also accompanied Yatra and through her songs extended solidarity urging people to continue fighting for the rights and resources.

Renowned social activists like Gabriele Dietrich, NAPM, Tamilnadu; Arundhati Dhuru, NAPM, Uttar Pradesh; Ashish Ranjan - Jan Jagran Shakti

Sangathan (Bihar); Meera Sanghamitra - NAPM (Andhra Pradesh - Telangana); Bhupendra Singh Rawat - Jan Sangharsh Vahini; Krishnakant - Paryavaran Suraksha Samiti (Gujarat); Madhuresh Kumar - NAPM, Delhi; Suhas Kolhekar, Prasad Bagve - NAPM Maharashtra; Sanjay Nazre - VidrohiSanskritik Andolan; Kamla Yadav and Rohit - Narmada Bachao Andolan; Yogiraj, Mahendra Rathore, Jayesh Lal - MNREGA Mazdoor Union, Purvanchal Kisan Union, Uttar Pradesh; Subhadra tai, Parvati tai, Ghanekar kaka, Sonu, Jameela -

Ghar Bachao Ghar banao Andolan, Mumbai; Tilola Haldar, Mrityunjay Haldar - SundaravanShramjivi Sangathan; Ramashish Yadav, Premshila Yadav, Manisha Patil; Kalai, Vishnu, Vinod - Organic farmers, Tamilnadu; Fauziya- Jammu & Kashmir Soochna Adhikar Abhiyan; Madhusudan - Odisha; Akshit - Guhaar; Aryaman Jain, Aryan - Delhi; Rimpay - Student, Dibrugarh University; Himshi, Uma - NAPM Delhi, are traveling in the second phase as a part of Samvidhan Samman Yatra. □

UN Poverty Expert Warns Against Tsunami of Unchecked Privatisation

[Full report as submitted to the General Assembly: <http://undocs.org/A/73/396>]

NEW YORK (19 October 2018) - Widespread privatisation of public goods in many societies is systematically eliminating human rights protections and further marginalising those living in poverty, according to a new report. Philip Alston, the UN Special Rapporteur on extreme poverty and human rights, criticised the extent to which the World Bank, the International Monetary Fund, and even the UN itself have aggressively promoted widespread privatisation of basic services, without regard to the human rights implications or the consequences for the poor. He also criticised human rights groups for not responding strongly enough to the resulting challenges.

"Privatising the provision of criminal justice, social protection, prisons, education, basic healthcare and other essential public goods cannot be done at the expense of throwing rights protections out of the window," Alston said.

"States can't dispense with their human rights obligations by delegating core services and functions to private companies on terms that they know will effectively undermine those rights for some people."

He noted that while "proponents present privatisation as a technical solution for managing resources and reducing fiscal deficits, it has

actually become an ideology of governance that devalues public goods, public spaces, compassion and a range of other values that are essential for a decent society.

"While privatisation's proponents insist that it saves money, enhances efficiency, and improves services, the real world evidence very often challenges or contradicts these claims," Alston said.

Privatisation is premised on fundamentally different assumptions from those that underpin respect for human rights, such as dignity and equality, he said. It inevitably prioritises profit, and sidelines considerations such as equality and non-discrimination. Rights-holders are transformed into clients, and those who are poor, needy, or troubled are marginalised or excluded. Human rights criteria are absent from almost all privatisation agreements, which rarely include provisions for sustained monitoring of their impact on service provision and the poor.

"Existing human rights accountability mechanisms are clearly inadequate for dealing with the challenges of large-scale and widespread privatisation," Alston said. "The human rights community can no longer ignore the consequences of privatisation and needs to radically reconsider its approach."

Human rights actors should start by reclaiming the moral high ground and reasserting the central role of concepts such as equality, society, the public interest, and shared responsibilities, while challenging the assumption that privatisation should be the default approach. "The human rights community needs to develop new methods that systematically confront the broader implication of widespread privatisation and ensure that human rights and accountability are at the centre of privatisation efforts," Alston said.

There appear to be no limits to what states have privatised, he said. Public institutions and services across the world have been taken over by private companies dedicated to profiting from key parts of criminal justice systems and prisons, dictating educational priorities and approaches, deciding who will receive health interventions and social protection, and choosing what infrastructure will be built, where, and for whom, often with harsh consequences for the most marginalised. "There is a real risk that the waves of privatisation experienced to date will soon be followed by a veritable tsunami," Alston said.

