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Press Statement: 6<sup>th</sup> January, 2020

## PUCL (Delhi) Condemns Violence at JNU

*People's Union For Civil Liberties* (PUCL) Delhi strongly condemns the ghastly attack by masked men on the students and teachers inside the campus of Jawahar Lal Nehru University (JNU) on the evening of 5<sup>th</sup> January 2020. Around 50-60 masked men wielding sticks, metal rods and sledge hammers entered hostels, even girl hostels, and mercilessly beat the students and teachers. These goons vandalized properties outside and inside the hostels and rooms, even damaging laptops and computers of the students. Around 40 students and teachers are reported to have received injuries, some of them serious ones. Aishe Ghosh, President of the JNU Students Union, was severely beaten and got serious head injury while profusely bleeding.

It is surprising as to how these 50-60 goons entered the University gate where entry of outsiders is properly regulated and secured by large number of security personnel employed by the university. The allegations of the victims is that these masked men, most of them were outsiders, were members and supporters of ABVP. These masked men freely terrorized and ran riot for about three hours between 6.30 to 9.30 P.M. without any attempt on the part of the JNU administration or the police to control them. These goons even attacked the ambulances which sought to carry the victims to the hospitals. The teachers and students, target of the attack, claim that in spite of their repeated complaints to the police right from the beginning when the attack started the police did not bother to provide any protection to the victims. President of the JNU students union claim that she had even sent a message to the police during middle of the day complaining that many miscreants had entered the campus. The worrisome news from reliable sources is that the police which was standing nearby outside the campus in large numbers, instead of arresting the miscreants, provided them safe passage to flee. Only thereafter the police entered the campus and organized a flag march to register their presence. Not a single miscreant has been arrested so far.

## Announcement of PUCL National Council Meeting

The next **PUCL National Council Meeting** will be held in **Hotel Sangam Darshan, Near Delhi Public School, Arail, Allahabad, Uttar Pradesh** on **22<sup>nd</sup> and 23<sup>rd</sup> February, 2020 (Saturday and Sunday)**. All members are requested to make travel arrangements to reach Allahabad by 21<sup>st</sup> February evening or 22<sup>nd</sup> February morning. For more details please contact **Ms. Utpala Shukla** (09415828093) or **Mr. Anshu Malviya** (9170911718).  
**V.Sureh**, National General Secretary, PUCL

From the reports and videos it appears that it was an organized attack on the students and teachers in connivance with the JNU administration and the local police. Many political leaders and activists reached the gate of the JNU campus at night with a view to render help and succor to the victims of the assault but even they were prevented and abused by the mob standing outside the gate who were chanting slogans like “*Bharat Mata Ki Jai*”, “*Vande Mataram*”,

“*Nakshalon Ko Nikalo*”, “*Goli Maron Saloon ko*”. Yogendra Yadav leader of the Swaraj India who also reached was badly manhandled. Many students have left the hostels in search of a safe place while others who are still there shudder in constant fear. The JNU administration and the local police must be ashamed that students and teachers do not have any trust that the former are capable of providing safety and protection to the latter.

We therefore urge upon the Central Government to see to it that real culprits responsible for the mayhem are immediately identified, arrested and prosecuted in accordance with law so that people's confidence in the police as protector of the citizens is restored and government stands legitimized.

**N.D.Pancholi**, President; **Sheoraj Singh**, **Shalu Nigam**, **Arun Maji**, Secretaries, PUCL Delhi ☐

**PUDR Press statement: 8<sup>th</sup> January 2020**

## **5 January Attack on JNU: An Orchestrated Conspiracy**

PUDR strongly condemns the violence unleashed by right-wing hoodlums inside Jawaharlal Nehru University campus on the evening of 5 January 2019. A group of around 100 masked goons carrying rods, hammers, canes/lathis among other weapons barged into the closed campus in the evening and violently assaulted students and professors. Doctors at AIIMS Trauma Centre have confirmed to PUDR that thirty-four students with injuries caused by sharp/blunt weapons were treated. The JNUSU President Aishe Ghosh also received severe injuries on the head. Of these thirty-three have been discharged now. Five Professors including Sucharita Sen, Ameet Parmeshwar and Saugata Bhaduri have also been severely hit. The sequence of events points to complicity of the university administration and the police, which stood outside campus gates and enabled the murderous mob to unleash violent assault on students inside the campus.

