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Role of PUCL in Present Political Scenario A Suggestion

Ravi Kiran Jain

The present political parties have no will or capability to face the ugly situation which has emerged on unprecedented political victory of Modi. In fact there would virtually be no fight against the threat of fascism at the political level. In this scenario the role of PUCL becomes extremely important.

In the National Council of PUCL which met in Allahabad in September 2015, the PUCL decided to launch three National level campaigns involving all State units across India starting from 1st January 2016. The three campaigns to be launched were

- i) a nationwide campaign for securing the dignity of the individual in practice
- ii) a campaign against great threat posed by the divisive and fascist politics of the RSS and BJP and
- iii) a meaningful and effective reform of the criminal justice system.

Unfortunately, PUCL has not been able to make headway towards the implementation of the launching of the three campaigns. The obvious reason is that we have not been able to 'take human rights to the masses' as very aptly remarked by Shri Prabhakar Sinha at the opening session of the 12th PUCL convention held in Patna on 6th December 2014. In the concluding part of his speech Mr Sinha said, "Human rights cannot be protected without going to the masses, arousing them and inspiring them to fight for their rights. Our role is of a very potent catalyst". In his booklet Understanding PUCL Mr. Sinha observed; "The human rights organization including PUCL have ignored the common man who alone can save the democratic way of life and protect human rights".

Let us remember that in absence of a powerful people's movement for dislodging non-issues, based sheerly on communal and casteist sentiments and without creating a political consciousness of the real issues among the masses 'for securing the dignity of the individual in practice', it is not possible to fight the menace of fascism.

It is high time that we (PUCL) reach masses to start a people's movement against the rise of the ugly face of Fascism.

Ravi Kiran Jain

President, PUCL National ☐

PUCL Statement on the Report of the SC In-House Committee on Sexual Harassment: A “Travesty of Justice!”

PUCL is appalled by and strongly denounces the Report of the Supreme Court ‘In-House Committee’ which concluded that there was no substance in the allegations of sexual harassment made by a former woman employee of the SC against Justice Ranjan Gogoi, the incumbent Chief Justice of India, as a gross travesty of justice, flagrant violation of the principles of natural justice and rule of law. The findings of the ‘In-House Committee’ seriously and grievously wounds one of the primary constructs of the rule of law, that justice should not only be done, **“but seen to be done”**. The decision not to make public the Report of the In-house Committee only compounds in the public eye, the apprehension that the entire judicial system in the highest court in the country did not act in a fair and judicious manner in handling the complaint of the woman employee dated 19.4.2019.

Most regrettably, the manner in which the entire incident, right from the time when the complaint of sexual harassment against the CJI, Ranjan Gogoi became public on 20th April, 2019 up to the Report of the ‘In - House Committee’ giving CJI Ranjan Gogoi a clean chit on 6th May, 2019, epitomizes an egregious breach and flagrant violation of all principles of natural justice, procedural fairness, fair play and rule of law. Not only did the CJI sit and preside over court hearing on 20th April, 2019 in a case in which he himself was accused of sexual improprieties, the order for the day does not bear his signature even though he was part of the Bench.

There has been widespread public disquiet, dismay and disconcert over the manner in which the entire enquiry into the allegations has been handled by the highest court in India. Even though it would ideally have been in the spirit of the law laid down by the SC itself in Visakha case and the provisions of

the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (commonly referred to as POSH Act) to have an independent probe by an External Committee consisting of retired SC judges, one was hoping that the In-House Committee would follow well established legal norms for conduct of such enquiries and conduct the enquiry with the sensitivity due in a case of such magnitude.

Unfortunately, the final straw which fatally affected public perception as to whether fair procedure was followed and the concomitant view that gross injustice was being done became public, when the complainant was denied her request to be helped by a counsel or a representative during the hearing. The fact that she was requesting this both on account of her health infirmity (deafness in ear, emotional nervousness and health issues) as also the intimidating atmosphere of facing three of the senior most judges of the SC did not seem to have been sensitively appreciated by the ‘In-House Committee’. Equally importantly the In House Committee seems to have ignored the reality of the very obvious power imbalance in the entire proceedings, while peremptorily rejecting her request. This apart, the complainant was neither informed of the procedural guidelines to be followed by the Committee nor was even allowed to have a copy of her own testimony on the ground that the enquiry was confidential. Eventually these circumstances forced her to publicly announce her lack of confidence in the impartiality of the Committee and her withdrawal from the Committee hearing.

In the final analysis, the final order of the Committee, passed ex parte, has in effect, grievously injured and tarnished the image and record of the highest court in the land of delivering fair justice in a manner in which justice is both done and

“seen to be delivered”.

In all the din over the controversial manner of conduct of the Enquiry, sufficient public attention has not been paid to the grossly disproportionate and excessive punishment of dismissal from service imposed on the woman staff for what, in other circumstances, will be considered minor or non-serious offences not warranting dismissal from service. Unless the Report is given to the woman Complainant, she will never know what was the nature of evidence gathered by the ‘In-House Committee’ regarding the detailed allegations made by her of the type of administrative harassment faced by her, the allegedly arbitrary nature of the disciplinary enquiry and the biased role of the SC administration in the manner of conduct of disciplinary action, the consequent arrest and prosecution by Delhi police of her and disciplinary action against her husband and his brother and as to whether the Committee came to any findings on these charges. It is also not known which persons the Committee examined regarding the allegations she made in her complaint supported by detailed contemporaneous documentation and the findings of the Committee on these charges.

What is most disappointing is that the highest judiciary has responded in precisely the same patriarchal manner in which most institutions in India have been seen to respond when allegations of sexual harassment are made against the highest and mightiest in that institution – viz., to vilify the woman complainant, close ranks to alienate her, intimidate anyone else from supporting her and in all other ways ensure that fair, considerate and judicious enquiry is denied to women complainants.

It is sad that an historic opportunity has been squandered by the Supreme Court to demonstrate its commitment to ensure fairness,

gender justice, rule of law and natural justice, even when the highest functionaries of the highest court of the land is involved.

PUCL demands that:

- 1) The Complainant should be given the Report of the In-House Committee as it concerns her complaint and she has a right to know the basis on which the allegations made by her were rejected, which right includes the right to know the persons examined and the evidence gathered on which basis the In House Committee came to the conclusion that her complaint was not established. The right of the complainant to be given a copy of the Report is also mandated under sec. 13 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).
- 2) This apart, it is part of fair play and procedural justice as mandated by the POSH Act that she be provided a copy of the Report as it is reported that Justice Gogoi has been provided with a copy of the Report.
- 3) The Report of the In-house committee be placed before the Full Court of the Supreme Court for an informed decision.
- 4) The Complaint should be placed before an Independent External Committee, headed by a Woman, with experts on sexual harassment and who have handled sexual harassment cases, which could also include former Judges of the Supreme Court to enquire into the allegations of sexual harassment against the CJI, Justice Ranjan Gogoi, made in the complaint dated 19.4.2019.
- 5) The Full Court of the Supreme Court should immediately formulate a mechanism to set up an independent Internal Complaints Committee in the Supreme Court, and to formulate and make public the Guidelines outlining the Procedural Rights, Rules and safeguards for conducting such an Enquiry into Sexual harassment made against Judges of the Supreme Court, including the CJI, keeping in mind the Guidelines and Principles formulated in Visakha case and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Ravi Kiran Jain, National President, PUCL; **Dr. V. Suresh**, National General Secretary, PUCL
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Note: We carry below the response of 3 former judges and eminent jurists to the manner in which the In-House Committee of the SC dealt with the Informal Enquiry into the charges of sexual harassment made against the CJI, Justice Ranjan Gogoi, by a woman staff of the Supreme Court. The following articles are written by Justice Madan Lokur and Justice Chelameshwar, former judges of the Supreme Court and Justice AP Shah, former Chief Justice of the Delhi High Court and Chairperson of the Law Commission of India. *Editor.*

“The complainant in the sexual harassment case against the Chief Justice has not been fairly treated. Institutional bias is visible in the inquiry, which leaves complaints about victimisation unaddressed”.

A one-sided justice¹

Madan B. Lokur, former Judge, Supreme Court of India
Indian Express, 22nd May, 2019

Eleanor Roosevelt said: “Justice cannot be for one side alone, but must be for both.” Was justice done to the Supreme Court staffer who made two allegations on affidavit— first of unwanted physical contact by the Chief Justice of India (CJI) and second, of victimisation? For the present purposes, I would only like to consider the allegation of victimisation. The allegation of victimisation relates to a departmental inquiry that continued despite the hospitalisation of the complainant; her dismissal from service for expressing dissatisfaction about her frequent transfers and not reporting for duty but taking unauthorised half-day casual leave; the dismissal of her brother-in-law from service in the Supreme Court; the suspension

from service of her husband and another brother-in-law and her arrest in an unrelated case. Institutional bias: Judges and lawyers are aware of institutional bias, that is to say a procedure influenced by decision-makers in an institution which casts a doubt on the judicial or administrative process. Among the first reactions to the publication of the allegations was an email sent by the Secretary-General of the Supreme Court to The Wire early morning on April 20. This was surely not an individual response but a response given by the Secretary-General in his capacity as a representative of the Supreme Court or the CJI or both, otherwise he could very well have denied any concern with the allegations while allowing the law to

take its own course. But no, the Secretary-General wrote: “The allegations regarding 11 October 2018, as well as other allegations as can be discerned from your emails, are completely and absolutely false and scurrilous and are totally denied.” The denial clearly indicated that, officially, all the allegations were denied. Unfortunately, the matter was reopened the same day (Saturday) at 10:30 am in Court No 1 of the Supreme Court on a mention having been made by the Solicitor General of India. It is not clear before whom he mentioned the matter, when and why was the mention entertained and what procedure was followed. In the normal course, it would be fair to assume that the Solicitor General

mentioned the matter before the Secretary-General, who in turn brought it to the notice of the CJI, who gave an order to have the matter “touching upon independence of judiciary” listed in court. As per the notice brought out by the Supreme Court, the Bench was presided over by the CJI. The Bench would have been constituted by the CJI, being the Master of the Roster, and he nominated himself as the Presiding Judge.