Privatisation of social protection often leads to a focus on economic efficiency concerns that aim to minimise time spent per client,

close cases earlier, generate fees wherever possible, and cater to those better-off, pushing those with less resources and more complex problems to the margins.

Mr. Philip Alston (Australia) took up his functions as the Special Rapporteur on extreme poverty and human rights in

June 2014. As a Special Rapporteur, he is part of what is known as the Special Procedures of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms that address

either specific country situations or thematic issues in all parts of the world. Special Procedures' experts work on a voluntary basis; they are not UN staff and do not receive a salary for their work. They are independent from any government or organization and serve in their individual capacity. □

Earth Journal (MinnPost, 15/10/2018):

New outlook on global warming: Best prepare for social collapse, and soon¹ **Ron Meador**

Now that you've had a week to absorb the latest assessment of the Intergovernmental Panel on Climate Change — that we're about out of time to cut emissions by amounts that could make global warming somewhat manageable — I'd like to introduce you to Jem Bendell and his notion of Deep Adaptation.

“Like” isn't the right verb there, with its sense of preference and maybe even pleasure; maybe that was reflex. Reading and writing about Deep Adaptation has been painful from the start, and I would really rather be talking about anything else today. But I feel a certain responsibility toward Bendell's new research paper, which concludes that recent trends in key climate factors indicate we are headed for “near-term social collapse due to climate chaos.”

By the near term, he means less than 10 years from now. By social collapse, he is speaking of unpredictable and interrelated breakdowns, in affluent as well as poor countries. And that's just the beginning: Over the following decades, Bendell sees climate disruption working longer-term injuries to governments, economies, social institutions, agriculture, industries — to civilization, you could say — on a continuum running from “inevitable collapse” to “probable catastrophe” to “possible extinction.”

How do we “adapt” to that? By accepting that the world as we've known it is ending, he says, then beginning to envision whatever new one can be built on the ruins. (Also, by abandoning any misplaced notion that we can still avert disaster.)

This may come off as a radical pronouncement in a climate conversation where most everyone concerned with “solving the problem” — scientists, activists, policymakers, philanthropists — labors to find cause for hope, or at minimum an avenue for preventive action.

But even if radical, Bendell's paper is hardly irrational (although in places it is, for research prose, untypically personal and emotional). His scholarship is in sustainability, at the intersection of environment and economics, and he has credentials: a Ph.D, a position at England's University of Cumbria, as well as industry experience, a CV that includes a bunch of papers in peer-reviewed journals (not including the one I'm discussing here; more on that later).

This new work has gone virtually unreported since Bendell self-published it at the end of July, though 'Bloombergs Christopher Flavelle took notice and found that Bendell and his ideas are not without an academic following. And the paper's key point — that the velocity of climate change appears to have shifted so dramatically upward since 2014 that its progression is no longer “linear” — aligns with other mainstream research.

For instance, a paper published in August in the Proceedings of the National Academy of Sciences discussed data on various “self-reinforcing feedbacks” that seem capable of driving further, “nonlinear” warming of the atmosphere even if emissions are reduced (the melting of the planet's great ice sheets being a prime example). That work, which got more coverage than Bendell's, framed future risk as a series of “tipping points” leading to a “Hothouse Earth” scenario: This pathway would be propelled by strong, intrinsic, biogeophysical feedbacks difficult to influence by human actions, a pathway that could not be reversed, steered, or substantially slowed. Where such a threshold might be is uncertain, but it could be only decades ahead at a temperature rise of 2.0°C above pre-industrial, and thus, it could be within the range of the Paris Accord temperature targets. The impacts of a

Hothouse Earth pathway on human societies would likely be massive, sometimes abrupt, and undoubtedly disruptive.

The authors urged a concerted effort to predict and avert these “tipping points,” returning the planet to a more hospitable pathway. But they spoke in only mild, general terms about what sort of adaptation would be necessary if such efforts fail.

The option that's left

Adaptation (or, sometimes, mitigation) has always been one of the three leading strategies to address global warming, but until recently it was rarely anyone's first choice.