While the press statement of the JNU administration and reports of some news channels have been calling this a “clash” between the ABVP and left groups, it is sufficiently clear that the attack was one sided, the street lights were turned off, entry was closed, the campus security let a murderous mob enter and even doctors and ambulances were attacked – all under the watch of Delhi Police that

stood by as a mute spectator. The police did not apprehend any of the attackers. WhatsApp group messages shared by some news outlets show a careful planning behind the attack. These also confirm the involvement of the ABVP and related individuals in the planning of the attack.

JNU has been witnessing peaceful protests by students against the fee hike. 5 January was the last date of registration for the new semester. The JNU Students' Union was demanding a roll back of the new fee structure and the ABVP was supporting the administration and encouraging the students to sign up. The attackers were allegedly waiting outside the university since around 4:00 pm and were waiting for somewhat a signal to start the attacks. At around 6:00 pm, the attackers entered the university campus and conducted the attacks till around 8 p.m.

JNUSU twitter confirms that female students had to lock themselves in Sabarmati and Koyana hostels. The masked goons were walking across corridors with rods and sticks. Mahi, Mandvi and Periyar hostels were under siege.

In addition to these attacks, eye witnesses have confirmed that the mob vandalised personal belongings of students, university property and private property on the campus, including cars of professors. Activist Yogendra Yadav

and several journalists were heckled and manhandled by Bajrang Dal goons outside the JNU gate.

Four FIRs have been filed concerning the incidents at JNU. Three of these concern the protest actions by the JNUSU in connection with their demand for withdrawal of the fee hike and name the JNUSU President and other students for vandalism in the campus, curiously filed after the hoodlum attack. The fourth FIR includes the hoodlum attack but fails to record the murderous attack under section 307 IPC (attempt to murder). This FIR has been registered suo moto by the police despite the fact that a number of those grievously injured and other witnesses to the attack were available. The sequence of events mentioned in the FIR is contrary to the accounts available to us and attempts to obfuscate the issue.

In the light of the above, PUDR demands:

- 1 Registration of an FIR on the basis of witness accounts taken from those seriously injured.
- 2 Registration of FIR against Delhi police into the shameful criminal inaction and deliberate acts of omission that reek of complicity on the part of the police.
- 3 Independent and impartial inquiry monitored by retired judges into the incident of 5 January.

**Radhika Chitkara** and **Vikas Kumar**, Secretaries, PUDR ☐

## Brutal Attack on JNU Students and Faculty by Fascist ABVP/RSS Thugs

All India Forum for Right to Education (AIFRTE) condemns the shocking assault on the students and teachers of JNU by an armed mob of about eighty to one hundred persons shouting slogans like “Bharatmata ki Jai”, “Vande Mataram” and “Goli Maaro Salon ko” on 5<sup>th</sup> January 2020. Despite the presence of the University's security on the campus and the Delhi police outside the gate, the thugs entered with their faces covered and armed with iron rods, lathis and hammers. Some girl students stated that they were witness to the police facilitating their entry and informing them of the location of the hostels indicating that these illegal entrants were not students of JNU but ABVP members from Delhi University and RSS hoodlums.

The attackers proceeded to vandalize the hostels, smashed cars and other vehicles, and indiscriminately and savagely beat up women and male students and teachers. Aishe Ghosh the President of JNUSU was hit on the head with an iron rod, briefly lost consciousness and was bleeding profusely. She required 16 stitches for her wound. Prof. Sen of the Centre of Regional Development was also assaulted and suffered head injuries. More than thirty persons received injuries and many were only discharged from the Trauma Centre of the All India Institute of Medical Sciences (AIIMS) after 24 hours.

The attackers had a free run of the campus for almost three hours while a group of their supporters were already mobilized and shouting slogans outside the gate. They were

being protected by the police who did nothing to intervene as the rampage continued on the campus. Shockingly the Vice-Chancellor and senior members of the administration were nowhere to be seen. Responsible office bearers of the JNU Teachers Association were heard on national television actually holding them responsible, along with Delhi police and ABVP/RSS, for this well-planned fascist assault on the academic community. Messages on social media from supporters of these hoodlums also provide proof that this was a planned attack to derail the strong on-going protest against massive hostel fee hikes and resistance to registration for the next semester as decided by the students union after holding general bodies of all schools.