On the Bench, the allegations were described by the CJI as unbelievable and that he would not stoop so low as to deny the allegations. He also stated that some bigger force wanted to deactivate the office of the CJI. In short, the CJI rubbished the allegations.

Though the sitting was unprecedented and extraordinary, what is even more unprecedented and extraordinary is that the record of proceedings did not indicate the presence of the CJI on the Bench. In other words, either the news reporters were seeing and hearing the equivalent of Banquo's ghost in Court No 1 or the record of proceedings was incorrect — tampering with the record may be too strong a word. Either way, the misreporting of the proceedings by the journalists or by the Registry of the Supreme Court was something extremely serious. I say this because earlier in the year two officials of the Registry of the Supreme Court had been dismissed from service for tampering with the record of proceedings in a case.

On April 22, the Supreme Court Employees Welfare Association, on behalf of all the employees, strongly condemned the allegations against the CJI as false, fabricated and baseless. Given these events, could it not be said that institutional bias had crept in, in the manner in which the allegations of the lady staffer were initially dealt with? To me, the trappings of institutional bias are clearly made out whichever way one looks at the events of April 20.

On April 22, the Supreme Court

Advocates on Record Association (SCAORA) as well as the Supreme Court Bar Association (SCBA) were sufficiently perturbed by the events that had taken place and they passed independent resolutions. While SCAORA was unhappy with the procedural impropriety, it strongly disapproved the manner in which the staffer's complaint was dealt with. It also requested for the appointment of a committee by the Full Court to investigate and enquire into the allegations and give an independent finding. The SCBA did not approve the procedure adopted for conducting the court proceedings and requested the Full Court to take necessary steps required by law. In other words, according to the SCBA, the proceedings were not in conformity with the law and along with SCAORA, they were quite disturbed by what had transpired.

Mandate of the internal committee: Perhaps in view of the strange events and the resolutions passed by SCAORA and SCBA, a decision was taken to set up a committee to enquire into the allegations made by the staffer. According to a website, the CJI appointed Justice SA Bobde on April 23 to conduct an in-house inquiry into the allegations of sexual harassment levelled against him and Justice Bobde confirmed the development. From the confirmation, it appears that the decision to set up a committee was a decision taken by the CJI and not the Full Court. That apart, the so-called in-house inquiry is a complete misnomer. With respect to the alleged misconduct by the CJI, there is no in-house inquiry procedure or any other remedial procedure laid down at all. So, the decision by the CJI can only be understood as a decision to set up some kind of an ad hoc committee, which I would prefer to call an internal committee of sorts.

Please note, the internal committee was set up by a person charged of unwanted physical contact with a lady staffer and that person chose the judge to inquire into the allegation. Equally significantly, the mandate given to the internal committee was limited to the

allegation of unwanted physical contact, itself difficult to prove. The mandate did not include the allegation of victimisation. Why was the mandate limited? If there was to be an inquiry by an internal committee, then it should have been in respect of both the allegations, particularly since the affidavit of the staffer does contain verifiable documentary evidence which could lead (if proved) to a conclusion of victimisation.

What is equally mysterious is the rejection of the sane advice given by the Attorney-General on April 22 to the CJI and the next four senior judges to constitute an outside committee of three retired judges of the Supreme Court. We have several eminent retired judges, including women judges. It would have been to the credit of the Supreme Court if the advice had been accepted, thereby negating the belief of possible institutional bias. Moreover, the carefully thought out view expressed by SCAORA and SCBA would also have been accommodated if an outside committee had been set up. But it was not to be.

Report of the internal committee: Again, as reported on a website, the proceedings before the internal committee were informal and that is why the staffer was not permitted legal representation. However, given the enormous power imbalance between the CJI and the staffer, could not the internal committee have been a little charitable and conditionally permitted a support person? In matters of alleged sexual offences, judges try to protect the victim from re-victimisation. It is for this reason that various protections have been provided to victims of alleged sexual offences. In this case, surely the internal committee could have been a little magnanimous and permitted the staffer the comfort of a support person, particularly in view of the power imbalance and since the internal committee proceedings were informal.

The report of the internal committee was submitted to the next most senior judge on or about May 6. The contents of the report have not

been disclosed, but a notice issued by the Secretary-General stated that the in-house committee found no substance in the complaint made by the staffer. Obviously, given the mandate of the internal committee, this relates to the allegation of unwanted physical contact and not the allegations of victimisation. Now, what about the allegations of victimisation? Will another internal committee be set up or will these allegations be forgotten and not looked into, as not worthy of consideration? There is no way of knowing this.

The Secretary-General declined to give a copy of the report to the staffer by referring to a judgment in *Indira Jaising v. Supreme Court of India*. That decision is not at all relevant. First, the internal committee was not an in-house inquiry of the kind understood by the judges of the Supreme Court in 1999-2000, when the in-house procedure was adopted. Second, the decision was rendered in the context of a formal in-house inquiry and not in the context of informal in-house proceedings or internal committee proceedings. Moreover, the judgment of the Supreme Court does not say that the complainant is disentitled from getting a copy of the report of the so-called in-house committee. The procedure for conducting an in-house inquiry merely says that a copy of the report shall be furnished to the judge concerned. There is no

prohibition in giving a copy of the report to the complainant — neither the in-house procedure refers to any prohibition nor does the judgment of the Supreme Court refer to any such prohibition. Besides, under what law can the report be denied to the complainant? A similar question came up in a case before the Supreme Court and the government claimed privilege under the Indian Evidence Act to deny a copy of the report to the complainant. The defence was rejected since a report on an allegation of sexual harassment does not (and cannot) concern the affairs of state. Accordingly, a direction was given to the government to hand over a copy of the report along with all other material to the complainant. Therefore, can a copy of the report on allegations of sexual harassment be denied to the complainant merely on the say-so of the Secretary-General? Under what law does he get the power to give a copy of the report to the person charged but at the same time deny a copy to the complainant, thereby making justice one-sided? In my opinion, the staffer must be given a copy of the report of the Committee so that she gets answers to the questions that she and others have raised.

Finally, has the report of the internal committee been accepted by the concerned judge? Is there an order

to this effect? Can the concerned judge disagree with the report of the informal so-called in-house committee? In my view, the in-house procedure (assuming it applies) postulates a decision by the concerned judge to either accept the report or reject it or decide to take no substantive and follow up action on it. Either way, the concerned judge must apply his mind and take a decision on the report. It appears that no such decision has been taken and if it has been taken, it has not been made public.

On a consideration of the overall facts, it does appear that some injustice has been done to the staffer. Martin Luther King Jr. famously wrote: "Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly affects all indirectly." I am reminded of this because of my belief that the staffer has not been fairly treated. Many questions are left unanswered and actually many are trying to solve a riddle, wrapped in a mystery inside an enigma. Some transparency is needed. Can any member of the internal committee or somebody from the Supreme Court please help?

Courtesy: Indian Express, Delhi

¹<https://indianexpress.com/article/opinion/columns/justice-ranjan-gogoi-sexual-harrasment-case-clean-chit-supreme-court-5741244/> □

Chelameswar says CJI Gogoi presiding over special hearing in his own case is similar to what CJI Dipak Misra did in 'Medical College Scam' case.

Justice Chelameswar says due process not followed in CJI Gogoi Sexual Harassment Case¹

Aneesha Bedi

The Print, 22nd May, 2019

New Delhi: The Supreme Court did not follow due process when handling the sexual harassment allegations against Chief Justice of India (CJI) Ranjan Gogoi, Justice Jasti Chelameswar, a retired judge of the court, told The Print Wednesday.

Chelameswar is the second retired judge of the top court to publicly question the procedure followed in

the case that has shaken the higher judiciary.

Justice Madan B. Lokur (retd) had expressed similar reservations in an opinion piece he wrote in *The Indian Express* Wednesday.

The two were among the four judges — the others being Justice Gogoi and Justice Kurian Joseph — who triggered a crisis in the Indian judiciary in January 2018

when they held a press conference to publicly raise concerns about the handling of cases under then-CJI Dipak Misra.

Saying that he is perturbed by the "systematic failure" in the judiciary, Chelameswar, who was the second most senior judge in the Supreme Court when he retired, told ThePrint that "no one is above the law, at least not in my opinion, and hence I

don't see why the procedure for this case should be any different from the law of the land".

"I wouldn't want to comment on individuals at this stage since we don't know whether the allegations are true or false," he said. "But it is about the system and the procedure adopted that I am concerned about."

An unprecedented crisis: The Indian judiciary has been facing one of its toughest crises since a former Supreme Court employee alleged in a letter to the court's 22 judges last month that CJI Gogoi had sexually harassed her while she was working at his home office. She claimed that a campaign had been launched to victimise her after she spurned his advances, saying she and a brother-in-law were fired from the court, while her husband and another brother-in-law lost their jobs with the Delhi Police.

In a controversial decision, the next day, 20 April, a Saturday, the CJI had presided over a hearing on the matter. At the hearing, he described the allegations as the handiwork of a "bigger force" that wanted to "deactivate the CJI's office".

The allegations were subsequently taken up by an in-house committee of the court, which said in its report that it had found no substance in the woman's claims.

The controversy has only intensified since as the in-house panel — comprising Justices S.A. Bobde, Indu Malhotra, and Indira Banerjee — refused to give a copy of its report to the complainant.

This decision, which was attributed to a legal precedent from 2003, was among the issues questioned by Lokur in his opinion piece.

Chelameswar said concerns about the woman not being given a copy of the report were valid, adding that she had "complete right" to ask for a support person or lawyer to be present if she felt uncomfortable during the proceedings.

While the panel was discussing the case, the woman had been denied permission to bring a lawyer or support person, following which she had recused herself from the proceedings.

Referring to the CJI being the presiding judge for the special hearing on 20 April, Chelameswar added, "It is like the medical college scam last year. I see the same process is being followed this time too."