The No. 1 option has always been to make large, global cuts in those emissions — an effort that, as the IPCC report makes clear, continues to fall far short of what's needed. Option No. 2 has been a grab bag of engineering fixes, like making the planet more reflective with a blanket of upper-atmosphere aerosols, or building giant machines to suck carbon dioxide back out of the air. These notions have been hugely expensive, highly risky, or both (and, not infrequently, fanciful).

Option No. 3, adaptation, has been mostly about making existing systems and infrastructure more resilient — improving the electric power grid, hardening structures against heat waves and storms, making seawalls higher, expanding the wildfire buffer around vulnerable communities, tweaking the practices of industrial agriculture. Lately it has begun to include relocating communities displaced by coastal flooding.

But these approaches have been fundamentally about holding onto the familiar. Bendell says it's too late for that kind of thinking, because the world we know is so quickly disappearing. Key excerpts, lightly compressed and without footnotes:

The warming Arctic has led to dramatic

loss in sea ice, the average September extent of which has been decreasing at a rate of 13.2% per decade since 1980, so that over two-thirds of the ice cover has gone. This data is made more concerning by changes in sea ice volume, which is an indicator of resilience of the ice sheet to future warming and storms. It was at the lowest it has ever been in 2017, continuing a consistent downward trend.

Given a reduction in the reflection of the sun's rays from the surface of white ice, an ice-free Arctic is predicted to increase warming globally by a substantial degree. Writing in 2014, scientists calculated this change is already equivalent to 25% of the direct forcing of temperature increase from CO2 during the past 30 years. That means we could cut CO2 emissions by 25% and it is already outweighed by the loss of the reflective power of Arctic sea ice. One of the most eminent climate scientists in the world, Peter Wadhams, believes an ice-free Arctic will occur one summer in the next few years and that it will likely increase by 50% the warming caused by the CO2 produced by human activity.

The observed phenomena, of actual temperatures and sea levels, are greater than what the climate models over the past decades were predicting for our current time. They are consistent with non-linear changes in our environment that then trigger uncontrollable impacts on human habitat and agriculture, with subsequent complex impacts on social, economic and political systems.

As for the consequences:

Already we see impacts on storm, drought and flood frequency and strength due to increased volatility from more energy in the atmosphere. Climate change has reduced growth in crop yields by 1-2 percent per decade over the past century. ...

In ten years prior to 2016 the Atlantic Ocean soaked up 50 percent more carbon dioxide than it did the previous decade, measurably speeding up the acidification of the ocean. This study is indicative of oceans worldwide, and the consequent acidification degrades the base of the marine food web, thereby reducing the ability of fish populations to reproduce themselves across the globe. Meanwhile, warming oceans are already reducing the population size of some fish species.

Compounding these threats to human

nutrition, in some regions we are witnessing an exponential rise in the spread of mosquito and tick-borne viruses as temperatures become more conducive to them.

Journal asks for brightening

Gloomy stuff, to be sure, but one would think also of interest to the professional readership of the Sustainable Accounting, Management and Policy Journal, where Bendell submitted his paper for review and publication. But the editors, he says, asked that he revise it to include "existing scholarship ... on ecologically induced social collapse" at a global scale. He found that impossible; a literature review conducted in preparing his own paper hadn't found any such work (although I seem to recall plenty of work on collapse at local to regional scales, both modern and historical, and wonder why that wouldn't meet the journal's needs).

Also, they asked that he "not dishearten readers with the claim of 'inevitable near term social collapse,'" a request he rejected as "a form of censure" (maybe meaning censorship). This is an aspect he addresses in the paper itself:

As researchers and reflective practitioners, we have an opportunity and obligation to not just do what is expected by our employers and the norms of our profession, but also to reflect on the relevance of our work within wider society. ... It is a responsible act to communicate this analysis now and invite people to support each other, myself included, in exploring the implications, including the psychological and spiritual implications.

This situation makes redundant the reformist approach to sustainable development and related fields of corporate sustainability that has underpinned the approach of many professionals. Instead, a new approach which explores how to reduce harm and not make matters worse is important to develop. In support of that challenging, and ultimately personal process, understanding a deep adaptation agenda may be useful.