This descent to fascist methods of attack by thugs affiliated to the Hindutva regime led by Modi-Shah (viciously targeted police assaults had already been seen in JMI, AMU and other cities and towns in UP) points to the desperation in the Hindutva forces faced with the peaceful but resolute resistance of the university communities towards the new education policies of privatization, commercialization and centralization. Rising fees, budgetary cuts and job insecurity have brought almost all sections into united struggles.

A group of ten members from AIFRTE (including Organizing Secretary Dr. Vikas Gupta and Presidium member Prof. Madhu Prasad) were at the JNU campus for several hours in the night of 6<sup>th</sup> January 2020 to find ground level information and to express our solidarity with the students and teachers of the University. The

deligation found that despite the brutal assault and the panic spread among the university community, JNU students and teachers have united firmly to stand against the hindutva goons, to resist their violent attempt to disrupt the struggle, and to continue the fight against the exclusionary National Education Policy 2020 (NEP) promoting centralized control, privatization, commercialization and communalization of education.

AIFRTE salutes the courageous struggle of the academic community at JNU and resolves to fight shoulder to shoulder with all students and teachers across the country who are fearlessly resisting the fascist attacks against them.

AIFRTE demands that

- Home Minister Amit Shah and the Delhi Police which functions under his control be held accountable for this outrageous assault on the peacefully protesting students and the faculty of JNU;
- Present Vice Chancellor be immediately dismissed and all senior members of his administration removed so that a fair judicial inquiry is possible as their complicity with the ‘goons’ is apparent;
- The role of the ABVP/RSS in this criminal assault must be properly investigated so that appropriate administrative action can be taken against such fascist organizations which are spreading terror in campuses across the country.

AIFRTE Presidium □

## A Brief Report about Pro-Constitution, Pro-Democracy Protests in Chhattisgarh

Shaheen Bagh, Inqilaab Zindabaad....

Zila, Fiaz Ali, Shalini Gera

**Account of Protests in Chhattisgarh against CAA – NPR – NRC and the Campaign to Save the Indian Constitution and Democracy, January, 2020**

A First Person Account of 2 young PUCL Volunteers Shared by Shalini Gera, PUCL Chhattisgarh, 22<sup>nd</sup> January, 2020

Several towns and cities in Chhattisgarh, including Raipur, Raigarh, Bilaspur, Ambikapur, Jagdalpur are witnessing unprecedented protests against NRC, NPR and CAA. Below are writings from two young women

from Raipur, who have taken part in public protests for the first time.

“A peaceful protest is taking place all over the country where women and children are playing a vital role. In many ways ShaheenBagh is matchless. Until now we used to

see the headlines like WOMEN WERE PRESENT IN LARGE NUMBERS, but in this protest women are CHIEF.

It is important to recognize that this campaign is not based on any type of religion and caste. In fact, it is

against the assault on our Indian citizenship. CAA has emerged as an essence of that sour politics which accompanies fiery nationalism.

Irrespective of whatever the results these protests will produce, the whole country has truly entered the SECOND ERA OF SATYAGRAH with SHAHEEN BAGH.

"WE ARE INDIANS, WHO THE HELL ARE YOU TO ASK PROOF?" The protests in Chhattisgarh are continuously happening with people of different thoughts and background coming together and fighting to save our constitution.

I saw here people giving open challenge to the government

through their speeches and their poetry. The proportion of Hindu protestors and Muslim protestors is almost equal.

Women are taking active part and no force can stop them. I am disappointed with youth till now, for we have not yet seen the youth take any big steps. Their ideology is just to fight on social media and share false information. I hope our youth will soon understand the depth of this topic and will get ready to bring a change.

Every night in many cities of Chhattisgarh like Raigarh and Raipur, people gather in a particular place and speak for saving the Constitution. Women are a major

part of the protests here. We have named the place of the protests as Shaheen Bagh. Rallies, awareness programs and other programs are happening on a continuous basis.

Chhattisgarhi people are also bringing to these protests their cultural traditions like *nacha, gammat* and *jangeets* to keep these traditions alive as a form of protest.