The "medical college scam" is another episode that triggered considerable tumult in the judiciary. On 19 September 2017, the CBI had registered an FIR, claiming that attempts had been made to manipulate the Supreme Court's proceedings to obtain permissions in favour of a medical college run by the Lucknow-based Prasad Education Trust. It named former Odisha High Court judge I.M. Qudusi as an accused.

Activists subsequently moved petitions in the top court, seeking an independent inquiry into the matter. The petitions were mentioned before a bench headed by Justice J. Chelameswar, who was then the second most senior judge, as the then CJI Dipak Misra was presiding over a Constitution bench.

Chelameswar sought the formation of a five-judge bench to deal with the petitions. The next day, following an order from a two-judge

bench handling a similar petition, a Constitution bench was quickly put together to nullify the orders of Chelameswar's bench. In the process, the power of the CJI as master of the roster was asserted. The petitions were dismissed.

Speaking up: The CJI Gogoi row sparked several calls from the legal fraternity and activists for retired judges of the Supreme Court to speak up.

Chelameswar said it was "good that they are speaking up", but added, "Where were these people when me and three of my colleagues raised our concerns at a press conference last year?"

"If only they had spoken up well in time, we could have avoided such a situation wherein everyone is pointing fingers towards the due process," he added.

He also weighed in on Finance Minister Arun Jaitley's 20 April blog about the CJI Gogoi row, where he had said that "It's Time To Stand Up With Judiciary" and questioned the "unverified allegations" made by a "disgruntled person with a not-so-glorious track record".

"When we raised pertinent issues last year about the functioning of the Supreme Court, the government said it was an internal matter of the apex court. However, we have union ministers who are now willing to come to the rescue or defend the institution..." said Chelameswar. "Why the double face?"

Courtesy: The Print, 22nd May, 2019

¹<https://theprint.in/india/governance/judiciary/justice-chelameswar-says-due-process-not-followed-in-cji-gogoi-sexual-harassment-case/238867/> 22nd May, 2019 □

Former Delhi High Court Chief Justice A P Shah on the alleged sexual harassment case against CJI Gogoi, and the in-house panel's clean chit:

'This episode is going to haunt SC in years to come': Justice AP Shah on CJI Sexual Harassment Case¹

Written by **Kaunain Sheriff M, Seema Chishti,**
Indian Express, May 7, 2019

I have read the 29-page affidavit completely, on the sexual harassment and victimization of the former employee of the Supreme Court. As a judge, I don't accept anything on face value. But I thought the affidavit was quite detailed, and perhaps needs to be

PUCL BULLETIN, JUNE 2019

probed. I was particularly struck by the fact of her dismissal after the alleged event, which appeared to be on flimsy grounds – i.e., leave of absence for half-a-day, and making a fuss about the change in her seating position, etc.

I thought that the court would have

a standard operating procedure or in-house mechanism, for dealing with such complaints, laid down in the past from other cases that the judiciary has faced. Of course, because this complaint has been made against the Chief Justice of India (CJI), any probe or

investigation should have been done with great care and sensitivity. The CJI called an extraordinary hearing to say that there was a conspiracy against him. What does this mean, given that at the press conference by four most senior SC judges in January 2018 he had cautioned the country against attempts to undermine independence of the judiciary?

The SC described the situation as a “matter of great public importance touching upon the independence of judiciary, as mentioned by the Solicitor General”. During the hurriedly called extraordinary hearing called on a Saturday after the complaint was formally received by the court, the CJI himself alleged that this woman had a criminal background, and that this was a conspiracy to destabilise him. Another judge said that the allegations were wild and baseless, and a law officer said that this was blackmail.

The final order passed on that first day was signed only by two out of three judges sitting at the hearing. It was all very disturbing for me to read these comments and these goings-on. To say the least, the whole series of events was completely astonishing.

Even assuming that the woman was completely wrong, she still has a constitutional right of due process. How could the CJI become a judge in his own cause? Our judges seem to have completely forgotten the words of Justice Verma, who said, “Be you may ever so high, you are not above law.” You can’t be sitting in judgment in your own case. How can there be any possible redress to this woman in these circumstances

Every imaginable aspect of rule of law and natural justice was violated. I believe this was an extremely low point in the history of the Indian judiciary.

Do the Vishaka guidelines apply to the whole of Supreme Court?

Vishaka brought about a monumental change in India, and was a turning point in our country’s history. Vishaka cannot be brushed aside. It is the basis of the POSH law of 2015. At the time of the

Vishaka judgment, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) had been signed but not as yet been implemented in India. Nevertheless, the Supreme Court held that the principles of CEDAW must apply in India. Hence, the Vishaka came about.

It is one of the most respected judgments in the global judicial community. It sets down a process and guidelines for dealing with instances of sexual harassment at workplaces. If you see all the judgments that followed, much jurisprudence has developed on the subject. Vishaka fundamentally demands a fair and just inquiry into the allegations. That is the least that the Supreme Court and the judiciary should have assured the public here too.

The current situation and the reaction of the judges was a complete denial of the Vishaka judgment, and made the sanctimonious presumption that women have the propensity to lie.

How should the process have been followed in the present case?

Unfortunately, the committee has passed a decision ex parte in the absence of the complainant. But looking back, the day following the extraordinary hearing seemed to be a positive development. The full court of the Supreme Court assembled and decided that Justice Bobde would head an in-house committee to look into the allegations, and that some kind of just and fair procedure would be followed.

In fact, in an earlier judgment, the Supreme Court itself recognised that “the Investigative Process under In-House Procedure must take into account the Rights of the Complainant, the judge concerned by adopting a fair procedure and safeguards, the integrity of the Institution”.

I agree that though there is no straitjacket formula, surely an inquiry in such cases should be compliant with the fundamental principles of natural justice. An in-house committee process was also followed in Madhya Pradesh, and in several other cases, involving

judges or judges of the court. No judge can or should be immune from this.

Given the importance of the constitutional authority, isn’t there a danger that such complaints can be weaponised and manipulated? Is the bar higher when the target is the head of a constitutional authority?

It is true that such a complaint can be weaponised and manipulated. But I remain sceptical about the various conspiracy theories that are floating around. But that remains a matter to be decided still. Nevertheless, the solution is not to dismiss the allegations outright, as has been done in the present case.

There is also a disturbing report in a leading newspaper that some male judges have decided not to allow female employees to work at their residence at all. This follows from the presumption that women always lie. If this is a genuine reaction of judges, then I am actually appalled. Such cases are actually a test for the institution — how do you deal with such situations? The world over, allegations have been made over high-ranking authorities. It is not the first time that an institution has faced a challenge like this.

What is your view on the final decision of the in-house committee issued earlier today?

I am extremely disturbed by how this inquiry has been held. Initially it seemed as though the Supreme Court was looking to remedy the situation brought about by the extraordinary hearing. Ideally the probe should have been conducted by an external committee, but to compensate, the court added two women judges into the committee. But even so, in no sense can this be called an inquiry. And what followed did not help much either.

All that the woman asked for was to be represented by a lawyer or a friend. This was a very basic, and in my view, a reasonable request, coming from someone pitted against three powerful judges of a powerful institution. But this basic minimum right was denied to the woman. What Justice (D Y) Chandrachud now appears to have said in his letter is absolutely correct, when he wrote that the

woman should be allowed to be represented by a lawyer or an amicus curiae. I also agree that there ought to have been an external inquiry. There is no other way to ensure that the judiciary can be viewed as an impartial body. Certain other facts about this so called inquiry are also problematic. The woman was told that her own testimony, once she made it, would not be given to her because the inquiry is confidential. She also asked for procedural guidelines before the committee began its

inquiry, but even that was not supplied. It is all very Kafka-esque in so many ways, and reminds one of the trial in his book of the same name.

Now, I believe as per the law laid down in Indira Jaising's case, the report of this inquiry's will not be available to the public, nor can anyone challenge this in-house inquiry. So, all this has ended in a complete mockery of justice. The Supreme Court is too important an institution to let things go like this. No other institution

carries so much trust of the people. This is the only institution that has saved democracy, and given life to the Constitution. I believe, like ADM Jabalpur, this episode is going to haunt the Supreme Court in the years to come.

Courtesy: Indian Express, 7th May, 2019¹

¹ https://www.younews.in/_amp/s/indian-express.com/article/india/justice-ap-shah-sexual-harassment-case-against-cji-ranjan-gogoi-this-episode-is-going-to-haunt-sc-in-years-to-come@_07May2019e-5713956/lite □

Letter to Hon'ble Judges of the Supreme Court of India: 2nd May 2019

'The Committee has Completely Delegitimised Itself': Over 300 Members of Women's Groups, Lawyers Demand End to SC In-house Proceedings on Sexual Harassment Charge Against CJI¹

To,
The Hon'ble Judges of the Supreme Court of India
New Delhi

We, members of women's groups, lawyers, scholars and civil society, stand in solidarity with the decision of the complainant to withdraw from the in-house committee proceedings into her complaint of sexual harassment at workplace, against the Chief Justice of India. The reasons given by her in the letter justify her decision to abstain, especially in the context of total imbalance of power vis-a-vis her on one side and the members of highest judiciary on the other.

Post the Complainant expressing her decision not to participate in the process, the Chief Justice of India is said to have appeared before the Committee and the Committee has decided to proceed with the enquiry ex-parte.

By this very conduct the committee has completely delegitimized itself. If the committee continues to proceed with the enquiry instead of satisfactorily concluding the matter it will raise many more questions.

We write again, calling upon the Supreme Court judges to take corrective steps and put a halt to these proceedings. If they fail to do so, not only the complainant but the citizens of this country, especially

women and marginalized sections, will lose faith in the judicial system.

We are aware, that this is an extraordinary case that calls for extraordinary measures to be put in place, as this is a matter pertaining to the highest judicial authority under the constitution. However, extraordinary measures cannot and ought not to overlook, fundamental principles of natural justice and fair hearing.