"Deep adaptation agenda" appears to be Bendell's own coinage, and he has a three-part strategy in mind. It starts with that "resilience" component that everybody is already behind — seawalls and reinforced roofing, etc. — but veers away in advocating for a second stage of "relinquishment"

(giving up treasured things that make climate chaos worse, like present-day living standards and homes that overlook the ocean).

And then a third: "restoration" of cultural values and practices "that our hydrocarbon-fuelled civilisation eroded":

Examples include re-wilding landscapes, so they provide more ecological benefits and require less management, changing diets back to match the seasons, rediscovering non-electronically powered forms of play, and increased community-level productivity and support.

The necessity of 'hope'

I don't know why it should come as such a surprise and disappointment to learn that this journal insisted an author restate findings to be less "disheartening." Science and scientific publishing should be above sugar-coating.

But then so should journalism, and over my four decades in the trade I have felt the same kind of pressure to search out and even amplify the hopeful note, the potential solution, the sign of progress, the thing going right instead of wrong, so as not to drive the readers to despair (or, more cynically, to another publication that's less of a downer).

This morning I am wondering if the biggest failing of American media on climate change hasn't been in giving too much credence to the denialist charlatans, but in raising too mild a challenge to assertions that, despite such heavy evidence to the contrary, there's still room to maneuver this runaway truck away from the cliff.

I am not speaking here of MinnPost, not in the slightest. I've never felt any pro-hopefulness pressure from my editors here. But, honestly, if I had, it might well have been redundant, as I long ago got into a bad habit of applying it all by myself.

Not this morning.

Jem Bendell's paper, "Deep Adaptation: A Map for Navigating Climate Tragedy," can be downloaded without charge at <http://www.lifeworth.com/deepadaptation.pdf>.

¹<https://www.minnpost.com/earth-journal/2018/10/new-outlook-on-global-warming-best-prepare-for-social-collapse-and-soon/> @ 20Oct2018

Amendment Needed

PUCL in its Constitution has clearly stated that members belonging to any Political Party can be a member of a Council like National Council, State Council, and District council, but can't be an Office bearer in any level. This bylaw was written in 1980, when leaders and individuals from Political Parties came to PUCL as they felt the need of a Civil Liberty movement in India after Emergency. At that time, some of the leading persons of PUCL were from Non Party Social organisations. To name a few, we can mention some members of R.S.S. (a Social & Cultural organisation) like Arun Shoury, Ravishankar Prasad and Cho Ramasamy. Arun Shoury was National General Secretary, Ravishankar Prasad was State Secretary of Bihar and Cho Ramasamy was State President of Tamilnadu in PUCL. Likewise George Fernandes and Sathyanarayana singh of C.P.I. [M-L] were also members of National Council. Now the Socio-Political situation in the Country has led to a mushroom growth of Social organisations known as Non-Party organisations. Many vanguards and leaders of such Social organisations and funded NGO's may find it as an opportune moment to join PUCL. This may lead to some clash of interest. So PUCL has to come out with some "New ideas" so that the Office bearers of PUCL may not have any conflict of interest and shall be free to act for PUCL with main Priority and first Preference. An amendment in this regard can be considered.

- Sent by TSS Mani

Regd. Office :

332, Ground Floor, Patpar Ganj
Opp. Anand Lok Apartments,
Mayur Vihar-I, Delhi 110091
Tel.: +91-11-22750014
Fax : (PP) +91-11-42151459
E-mail : puclnat@gmail.com
pucl.natgensec@gmail.com
Website : www.pucl.org

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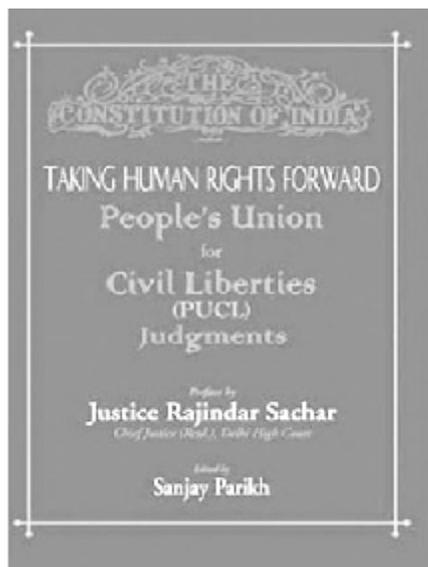
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