We can conclude saying, Chhattisgarh is among the highly aware states of India on this issue, and citizens here have taken an oath not to stop these protests till India is free from autocratic policies and we are sure that we will succeed. ... **Fiza Ali** □

*"Atyacharkepaapibeej ham panapnenahidenge  
Deshkedaaman par daagh ham lagnenahidenge*

"The treacherous seed of tyranny – we will not let it flourish...  
On the image of our nation – we will not allow any blemish..."

On 3<sup>rd</sup> January 2020, a huge rally was taken out in Raipur to oppose NRC, CAA and NPR, starting from the White House and consisting of more than 10,000 people, including many Muslims and Sikhs. However, not a single newspaper or TV channel covered this protest. Today, the 21<sup>st</sup> of January 2020, is the 16th day of our protest in Shaheen Bagh Raipur at the Jaistambh Chowk. People gather here from all walks of life and of all age groups – adults, children, elderly people, youth, infants etc. to raise their voices for *azaadi*. Even we Muslim women, who have never left our homes before and who had always stayed behind the *pardah*, are now coming out in Shaheen

Bagh in thousands today, sitting on the road wearing our veils, for the sole purpose of protesting the NRC and CAA and for the Constitution.

On the one hand, the government of our country plans to invite persecuted people from other countries to come here and promises to give them jobs, and houses and documents. And on the other, the same government will throw out those Indians who are unemployed and homeless, who live on the streets and have no papers to show for themselves! The same government which won the elections on the strength of our votes is now asking us to show proof of citizenship! I am ashamed of such a government.

*Vaqt ne  
lalkarahaiphirkalamdharo  
Naujawanatyachar se  
joojhpado*

"Time has thrown a challenge,  
pick up your pens  
O Youth! Join the fight against  
oppression"  
\*\*\*\*\*

*Jab  
jabzulmizulmkaregasattakegal  
iyaron se  
Chappachappagoonjuthegain  
qilabkenaaron se*

"Every time a despot  
tyrannizes from the corridors  
of power  
Cries of revolution will  
reverberate from every corner  
of every street"

**Rabia** (Originally written in Hindi,  
Translated by Shalini Gera) □

**Editor's Note:** In the wake of the growing opposition to the CAA, NPR and NRC across the country, numerous groups in UP too participated in almost daily protests. The response of the UP police stood out for the sheer brutality of the violence unleashed on protestors, especially against Muslims and their groups. The widespread nature of targeted police firing, savage lathi charging and torture of hundreds of Muslim youth falsely implicated by the police left a trail of bloodshed, death and tragic shattering of hundreds of Muslim families. A Fact Finding enquiry was organised in Delhi on 16<sup>th</sup> January, 2020. The following is a summarised version of the Report of the team,

## People's Tribunal on State Action in UP: Citizenship, Democracy and Protest

Several organisations, including All India Democratic Women's Association (AIDWA), Anhad, Campaign for Judicial Accountability and Reform (CJAR),

Constitutional Conduct Group (CCG), Delhi Science Forum, Human Rights Law Network (HRLN), Karwan e Mohabbat, Mazdoor Kisan Shakti Sangathan

(MKSS), National Alliance of People's Movements (NAPM), National Federation of Indian Women (NFIW), Not in My Name Campaign, Satark Nagrik

Sangathan (SNS) and others had come together to organize this tribunal on 16th Jan, 2020 in New Delhi, that intended to investigate the UP government's response

**Introduction:** As peaceful protests were organized around the country against the CAA, NRIC and the NPR, the state of Uttar Pradesh stands out for the intense harshness of the state action to crush the voices of dissent. There were many deeply troubling reports of the brutality and intensity of police action which followed, which led to the formation of this people's tribunal to investigate the truth of the matter.

The jury of this People's Tribunal is deeply worried and dismayed by the testimonies placed before it. It is convinced that the entire state machinery, led from the top, acted with grave prejudice and perpetrated violence targeting one particular community, the state's Muslim population, and the social activists leading the movement.

The jury heard the testimonies of field workers, lawyers, human rights defenders, civil society activists, doctors, eyewitness accounts, and also looked at the videos of victims.

The following were the main findings of the Tribunal.