We reiterate that the constitution of the three judge Committee is inherently flawed, as the Chief Justice is senior to the three judges hearing the complaint and head of the Institution. The Committee also does not adhere to the spirit of either the 2013 Act or the Vishaka Guidelines, laid down by the Hon'ble Supreme Court itself in 1997. The absence of an external member, whose role is to ensure that there is no undue pressure or influence on either the complainant or the witnesses during the enquiry, casts a shadow on the intent behind and the purpose of setting up this Committee itself.

Further, failing to stipulate the procedure to be followed, terming the proceeding as an 'informal', and not allowing a lawyer/support person to be present, completely ignores the unequal balance of power not only between the parties

but also between the complainant and the Committee itself.

The procedure established by law has not only to be followed by those subordinates to the Hon'ble Supreme Court, but by the Supreme Court itself. Articles 14 and 21 of the Constitution of India would have no meaning otherwise. If the highest judicial authority does not follow its own procedures and stand up in support of the less powerful, it will send a message of disquiet to all those keeping faith in the system.

In order to maintain this faith and to stand with the less powerful, the complainant in this case, we implore the present Committee to immediately stop hearing this Complaint.

We once again demand of the Hon'ble Supreme Court of India:

1. A Special Enquiry Committee consisting of credible individuals be constituted to conduct a thorough enquiry at the earliest and create an atmosphere of transparency and confidence for the complainant to
2. The Special Enquiry Committee should follow the norms of the IC and the principles of natural justice and accordingly conduct its
3. The Chief Justice of India

should refrain from transacting official duties and responsibilities until the completion of the

4. The complainant must be allowed to be represented by a lawyer/support person of her.

Endorsed by: Forum Against Oppression of Women, Mumbai; Nari Samata Manch, Pune; North

East Network, Assam, Meghalaya, Nagaland; Labia – A Queer Feminist LBT Collective Mumbai; Saheli Women's Resource Center, New Delhi; Bebaak Collective; People's Union for Civil Liberties (PUCL), Maharashtra; National Federation of Indian Women; All India Progressive Women's Association (AIPWA); Nari Ekta

Shakti Sangathan, Delhi; Women Against Sexual Violence and State Repression; National Alliance of People's Movements; Nirantar, A Center for Gender and Education, New Delhi and over 300 others.

¹<https://newscentral24x7.com/cji-ranjan-gogoi-sexual-harassment-women-groups-complainant-supreme-court-in-house-probe/> □

Women Lawyers, Activists Demand Unbiased Inquiry into Allegations against CJI¹

The letter points out that there is currently, An "unprecedented crisis of credibility vis-à-vis the Supreme Court".

New Delhi, 07TH MAY, 2019: Activists from women's groups and civil society members have issued an open letter to retired judges appealing to them to "speak out on the side of justice and fairness" while expressing "solidarity with the complainant".

The letter points out that there is currently, an "unprecedented crisis of credibility vis-a-vis the Supreme Court" as the court, in dealing with a complaint of sexual harassment against the CJI, failed to give the complainant a fair hearing.

The letter further states that the procedure followed "in this case not only stands in utter violation of principles of natural justice but also in contravention with both, the letter and spirit of Vishakha Judgment and the Sexual Harassment of Women at Workplace Act 2013".

Condemning the "blatant abuse of power" by the highest constitutional authority of the Supreme Court, the letter also draws attention to the complainant and points out that "her family are under threat and intimidation".

Expressing disappointment over the manner in which the allegations of sexual harassment were handled by the highest judicial authority, the statement says that it is "a dark and sad day" for justice as the Supreme Court "has told us that when it comes to one of its own, imbalances of power don't matter, due process doesn't matter, and basic norms of justice don't matter". Finally, the letter urges the Supreme Court to correct its own course and undo the gross injustice meted out to the complainant and

ensure that women and marginalised sections of society get a fair hearing in the corridors of justice. The letter also asks that the court lay down a "just, transparent and fair procedure" for such cases as soon as possible.

We are activists from women's groups and civil society members who have engaged with issues of justice, rights, and law reforms, specifically those related with women and sexual violence starting from the rape law reforms in 1982 to the final changed law in 2013. We address this letter to the retired members of the higher judiciary, to appeal to you to please speak up on the side of justice and fairness in the matter of allegations of sexual harassment against the Chief Justice of India.

On September 6, 1979, Upendra Baxi, Vasudha Dhagamwar, Raghunath Kelkar and Lotika Sarkar, well known and reputed lawyers and legal scholars, addressed an open letter, to focus judicial attention and public debate over a decision rendered by the Supreme Court on September 15, 1978, with respect to the complaints of a tribal girl who was sexually assaulted by two police personnel in the police station. The Supreme Court had reversed the High Court order convicting the policemen of rape and acquitted the accused police personnel.

Citing reasons for their disagreement with the highest court of the country they said:

"We can only appeal, in conclusion, to have the case reheard, as an unusual

situation, by a larger bench, and if necessary by even the Full Court. This may appear to your Lordship as a startlingly unconventional, and even a naive suggestion. But nothing short of protection of human rights and constitutionalism is at stake. . . . Maybe on re-examination, Ganpat and Tukaram may stand acquitted for better reasons than those now available. But what matters is a search for liberation from the colonial and male-dominated notions of what may constitute the element of consent, and the burden of proof, for rape which affect many Mathuras on the Indian countryside".

You will no doubt forgive us for this impertinence of writing an open letter to you. But the future of judicial protection of human rights at grassroots level in India at the turn of the century, a concern we all share as citizens and as lawmen, leaves us with no other and better alternative."

This letter proved historical and worked as a catalyst for a nationwide women's movement which has brought about major changes in laws related to women particularly around sexual violence and harassment. It forced the recognition of the element of power in incidents of rape. Custodial rape was redefined in law. It is this legacy that brought us to a much broader articulation of the offence of rape in the 2013 Criminal Law Amendments wherein custody was defined more broadly to extend the

notion beyond physical boundaries to the idea of coercive circumstances where power is assumed to be inherent and embedded. This is the legacy that made it possible to speak of child sexual abuse and also gave us Vishakha guidelines for addressing sexual harassment at the workplace.

Having traversed this whole journey with faith and respect reposed in the Courts and the judiciary, we, members of women's groups, lawyers, scholars and civil society members are once again in a situation when we believe that we have no alternative but to appeal to members of the judiciary to reexamine their actions.

In this matter of a complaint of sexual harassment made by a junior woman employee of the Supreme Court against the Chief Justice of India, we have merely been seeking "a fair and impartial enquiry in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013."

The Supreme Court has, time and again stood by the rights of women and marginalised and, through many landmark judgments, has helped to advance and consolidate the rights of women through a transformative interpretation of the Constitution. Some examples of these that come to mind are Vishakha judgment that addressed the fundamental rights of working women and laid down guidelines to deal with sexual harassment, the Sabarimala judgment upholding women's rights to worship, the Maharashtra bar dancers right to work, setting aside the practice of talaq-e-biddat, framing schemes for compensation and rehabilitation of survivors of sexual assault, reading down of Section 377, granting recognition to gender identity and rights to transgender persons in the NALSA case.

It is judgments such as these that repose our faith in the judiciary of this country. Unfortunately, today we are facing an unprecedented crisis of credibility of Supreme Court, as the Court in dealing with

the complaint of sexual harassment against the Chief Justice has acted not only in utter violation of principles of natural justice but also in contravention of Vishakha Judgment and the Sexual Harassment of Women at Workplace Act 2013.

Just to recapture, on April 18, 2019, a 29 pages affidavit was submitted by a woman employee of Supreme Court to the 22 judges of the Hon'ble Supreme Court, detailing allegations of the sexual harassment faced by her from none less than the Chief Justice of India. The Supreme Court called a special hearing over this matter on Saturday, April 20, 2019, at 10:30 am, through a bench consisting of two Judges besides the Chief Justice of India, against whom the allegations of sexual harassment were made.

With no notice given to the aggrieved woman, the CJI not only declared the allegations false but further stated that these allegations threaten the independence of the judiciary. He also declared that the complainant had a criminal background. The bench further asked the media to show restraint to protect the independence of the judiciary. None of these observations were based upon any investigation by any competent authority.

This was a shocking breach of procedure wherein before the complainant was heard the powerful accused was allowed to make public declarations of his innocence and also point fingers at the complainant. Through this hearing, the Supreme Court lowered itself to the level of very many accused powerful men who resort to maligning the complainant by citing false and irrelevant past histories and by imputing ulterior motives.

This move was criticized by many people including us through an open letter to all judges of the Supreme Court dated April 24, 2019. Thereafter a committee was formed of three judges of Supreme Court headed by Justice Bobde. The constitution of this committee itself was in contravention of 2013

Act and the guidelines laid down by the Vishakha Judgment of 1997 by the Supreme Court itself, as it neither had any external member nor was it headed by a woman. In spite of this, the complainant participated hoping to get a fair hearing.

When this committee started the hearing, it denied the aggrieved woman the right to be represented by legal/support person of her choice, completely ignoring the unequal balance of power not only between the parties but also between the complainant and the Committee itself. The committee obviously consisted of senior most judges in the country while the complainant did not have legal training of any comparison. Procedures included in Vishakha and the POSH Act are cognisant of these unequal power equations in the workspace and a fair procedure adopted by the Court should also take this into account.

The matter is even more grievous because the complainant had asked for someone to accompany her because she has a hearing disability but was denied even that. This again is in violation of the rights of people with disability, enabling whose participation is critical to any imagination of a just procedure.

The aggrieved woman after two hearings on April 26 and April 29, withdrew from the enquiry, citing that neither was she allowed representation, nor was she informed of the procedures to be followed by the committee. There was no audio or video recording of the proceeding and further, she was not even provided the minutes of the proceeding. Irrespective of these submissions the committee proceeded to hold the enquiry ex-parte.

And now on May 6, 2019, the Supreme Court has gone ahead and declared that there is "no substance" in the allegation contained in the complaint. Further, in full violation of her right as a complainant, she has also been denied a copy of the report. A reference is made to a judgment from times before the RTI Act and

the POSH Act to support this lack of transparency towards the complainant.

This is, in our understanding, is a clear violation of any procedures of a fair and independent enquiry. We are aware, that this is an extraordinary case that calls for extraordinary measures to be put in place, as this is a matter pertaining to the highest judicial authority under the constitution. However, extraordinary measures cannot and ought not to overlook, fundamental principles of natural justice and fair hearing.

We request you, as a respected member of the judiciary, to lend your support to the complainant's right to unbiased, impartial enquiry proceedings, and urge you to call upon the Supreme Court to take measures to correct the prevailing situation, by establishing a proper procedure to inquire into the allegations.

We are proponents of independence of the judiciary and understand and respect that completely. However, we also believe that pointing out any lapses in the system of justice so that it may be rectified is, in fact, protecting this independence and

not interference in procedures.

Further, we wish to reiterate that women and other marginalised sections of society do not have access to any societal power and turn to Courts expecting that they shall get a fair hearing. *Khap panchayats* and other mechanisms that function on ideas of "social morality of the powerful" are not where we seek justice. We have faith in the judicial constitutional mechanisms for any access to justice. It is with this in mind that we say that whatever be the outcome of this enquiry, it has to come through due diligence in law. Anything short of that will weaken the promise of justice to the weaker sections in this highly hierarchical society.

If the highest judicial authority does not follow its own procedures and stand up in support of the less powerful, it will send a message of disquiet to all those who keep faith in the system. What is at stake is not only the rights of women but also the credibility of the Supreme Court. It is to protect this system, that has been painstakingly created by the diligence of many members of the judiciary, that we ask you to speak.

Statement issued by:

1. Saheli Women's Resource Center, New Delhi
2. National Federation of Indian Women
3. All India Progressive Women's Association (AIPWA)
4. Forum Against Oppression of Women, Mumbai
5. Nari Ekta Shakti Sangathan, Delhi
6. Women Against Sexual Violence and State Repression
7. Nirantar, A Center for Gender and Education, New Delhi
8. North East Network, Assam, Meghalaya, Nagaland
9. Labia – A Queer Feminist LBT Collective Mumbai
10. Bebaak Collective
11. People's Union for Civil Liberties (PUCL), Maharashtra
12. National Alliance of People's Movements and 338 others.

¹ <https://newscentral24x7.com/cji-ranjan-gogoi-sexual-harassment-women-groups-complainant-supreme-court-in-house-probe/> □

PUDR Press Statement:, 8th May, 2019

Supreme Injustices

Today on the 8th of May, 2019, on a second day in succession, people protesting at Connaught Place, against the "clean chit" given to Justice Gogoi by an in-house inquiry that violated established procedures and principles and demanding an independent inquiry, were detained at Mandir Marg PS. The police came in large numbers armed with a water cannon. These events are an action replay of yesterday, 7th May, when a large police force that too was equipped with water cannons forcibly picked up and detained about 50 women activists who were protesting on the same issue outside the Supreme Court. One of the issues in today's protest was the crackdown on

yesterday's demonstration.

While the police is clamping down on protest demonstrations against the "supreme injustice", a plethora of cases have been filed against the complainant and those supporting her rights. These pleas and affidavits echo the refrain set up by none other than the accused, Justice Ranjan Gogoi, the Chief Justice of India. On 20th April in a special hearing purportedly on "the independence of the judiciary" that he himself ordered, the CJI sat on a three-member bench, denied all charges of sexual harassment, maligned the complainant, and declared that a "bigger conspiracy" was afoot to "deactivate the CJI's office." The very same evening SC advocate Utsav Singh Bains

alleged a "conspiracy against the CJI by a lobby of disgruntled judges, SC fixers..." etc. and filed an affidavit before the SC on 22nd April. In marked contrast to its response to the sexual harassment charges, the Court appointed a retired judge to look into Bains' charges, and also directed the CBI, IB and NIA to help. On 6th May, the day the CJI was given a "clean-chit", SC advocate ML Sharma filed a petition asking for an SIT into a "planned conspiracy" against the CJI by democratic rights lawyers Prashant Bhushan, Indira Jaisingh and others through "a concocted, false sexual harassment case". Justice Bobde, who headed the in-house inquiry, agreed to list it. Not

surprisingly the Bar Council of India, which extended unconditional support to the CJI when the news of allegations first broke, has now declared its stand vindicated by the findings in the Committee's report (a report which the Committee has refused to release, even to the complainant). It has called for protecting the "independence of the judiciary," warning of a larger conspiracy and deeming the woman's allegations "fishy."

The government has thrown its weight behind the CJI from day one. The Union Finance Minister, Arun Jaitley, asked for support for the CJI on 21st April, calling the complainant someone with a "questionable track record", and the media that published her affidavit "institutional disruptors". At the 20th April "special hearing," both the Attorney General and Solicitor General, whose role is to appear for the Government and who had no locus in the matter, rubbished the allegations and carried out a character assassination of the complainant. Both offices are expected to assist the Court and Government in fulfilling their constitutional obligations, not participate in proceedings violative of natural justice. They later even asked for an SIT to be constituted to probe the "conspiracy".

Except for a handful of judges, and advocates of whom a large number are women, the judiciary has chosen not to criticise nor express any disquiet over the CJI's abuse of authority, and the brazenly flawed inquiry. The functioning of the inquiry committee in fact illustrates why the Court's own guidelines emphasise the presence of external members in panels inquiring into sexual harassment at the workplace. The mere presence of two women Justices did nothing to ensure a fairer procedure, as the CJI was senior to them, besides of course being the highest judicial

authority in the land. The committee continued with its inquiry even after the complainant had walked out, and has not even given her a copy of its report.

Voices from within the legal fraternity, which argued that the principles of natural justice and Vishaka guidelines should be upheld, were at best marginal. There could scarcely be clearer proof that the judiciary itself is far from fair and impartial, and certainly not when it comes to gender-based harassment. The immediate banding together of the judicial and legal fraternity, the executive and the administration speaks of an immense insecurity regarding sexual harassment at the workplace. If a complaint can be brought against someone as powerful as the CJI by a lowly ex-staffer working directly under him, the dual power of gender and public office are threatened, and hierarchy has to be reinforced in no uncertain terms.

The balance of power could not be more stark. The judiciary, the legal fraternity, the government and the police have bonded to protect the CJI in response to a most basic demand: that the minimum guarantees the Court itself has made should be upheld, most prominently the Vishaka guidelines, PoSH at the Workplace Act, and fundamental constitutional principles regarding a fair hearing. The "independence of the judiciary" has been given new dangerous meanings. A separation of powers to ensure checks and balances necessary to democratic functioning has morphed into a call for the judiciary, government and administration to rally together so that they can evade all accountability.

What the women of India are being told is that one judge is synonymous with the judiciary; that gender-just laws brought in after long struggles by women can be shortly dispensed with; that high

public office continues to place men above the law; that women employees have no rights and women are not entitled to constitutional freedoms; and that no matter how basic, the principles of the rule of law and natural justice can and will be flouted if we question the powers that be. It is a cause to rage collectively when hard-fought rights can so easily be thrown to the winds by none other than the highest body meant to defend them. Today these are the rights of a working woman, but they set a precedent for the decimation of fundamental rights of all citizens and not just those who are already disadvantaged. We have looming before us a society and polity where individuals become larger than institutions, and where all arms of the state are complicit in silencing all challenges to an arbitrary exercise of power by the authorities.

PUDR demands that:

1. An independent inquiry should be conducted into the charges of sexual harassment against the CJI in accordance with the Vishaka Guidelines (1997) and the PoSH Act (2013)
2. All petitions alleging that the complaint is a conspiracy against the CJI and the judiciary should be put on hold till the conclusion of a fresh, impartial inquiry.
3. The Chief Justice should not be allowed to exercise his official powers for the duration of the inquiry.
4. Existing laws and regulations, such as the Supreme Court's "In-House Procedure" and its 2013 GSICC Regulations, should be reformed to provide a fair process for dealing with complaints against the CJI.
5. No police action should be taken against peaceful demonstrations and other expressions of dissent on the issue.

Shahana Bhattacharya, Deepika Tandon, Secretaries, PUDR. □

Attack upon Judiciary Ananda Mukherjee, Advocate

On 24th April, a scuffle broke out between the Advocates of Howrah Court and the employees of Howrah Municipal Corporation (HMC) over a silly matter, as a result, the advocates of Howrah Court were mercilessly beaten up by the Police entering into the court compound. The police not only beaten the women and aged lawyers, also fired tear gas shells, picked up some protesting lawyers including women without having any lady officers, misbehaved and outraged their modesty within the police station, passed vulnerable remarks to them. Above all, a lady police officer of DIG Rank called the lawyers as "Intellectual Culprits". Matter did not end there. Tear gas shells was also fired within the chamber of Additional District judge. As a result, the Bar Council of West Bengal has decided not to work all over the state till the accused police officers in this attack are booked. Due to this situation, not only the litigants have been suffering but the state also losing heavy revenue day by day. It can rightly be said that, such type of incident of Police atrocities upon the lawyers entering into the court premises was never happened in India even during the British regime. When the entire nation is celebrating the centenary of Jallianwala Bag massacre, at the almost same time, police brutality and excesses took place in a district court within the state of West Bengal. In fact, the Police Personnel only restrained themselves from firing upon the lawyers on that day.

The Fact: The dispute cropped up over illegal parking of bicycle by a lawyer of Howrah Court within the compound of Howrah Municipal Corporation (HMC) which is just opposite the court premises. The dispute is not new one. Lawyers, clerks and their clients have to face problems regularly to park their

bikes and cars in and around the court premises due to shortage of space. In fact, most of the lower courts of our state have virtually no infrastructure to run the judiciary. Unavailability of potable drinking water, shortage of chairs in the bar library, dirty toilets, clumsy lock-ups, garbage scattered around the compound, suffocated court rooms, shortage of peons and bench clerks in the court rooms, moreover parking problems are some of the major problems, which are still unaddressed by the government.

Over the said illegal parking, hot altercation erupted between the employees of HMC and the lawyers which resulted to manhandling with each others.