**Police Violence:** The Jury found and concluded that the UP police has been guilty of inflicting enormous violence targeting the Muslim community, peaceful protestors, and not even sparing those were not involved in the protest. The police brutality included:

- apart from violence inflicted on protestors,
- the arrest of and filing of false cases against innocent people,
- the destruction of vehicles and property by entering people's

homes, as well as CCTV cameras

following the demonstrations against NRC/CAA in the state. **On the jury for this tribunal were Justice A P Shah, Justice Sudarshan Reddy, Justice V**

## JURY STATEMENT

- the threats and intimidation of people picked up, against speaking the truth about what happened to any authority or to the media,
- the communalised abuses against victims,
- custodial violence even on minors and
- firing and killing people without following the law,
- preventing medical personnel from treating the injured, and threatening the injured against accessing medical care.

The complaints of the victims about police brutality, violence and destruction of property were either not filed or filed incorrectly. On the other hand, thousands of FIRS were filed against unnamed persons on accusation that protestors had become violence with the intention of continued harassment and intimidation.

**Role Political Executive and State Administration:** The jury found that political and administrative leadership has failed to control the widespread atrocities caused by the police. In several instances, the jury have observed that senior leadership such as the Chief Minister directed the Police to use the strongest force against protesting citizens by using words like badla or revenge.

The Jury concludes that the state administration, through arbitrary and extensive imposition of Section 144 CrPC in several districts, shutting down of internet services, violated the citizens rights and facilitated police violence.

**Gopala Gowda, Prof Irfan Habib, Justice V Gopala Gowda, Shantha Sinha, Prof Neera Chandhoke, Deb Mukherji, Chaman Lal, Dr. N C Saxena, Anirudh Kale. □**

**Role of Medical Officers:** Several people testified that hospital authorities and medical officers denied emergency medical care to even seriously injured victims. It was suggested that this was done allegedly under pressure from the police and state administration. This has clearly been in violation of the Article 21 of the Constitution and the various decisions of the Supreme Court and international treaties to which India is signatory, finally the Hippocratic oath of medical professionals. Such denial does not take place even during war!

**Impact on Survivors:** The Jury takes note of the looming anxiety within the families of those affected by this violence.

These instances of violence, abuse, and destruction of homes by the police have resulted in absolute fear and trauma in the community. It is important to understand that when the state is the perpetrator itself, there is no sense of security for those affected. It appears that there is no health care or legal help accessible to victims in these difficult and testing times leaving them at a state of acute depression and or anxiety. Chances are that there will be large scale Post Traumatic Stress Disorder in this population unless addressed.

The Jury further acknowledges the immediate need for adequate mental health support for those affected by this crisis.

**Attacks on Human Rights Defenders:** The Jury found several activists, journalists human rights defenders and lawyers who stood up to injustice were being persecuted, intimidated, harassed and tagged as 'urban naxals', anti-nationals. The Jury condemns the arbitrary arrests of the human rights

activists and defenders.

**Issues around Juveniles and Minors:** The Jury is of the opinion that the UP Police and State Administration have violated every principle enshrined in the Juvenile Justice Act, 2015. Every single agency and mechanism that could have come to the rescue of children failed to do its duty. It also reveals that even the best of laws cannot fulfill its purpose if the executive machinery does not wish to see it

being implemented well and judiciously.

**Recovery of costs by the state:** The jury found that the police has been arbitrarily issuing notices to people for recovery of costs of damage to public property allegedly caused by them without specifying any details. Obviously, this cannot be done without establishing the culpability of the person in a court of law. These are intimidatory and illegal tactics being

employed by the police. In fact, there is considerable evidence to show that the police itself indulged in destruction of private property of innocent people.