It is alleged that the employees of HMC pelted stones, bricks upon the lawyers which forced them to be furious. Primarily, Police did not try to intervene into the matter as such the area in front of the court and HMC Office turned into battlefield. Local MLA of ruling party visited the place and tried to mediate the issue on behalf of the HMC employees. But, "go back" slogans by the lawyers forced him to leave the place. Interestingly, Howrah Police Commissionerate was at a stone pelting distance from the Howrah Court though Police did not step up at the right time to handle the matter with the due process of law. After, the departure of the said MLA, a big organized police force headed by the top police personnel including Deputy Police Commissioners surrounded the court premises and arbitrarily lathi charged upon the agitated lawyers, clerks and the litigants, including the woman and aged person rather than identifying the lawyers and HMC employees who got involved in the said scuffle and booked them according to law. It is latterly known that police had lodged a fake FIR against some lawyers without mentioning their

names specifically, probably under the pressure from upper level.

***Basic question of Human Rights:** The basic question is, under whose order Police entered into the court compound and lathi charged upon the innocent lawyers including aged persons and women? This barbaric act of Police is a direct attack upon the judiciary. Independence of judiciary has been threatened. Human rights of the Lawyers have been violated. The conflict between the judiciary and executive have reached such a stage, that compelled the Lawyers to continue their cease work agitation till the accused police officers get arrested. Surprisingly, no statement was issued by the law minister of the state or the Government till date. In fact, no silver line is visible to resolve the issue by taking proper steps.

*** Lawyers' demand:** Now the question is, whether indefinite cease work will resolve this problem or not. Lawyers say that if the accused Police officers are get scot free, the moral force of the legal community will be broken. Hon'ble chief Justice of the Calcutta High Court already took up the matter suo-motu. Apart from this, the State Govt. should intervene into this matter to solve the crisis. Departmental proceedings against the accused police officers should be initiated immediately. on the other hand Judicial enquiry commission should be announced by a Sitting High Court Judge. Several measures to be adopted for the safety of the women lawyers in the court premises. If these basic steps are not taken by the govt. immediately, in that case, it may lead to serious catastrophe.

**The writer is an advocate at Alipore Court, Kolkata and Human Rights Activist. □*

I am An Indian Muslim But Who are You?¹

Ambreen Zaidi in Barracks and Beyond

Times of India, April 30, 2019

Our Indian army has a rich tradition of having Sarv Dharm Sthals in our regiments. These sthals are just not a place of worship, they invariably become a part of our hearts. We all follow and respect, all religions, Sarv Dharm. I am a Muslim by birth but as an army wife I have proudly put tilak on my forehead whenever the occasion demanded. I have actively participated in all kinds of pujas in the regiments like Ganesh Chaturthi, Karwa Chauth and many more. Me and my husband have lead pujas like Satyanarayan Puja, Holika Dahan Puja, Sarawasti Puja, Maha Mrityunjay Jap when he was the Commanding Officer. All this along with our daily namaz.

And today I can proudly say that I am a better Hindu than the Hindutva activists and a better Muslim than the Islamic fanatics, for in my heart resides the love for Krishna, Hazrat Ali, Ganpati Bappa, Imam Hussain, Jesus and Guru Nanak. Above all I am better human being than all those redeemers of religions. So next time you troll me, abuse me, hurl distorted verses from Quran on me, telling me how Muslims should behave, please take a hard look at yourself. Who

are you? What has hate done to you? What have you become?

All and I repeat, all of the Hindus I have known in my life, my friends and colleagues, the ones I have actually spent time with, have always been so decent, respectful, loving and not at all the filthy gutter mouths we come across on social media. Even now, irrespective of our political inclinations. So, who are you? I ask again. Who are you, who thinks, wearing saffron attire or a huge tilak or a rudraksh mala or having angry Hanuman display pic gives you the certificate to be violent towards other communities. No, you are certainly not the Hindus India has always been so proud of. I know you will ask me about Islamic terror, well, we have always condemned each and every act of terror done in the name of religion. But even then we are paying a heavy price on a daily basis. We are blamed for the acts we never committed, of Mughals, IS, Pakistan, Taliban, Jihadists, Kashmiri separatists, just because we share the same religion. Is this even fair? We are denied jobs, houses, visas, our kids are ridiculed and alienated in schools. Why?

What for? We have been fighting the fanatics within our religion in our own capacities, we will not let them have a control over us ever.

Whoever you are, you are doing a great damage to Hinduism and true Hindus, just like the way, Islamic terror organisations did to Islam and Muslims all over the world. Such people with only divisive and dirty agenda need to be called out, exactly the way we call out all Islamic terror every single time. If you don't, I am sorry you are one of them.

Please understand there are people, politicians who benefit the most out of this divisiveness. They fuel this dangerous fire to benefit themselves. Let's stand united against each and every force which tries to break our diversity, our syncretic culture, our unity. And as Shahrukh Khan says, being diverse is a good thing, being divisive is not. Sarv dharm bhav is what I have in my heart and that is exactly what I have taught my children. That is what being a true Indian means to me, I hope it does to you too.

¹<https://timesofindia.indiatimes.com/blogs/barracks-beyond/i-am-an-indian-muslim-but-who-are-you/> @10May2019 □

PCSDS Press Release: 7th May, 2019

National Release of the Report titled “*Indian Campuses Under Seige*” of the People's Tribunal on Attacks on Educational Institutions in India at Speaker Hall, Constitutional Club of India, New Delhi on May 7, 2019

People's Commission on Shrinking Democratic Space in India (PCSDS) has released the Report of the People's Tribunal on Attacks on Educational Institutions on 7th May, 2019 at the Constitution Club of India, New Delhi. Simultaneously the report is being released nationwide from different states/regions. The report records the emerging trends in the educational institutions across the country and the situation of crisis faced in education. This is even

more relevant in the context of the increased criminalisation and marginalisation of students in the last few years.

In the face of increasing attacks on democratic space including higher education institutions, students' bodies, teachers and civil rights activists, a number of civil society organisations came together to form People's Commission on Shrinking Democratic Space (PCSDS) in 2016.

PCSDS held its first People's

Tribunal on Attacks on Educational Institutions in India from 11th April to 13th April, 2018 where about 130 testimonies of students and faculty were received from close to 50 institutions and universities across 17 states in the country, of which 49 oral depositions were presented before a jury panel of eminent persons comprising Justice (Retd.) Hosbet Suresh, Justice (Retd.) BG Kolse Patil, Prof. Amit Bhaduri, Dr. Uma Chakravarty, Prof. TK Oommen,

Prof. Vasanthi Devi, Prof. Ghanshyam Shah, Prof. Meher Engineer, Prof. Kalpana Kannabiran and Ms. Pamela Philipose. 17 experts also made submissions before the jury panel on the thematic areas being, the impact of privatisation and globalisation of education, distortion of history and syllabus and saffronisation of education, student unions and elections on campuses, criminalisation of dissent and structural marginalisation in educational institutions based on caste, gender and sexuality, region and religion. On the last day of the Tribunal, an interim report was released by the jury panel, comprising their observations and findings based on these depositions.

In the final Report, the jury concludes that there has indeed been a systematic onslaught on the very idea of higher education in India. The jury observed that the extreme and manifold crisis in higher education which has grown over the last few decades in India, and has got accentuated in the four years before the Tribunal, under the current regime. This is deliberate, since an educated citizenry can put questions to those who rule and is essential for the furthering and deepening of democracy. Hence, the crisis of education is not simply a crisis of education alone but a crisis of society itself.

Through the testimonies on privatisation and globalisation of education, the issues of withdrawal of the government from funding education, fee hikes, removal of financial aid to SC, ST and OBC students and consequently, the denial of education to students from marginalised communities, granting autonomy to universities, self-financing courses, removal of scholarships and delays in scholarship and fellowship payments, centralization of admission process, the condition of state universities and colleges, among several other common and unique issues plaguing the higher

education institutions in different parts of the country is brought to the fore.

The depositions on distortion of history and syllabus and saffronisation of education reveal the deepening presence of the Hindutva forces in campuses and the loss of independence of institutions responsible for curriculum building. They record the spread of the Hindutva culture in campuses and through the syllabi and takeover and removal of secular cultures and truths. They also present the dismal state of autonomy in universities under the current regime, on account of the takeover of campuses by placing loyalists and the suppression of dissenting voices. Several students and faculty have reported through their testimonies the how the whole process of elections is being undermined and influenced in favour of student unions like ABVP and rules only apply to other contesting students and not ABVP. The repression faced by student unions and associations and farcial process of conducting student elections is one of the major concerns.

One of the major trends that is revealed through the testimonies is the increase in crackdown on dissent and criminalisation of students in campuses across the country. Disturbing testimonies of extreme reprisals have been received from FTII, JNU, HCU, Delhi University, Jadavpur University, Allahabad University, Lucknow University, BBAU, Punjab University, TISS, Gauhati University and several others. Dissenting students and faculty have been subjected to targeted attacks, even use of brute force. Use of criminal mechanisms to curb dissent has seen a startling increase, with sedition law, unlawful activities, rioting, arson and several charges being foisted on dissenters.

Students also presented painful accounts of marginalisation faced by them on Indian campuses on the basis of caste, gender and sexuality, language, region and religion. The increase in anti-

SC/ST policies under the current dispensation has led to insecurity and increased marginalisation of the students from the communities, and their protests are met with severe reprisals. Students challenging gender discrimination and sexism on campuses are also similarly targeted. Meanwhile, the educational institutions have failed to implement the legal provisions and policies in sexual harassment cases being reported on campuses. North-east and Kashmiri students reported the 'othering' and marginalisation, and in the case of the former, blatant racism on campus. In the atmosphere of takeover of institutions by Hindutva forces and the communal rhetoric, Muslim students have been targeted and villified publicly, as communalism is on the rise in campuses as well as society.

The jury has expressed its serious concern on these multiple crises, which unless addressed, pose a profound danger not just to higher education in India but to the very fabric of Indian democracy.

The Tribunal Report is provided along with this press note. We request you to give extensive coverage to the same, so that the emergent issues and concerns in higher education reach the larger public.

Thanking you,

Anil Chaudhary, Convenor,
PCSDS

Note on PCSDS - *People's Commission on Shrinking Democratic Space in India (PCSDS) is a national level membership based collective of human rights organisations, democratic rights activists, social movements and concerned individuals who have come together with the objective of responding to and advocating the issues of freedoms of opinion, expression, association, assembly, dissent, protest and all other rights, including harassment and criminalisation, of all human rights defenders. PCSDS was formed in May 2016 through a National Convention after a series of consultations at state, regional and national levels.* □

The Scheduled Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1989 Review of implementation in Tamil Nadu 2016

Key findings: There are four recorded crimes a day against the Scheduled Castes (SCs) and Scheduled Tribes (STs) in Tamil Nadu - one every six hours. Each week there is a murder (57 per annum) and a rape (40) of a Dalit, and two riots against the community. The Dalits bear the brunt of these recorded crimes, including all the murders and attempt to murders (78), riots (113) and all other major crimes but for one rape of an Adivasi (ST). The figures could indicate severe under recording of crimes against STs and/or the normalisation of violence against them.

1. **Recorded cases** were 1,476 for the year 2016 down 19% from 1,822 in 2015 (Annual Report 2016 and 2015) with an average crime rate of 14.1. The State Crime Records Bureau (SCRB) records show that Madurai (270) Tirunelveli (139) and Thoothukkudi (122) had the highest recorded instances. A disproportionate number of the cases (270, 17.29% of the state total) have been recorded in Madurai, with a crime rate of 127.4. It is the only district to register a case under The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 (PEMSRA). It strongly suggests **under-recording in other districts under both POA and PEMSRA.**

2. **Investigation:** Four of five cases investigated (78.97%) result in a charge sheet (1010 charge sheets from 1279 cases investigated). Eight districts report 100% charge sheeting of crimes against SCs and STs for which investigation is complete. Another six have 90% or more. Kanyakumari has charge sheeted 0% (the one case investigated was closed as „mistake of fact or law . Including Kanyakumari, 12 districts have a charge sheet rate of less than 80%. Eight districts have a greater than 25% rate of cases disposed off as

„mistake of fact or law . Fifteen districts had 0% under „mistake of fact or law . Madurai, which investigated 254 cases found only 3 (1.2%) to be under that category. No cases were withdrawn by the government during investigation or not investigated under 157-1-b-CrPC. No case ended as „Final report false or „Ended as Final Report as Non Cognizable Submitted .

Timeliness: One Deputy Superintendent of Police (DSP) has been appointed in each district under the Social Justice and Human Rights Wing of the police exclusively to investigate crimes under the Act. However, only one in three (34%) investigation have been completed the on time (within 60 days) as stipulated by the law. 66% were not completed on time. The average workload per DSP comes to just 41 cases a year under this Act - less than one case a week (1306 cases for 32 DSPs). The average number of investigations completed per month is just 3.3 per DSP. Only DSPs of seven districts (Thoothukkudi, Coimbatore, Theni, Dindigul, Virudhunagar, Tirunelveli and Madurai have completed more than a case a week. DSPs of Tirunelveli (12) and Madurai (21) have completed investigation of most cases per month. DSPs in six districts (Thiruvallur, Kanyakumari, Perambalur, Kancheepuram, Chennai and Krishnagiri) have completed less than one investigation a month on average - and still have pending cases at the end of the year.

3. **Cases in court:** There were a total of 4,116 cases pending from 2015, to which another 1,010 cases for which investigations were completed were sent to court making a total of 5,126 cases in all. Of them, only 989 were completed, with a pendency rate of 81%. It is not clear how many are completed within two months as envisaged in Section 14(2) of the Act.

District level pendency: No cases

were completed the whole year in the Nilgiris, Perambalur and Kanyakumari. In half the districts (16 of 32) the number of pending cases actually increased by up to 55%. **One case was compounded** or withdrawn - which is illegal since there is no such provision under the Act.

4. **Acquittal:** There have been 2825 acquittals from 2015 to 2017. The number of acquittals is increasing - 826 in 2015, 942 in 2016 (14% over 2015) and 1,007 in 2017 (7% over 2016).

Cases acquitted: The state level acquittal rate is 92.21% (national SCs is 74.3% and STs is 79.2%). 12 districts had 100% acquittal rate - Ramanathapuram, Tiruppur, Thiruvarur, Pudukkottai, Thiruvallur, Thanjavur, Theni, Chennai, Thiruvanamalai, Coimbatore, Dindigul and Cuddalore. In Ramanathapuram, a stunning 102 cases all resulted in acquittals. The other outliers are Tiruppur (45 cases all acquitted), Thiruvarur (38), Theni (47) and Coimbatore (36).

Persons acquitted: 2,242 (94%) of 2,587 accused were acquitted by courts. 12 districts - Chennai, Coimbatore, Cuddalore, Dindigul, Pudukkottai, Ramanathapuram, Thanjavur, Theni, Thiruvallur, Thiruvarur, Tiruppur and Thiruvanamalai - that have a 100% acquittal rate, i.e. without a single person being found guilty. The acquittal is particularly high in Cuddalore (203), P u d u k k o t t a i (1 6 5), Ramanathapuram (133) and Theni (108). Others with acute lopsidedness are Thoothukkudi (convicted=1, acquitted=133), Dharmapuri (1, 99), Villupuram (47, 594) and Tirunelveli (5, 188).

5. **Appeals:** The government has not gone on appeal against acquittal even in a single case. The standard reason given in the annual reports 2015 and 2016 is „Legal opinion is being sought on the point of appeals to be preferred

against the acquittals'.

6. **Travel and Maintenance Expenses:**

Rs 1 million has been sanctioned per district for Travel and Maintenance Expenses (TAME). Yet only three districts (Erode 65, Thiruvallur 4, Thiruvanamalai 2) report that they have actually disbursed the money, to a total of 71 witnesses and survivors during the year 2016. In 2015 too only (another) three districts (Nilgiris 5, Ramanathapuram 15 and Theni 10) reported on TAME provided for 30 persons.

7. **Compensation:** Less than one in 10 survivors (76 of 916, 8%) got the compensation/relief within the stipulated time of 7 days. Of the 1562 cases almost sixty percent (59%) did not get any relief amount during the year 2016. Of the 5,104 victims only 1,663 were paid compensation (Annex V Annual report 2016) and 3,441 victims were not.

8. **Special courts:** Only six of 32 Exclusive Special Courts have been set up – despite the government order for 16 additional exclusive special courts was passed in 6 April 2017 itself. In the remaining districts the existing Sessions Courts are designated as Special Courts and empowered to try the cases under POA and PCRA. Given the increasing pendency, it is important that more exclusive special courts are set up. Virudhunagar (246 pending cases) and Thiruvanamalai (235) are a priority based on the number of pending cases.

9. The **State Vigilance and Monitoring Committee (SVMC)** has been constituted but has not met since 2013. The total compliance of this rule is 7.1% - just 3 of the mandated 42 SVMC meetings have been conducted till date. J Jayalalitha conducted 2 meetings and K Karunanidhi conducted 1. Consolidated figures party-wise are: AIADMK conducted two meetings out of the required 22 and DMK only one of the required 20 during their terms in office.

10. The **District Vigilance and Monitoring Committees (DVMC)** have been constituted, but only 214 (55.73%) DVMC meetings were held during the last 3 years (2015-2017). None conducted all the 12 mandatory quarterly meetings.

Despite all the „strict instructions and „exclusive monitoring, in 2016, four districts (Trichy, Sivagangai, Chennai and Madurai) did not conduct a single DVMC meeting, 9 conducted only one (Kancheepuram, Kanyakumari, Karur, Pudukkottai, Thiruvallur, Thiruvanamalai, Thanjavur, Villupuram, Cuddalore), 11 conducted two and 8 conducted three. None conducted the mandatory four quarterly meetings. In 2017, 4 districts (Erode, Tirunelveli, Cuddalore, Trichy) have met only once.

11. **Periodic Reports and Reviews: Monthly reports** (Rule 4(4)) are not being sent (RTI Reply No.23048/RTI No.2/PA2/2017-1, Dated:5.1.2018) despite claims to the contrary by the Government of Tamil Nadu (Annual report 2016, Annex XVII). **Quarterly reviews of the cases** are not being done (Rule 7(3)) (RTI Reply No.23047/RTI No.1/PA2/2017-1 Dated:5.1.2018). **Performance reviews** of the special public prosecutors (Rule 14 (2)) are not being done. (RTI Reply 13952/ POA/ (1)/ 2017-10, Dated:15.11.2017).

12. **No action against officials:** No action has been taken against the errant officials (DSP or the Special Public Prosecutor), despite the high and increasing rate of acquittals (48% in 2015, 64% in 2016, 73% in 2017) (C.No.B2/519/2017 Dated: 12.03.2018). The High Level Committee set up on the orders of the Supreme Court of India (Criminal Appeal No 1485 of 2008 in State of Gujarat Versus Kishanbhai) by the Government of Tamil Nadu at the state and district levels (vide (Ms) No.956, Home (Pol) 12) dept. Date 23.12.2015 and 24.03.2016) has not fixed the responsibility either.

No action has been taken against any official under Section 4(2) despite documented evidence (cited above) of dereliction of duty and/or incompetence. (Letter No.1312./RTI No.22/PA2/2018-1 Dated: 29.01.18)

13. **Atrocity prone villages:** From 2014 to 2017, the atrocity prone villages (APV) reduced from 323 to 223 and the number of „highly sensitive among APVs reduced from 142 to 73. But the total number of APVs and dormant APVs has increased from 471 to 597. The increase of 126 villages could indicate a more widespread, low intensity social conflict.

14. **A Model Contingency Plan** has been prepared based on the Amended Act 2015 and the Amended Rules 2016. It was notified on 1 September 2017 in the State Gazette.