**Concluding remark:** The state of affairs in UP shows a complete collapse of rule of law. In fact, the very state administration that is charged with protecting the rule of law is perpetrating violence upon its own people. □

**PUDR Press statement:** 6<sup>th</sup> January 2020

## **Oppose the Politics of Banning Organizations and Targeting of Rights Organizations**

*People's Union for Democratic Rights* (PUDR) condemns the attempts being made by the Uttar Pradesh government towards securing a national level ban on the Popular Front of India (PFI) and also trying to contemptuously target rights-based organization Rihai Manch through accusations of them having planned and instigated violence in the wake of mass anti-Citizenship (Amendment) Act (CAA) protests in the state. In a press conference held on 31<sup>st</sup> December 2019, the Director General of Police, UP said that the state government has sent a report to the Ministry of Home Affairs recommending a ban on the PFI. According to the police, the organization is liable for proscription as 25 of its members have been arrested on charges of instigating violence in the anti-CAA protests in the month of December. In the most uncorroborated form, the DGP made claims about the PFI being an 'incarnation' of the banned organization the Student's Islamic Movement of India (SIMI). Subsequently, in a statement made to the press, the DGP on 3<sup>rd</sup> January 2020 added that the members of PFI had together planned these protests with Rihai Manch in a meeting at Kaifi Academy in Nishatganj. He however, refused to disclose the specifics of the meeting.

PUDR sees these accusations

made by the UP police as desperate attempts to create a plot to criminalize dissenting voices through mere claims in the absence of any substantiated charge. Jumping on to the bandwagon, the Assam chief minister has also demanded a ban on PFI for its role in the anti-CAA protests. There have been nation-wide anti-CAA protests resulting in mass detentions and arrests as part of the state's clamp down on the protesters. It remains unexplained how the involvement of members of PFI in the same protests begs a demand for the banning of the entire organization. PFI had previously been banned by the Jharkhand government in 2018 under the Criminal Law Amendment Act (1908) which gives state government the powers to impose ban within its jurisdiction. The ban was revoked on the Jharkhand High court's order on technical grounds but the Jharkhand government in February 2019 banned it under CLA yet again. In both cases PFI's links with the terror outfit ISIS was cited as the ground for banning without verified reports. This time around when the UP government is demanding a central ban, it is citing PFI's association with SIMI which has been banned under the

Unlawful Activities Prevention Act (UAPA). It is another fact to mention that while UAPA tribunals have repeatedly upheld the ban on SIMI, the trial courts have ordered acquittal for many SIMI activists for the want of corroborated charges and evidences. PFI itself has been actively campaigning for the repeal of UAPA and has led a national movement towards its repeal.

It doesn't leave much to guess why in a prima-facie case of anti-CAA violence, reference to 'PFI's SIMI connections' are being repeatedly invoked. In doing so, it is also being secured that if PFI is banned, the references to its links with democratic rights organizations like Rihai Manch would be used to target the latter, further. Rihai Manch was formed in 2012 as a platform bringing together lawyers, journalists and social activists to campaign for the release of youths, mostly Muslims, languishing in jails on the fake charges of terror. Mhd. Shoab, a lawyer and long standing activist, once jailed during emergency in 1970s, is its founder. Rihai Manch has been taking up issues such as deaths in police custody, communal incitement, caste discrimination, and the use of draconian laws in the state. Of late, it has particularly taken on the UP government on fake police

encounters and use of NSA on Muslims and Dalits. Much like rights based organizations all over the country, Rihai Manch has actively protested against the CAA which is now being made a ground to target it. Many of the Rihai Manch activists have been brutally assaulted by UP police and have been put under custody including Mhd. Shoaib whose bail application is pending before court. Targeting of the protesters not only attempts to delegitimize the upsurge against the communal and the unconstitutional CAA but also deflects attentions from the arbitrary and illegal police action

against the protesters. Politics of proscription has no place in a democracy. Fair investigations and charges backed by evidence in cases of commission of illegal acts serve the interest of justice but bans imposed on people's associations only abridge constitutionally guaranteed freedoms and allow state to wield unbridled power over people. Investigations conducted squarely into crimes reported is the mandate under rule of law, not proscription of organizations that hold non-conformist opinions.

We demand:

- Recommendation to impose a

- ban on PFI should be withdrawn
- Charges against anti-CAA protesters must be withdrawn and all arrested including Mhd. Shoaib and other Rihai Manch activists must be immediately released
- Citizenship (Amendment) Act 2019 must be repealed
- Laws such as UAPA and CLA providing for provisions to ban organizations must be repealed
- Right to protest must be upheld as a legitimate constitutional right