We also find variations between the Annual Report (section 21(4)) sent by the Government of Tamil Nadu (GoTN) to the Government of India (Gol) and ground situation. For instance:

- *The annual report 2016 says that „this government is taking steps to notify the contingency plan . However, an RTI application got the reply that it was still „under examination of the Government as late as July 2017.*

- (RTI Reply No.12280/RTI No.148/PA-2/2017-1, Dated: 14.07.2017) It was finally published in the gazette on 1 September 2017. (RTI Reply No . 1 4 8 2 8 / R T I No . 2 0 8 / P A 2 / 2 0 1 7 - 2 , Dated:12.10.2017).

- The annual reports of 2015 and 2016 say that the periodic reports are being sent. As shown above, that is simply not true (or if true then the RTI replies are not).

The Annual Report mentions 1476 registered incidents in the calendar year 2016. As per SCRB records, there were 1562 registered incidents in calendar year 2016. □

Disastrous Condition of the Sabarmati River - Release of report on joint investigations by Paryavaran Suraksha Samiti and Gujarat Pollution Control Board, of the pollution levels in the prime water source of Ahmedabad District.

The Sabarmati River in the Ahmedabad City stretch, before the Riverfront, is dry and within the Riverfront Project stretch, is Brimming with Stagnant Water. In the last 120 kilometres, before meeting the Arabian Sea, it dead comprises of just industrial effluent and sewage.

On 12 March 2019, the Regional Officers Mr Tushar Shah and Ms Nehalben Ajmera of Gujarat Pollution Control Board, Rohit Prajapati and Krishnakant of Paryavaran Suraksha Samiti, Social Activist Mudita Vidrohi of Ahmedabad, Subodh Parmar, Lawyer of Gujarat High Court, conducted a joint investigation. This was conducted in the context of implementation of the Order, dated 22.02.2017, of the Supreme Court in Writ Petition (Civil) No. 375 of 2012 (Paryavaran Suraksha Samiti & Anr V/s Union of India & Ors) about the status of industrial effluent and sewerage discharge into the Sabarmati River stretch of Ahmedabad District. The investigation reports are shocking and reveal the disastrous condition of Sabarmati River in and around Ahmedabad District and about 120 kilometres downstream.

Sabarmati River no longer has any fresh water when it enters the city of Ahmedabad. The Sabarmati Riverfront has merely become a pool of polluted stagnant water while the river, downstream of the riverfront, has been reduced to a channel carrying effluents from industries from Naroda, Odhav Vatva, Narol and sewerage from Ahmedabad city. The drought like condition of the Sabarmati River intensified by the Riverfront Development has resulted in poor groundwater recharge and increased dependency on the already ailing Narmada River. The following investigation report speaks for itself. The investigation raises fundamental questions

against both, the polluting industries that discharge their untreated effluents into the Sabarmati River, and the Ahmedabad Municipal Corporation that discharges their poorly treated, untreated sewerage into the Sabarmati River. The Gujarat Pollution Control Board's top cadre officials have failed in their duties and responsibilities to protect the Sabarmati River's water quality, inspite of the Supreme Court Order dated 22.02.2017, directing strict compliance of effluent treatment standards, continuous monitoring and closure of defaulting industries and Orders dated 03.08.2018 and 19.02.2019 of the National Green Tribunal, Principal Bench, Delhi, in Original Application No. 593 of 2017, (Paryavaran Suraksha Samiti & Anr V/s Union of India & Ors) for implementation of the Supreme Court order.

The alarmingly critical and dangerous levels of pollution, far exceeding permissible levels, as recorded in the investigation report, are summarised below:

- The Water in Sabarmati Riverfront has 4.66 mg/l DO, 98 mg/l COD, 28 mg/l BOD, 96 mg/l Sulphate, 153 mg/l Chloride, and 668 mg/l TDS.
- The First Outfall of STP of Ahmedabad after Vasna Barrage (After Sabarmati Riverfront) 160 MLD has 337 mg/l COD, 139 mg/l BOD, 108 mg/l Sulphate, 186 mg/l Chloride, and 732 mg/l TDS.
- The Second Outfall industrial effluent of Ahmedabad after Vasna Barrage – Strom Water

Drain from DaniLimda (After Sabarmati Riverfront) has 1301 mg/l COD, 536 mg/l BOD, 462 mg/l Sulphate, 933 mg/l, Chloride, and 3135 mg/l TDS.

- The Third Outfall of STP of Ahmedabad after Vasna Barrage (After Sabarmati Riverfront) 800 MLD has 587 mg/l COD, and 218 mg/l BOD.
- The Fourth Outfall of Industrial Effluent from Naroda, Odhav and Vatva industrial Estates (Mega Pipeline) after Vasna Barrage (After Sabarmati Riverfront) 40 MLD has 1052 mg/l COD, 210 mg/l BOD, 863 mg/l Sulphate, 4025 mg/l Chloride, and mg/l 9813 TDS.
- The Fifth Outfall of Industrial Effluent of Narol after Vasna Barrage (After Sabarmati Riverfront) 100 MLD has 1126 mg/l COD, 427 mg/l BOD, 743 mg/l Sulphate, 1600 mg/l Chloride, and 5290 mg/l TDS.
- The Sabarmati River 100 mtrs. after STPs and Industrial Effluent Outfall has BDL (Beyond Detection Limit) DO, 1009 mg/l COD, 447 mg/l BOD, 612 mg/l Sulphate, 1665 mg/l Chloride, and 4368 mg/l TDS.
- Miroli Village pumping station 21 Kms. downstream of Vasna Barrage BDL (Beyond Detection Limit) DO, 151 mg/l COD, 33 mg/l BOD, 188 mg/l Sulphate, 491 mg/l, Chloride, and 1466 mg/l TDS.

Investigation by Paryavaran Suraksha Samiti and Gujarat Pollution Control Board on 12 March 2019

Sr. No	PARAMETER	Colour Pt. Co. Scale	TDS mg/l	NH3-N mg/l	Chloride mg/l	Sulphate mg/l	DO mg/l	COD mg/l	BOD mg/l
1	Railway Bridge	30	668	4.31	153	96	4.66	98	28
2	Danilimda-STP (60-106 MLD STP)	50	732		186	108		337	139
3	DaniLimda Storm Water Drain	150	3135	10.13	933	462		1301	536
4	New Pirana 182 MLD STP							587	218
5	MEGA	450	9813	30.18	4025	863		1052	210
6	Narol NTIEM	200	5290	79.91	1600	743		1126	427
7	Sabarmati River Downstream	150	4368	68.04	1665	612	BDL	1009	447
8	Miroli Village		1466	31.97	491	188	BDL	151	33
	Effluent Discharge Norms	100	5000 mg/l	50 mg/l	600 mg/l	1000 mg/l		250 mg/l	30 mg/l
	River Norms	Nil	500 mg/l	Nil	Nil	Nil	> = 5 mg/l	Nil	< = 3 mg/l

The pathetic and dismal condition of the Sabarmati River is a cause of grave concern for the health of the people of the Ahmedabad city and the villages around Sabarmati River downstream of Riverfront who rely on the river water for their daily use and livelihood. Some of the major direct and indirect effects of the high levels of pollution on the people and environment includes contamination of ground water, food contamination, associated health hazards, loss of natural river habitat, depletion of ground water levels due to lack of water recharge, loss of flora and fauna, etc. Urgent action is necessitated in light of these findings to rejuvenate and restore the Sabarmati River and its water quality, which calls for the strict implementation of the Supreme Court Order by the concerned authorities.

We demand that:

1. GPCB immediately issue closure notices to all the defaulting industries located in Ahmedabad industrial clusters, in

implementation of the Supreme Court Order dated 22.02.2017.

2. GPCB immediately issue closer notices to all the defaulting CETPs of the Ahmedabad industrial cluster, in implementation of the Supreme Court Order dated 22.02.2017.
3. GPCB immediately issue notices to the Municipal Commissioner of Ahmedabad to ensure compliance by all STPs in the area.
4. GPCB should file criminal cases against the all owners/directors of the defaulting polluting industries, the officers of the CETPs, and the Municipal Commissioner of Ahmedabad.
5. The GPCB investigate and prepare further detailed reports about the ground water contamination as well as contamination of the food grains,

vegetables, and fodder.

6. Ensure Interim Exemplary Monetary Compensation along with medical services to the farmers and villagers who have suffered from the groundwater pollution.
7. Immediately pay Interim Compensation per season per acre to the farmers who are forced to use contaminated Sabarmati River water and groundwater for irrigation of agricultural land and hence are facing several severe problems.
8. Appoint a competent interdisciplinary committee, of officials and field experts, to assess the ongoing and past damages to quantify the real compensation payable to the farmers for the damage done.
9. Implement the Order, dated 22.02.2017, of the Supreme Court in Writ

Petition (Civil) No. 375 of 2012 (Paryavaran Suraksha Samiti & Anr V/s Union of India & Ors) and National Green Tribunal, Principal Bench, Delhi Order, dated 03.08.2018 and 19.02.2019, in Original Application No. 593 of 2017, (Paryavaran Suraksha Samiti & Anr V/s Union of India & Ors) in letter and spirit.

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Rajni Dave Anand Mazgaonkar
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Nita Mahadev - Gujarat Lok Samiti

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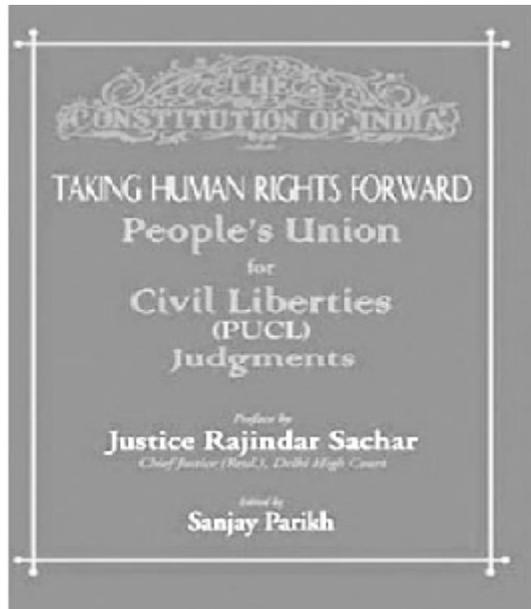
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