**Radhika Chitkara and Vikas Kumar**, Secretaries, PUDR ☐

## **The Second Justice Sachar Memorial Lecture Justice Jaspal Singh (Retd.)**

Justice Rajindar Sachar was my mentor, my friend, philosopher and guide. He always talked to me in Punjabi and, invariably, when disturbed by our all-round degradation, would catch hold of my arm and say “Yaar Jaspal aih kee ho raya aai” and not realizing the pain and agony within him, I would respond “kee ho rayahai Judge Sahib? Kujhnaahin ho raya” and he, with pain looming large in his eyes would respond: “Jaspal too nahin samjhenga”. And now that he is physically no more and when, now, I watch the world around me through his prism, I understand and feel his suffering. You, a few kindred souls, are lucky to have understood him during his lifetime itself and to have followed his vision. His was a call to stand up and fight for another liberation : liberation from falsehood, liberation from totalitarianism, liberation from the narrowness of our present day vision, liberation from the tyranny of misguided majoritarianism. And when I realize it today, I feel the pain and agony and helplessness in his lament “Jaspal too nahin samjhenga”. But, then, is it too late for me, you and you? Is it too late to

say to the powerful that what they are projecting to sell is not rose but garlic and that they cannot make it smell like rose? That the dreams they are selling are, in fact, all dilapidated, all grungy? That they are all zeros before a decimal?

In the wind today there is regret, rancour and anger. While the present is snaring at us, the future seems to be bleak, barren and ominous. While our leaders are blowing their own trumpets, foreign countries are issuing advisories to its citizen to keep away from our shores. We have degraded ourselves to such an extent that a Muslim Sanskrit scholar is not allowed to teach Sanskrit. What about our pluralist traditions? We have become an insular, inward looking nation which prides in breaking a house of God in the name of God. We are today a country where law officers are themselves breaking the law and being lauded for that. Imagine lynching is being advocated by our own Bachans, Mayavatis, Yadavs and Lobos. And when, in broad daylight and in the open, four Indian Citizen, not proven guilty and thus presumed to be innocent, are killed by the law enforcers, the killers are

hailed by the Chief Minister of the State. And, imagine, Mayavati asking U.P. police to get inspiration from the killer police of Telangana. Are we not witnessing today shrinking of democratic space in an increasingly authoritarian regime? They reminded me of Erich Honecker who was the dictator of East Germany. He had gone to an art exhibition. After the show was over, he told his Aide: “I liked the sculpture of the goat”. “Oh no, Sir”, said the Aide. “That was a mirror”. Alas we have no such Aides, though Erich Honeckers abound. Take, for example our gracious elegant Finance Minister who because she herself does not eat onions is wondering why citizens are crying over them. Does she not remind you of Marie Antoinette? The Queen of France. Talking about cakes and pastries when her people were dying of hunger. How innocent! And, then, we have a handsome Defence Minister. He goes all the way to France, not to receive the lethal fighter aircrafts, but to faithfully and prayfully place lemons under them so that they remain safe from enemy fire. What a defence!

So what our economy is in doldrums, our industry is gasping for breath, our young is unemployed. Have we not, to our credit, the scheme of free food to children in Government Schools? So what if instead of Daal and Sabzi they are served with salt and half a litre of milk is so mixed with water that it provides required minerals and proteins etc. to the entire school?

Hail. Rejoice. Ours has become the Rape Country of the world. Some achievement. No? The Rulers of the day are ruing about delays in trials and blaming the courts. Imagine, how innocently they are cheating you again. Why is a woman molested at all? Why investigations are fudged? Why there is no protection to the prosecution witnesses? Courts come much later. Who is to tell our 'great' rulers that it is the corrupt and inept administrative machinery to blame and not the Courts?

Unfortunately, and I dare say so, there has never been much respect for women in India. Look at Shakuntalam, Mahabharat, Ramayana. Look at Amrita Pritam and Ajeet Caur in Punjabi, Qurratulain Hyder in Urdu, Telugu writer Volga, Odiya writer Pratibha Ray. Who has heard their wail? Their voice of protest? A woman is made to marry five men [Mahabharta], a woman is impregnated by a Ruler and forgotten [Shakuntalam]. Remember Ek Chitda Sukh (1979) by Verma? Kaali Salwar by Manto? Women are human too with a beating heart. They too have their dreams and aspirations. They too need their own space to follow their inner quest. Virginia Woolf called it "a room of her own". Please touch your heart and tell. Did our great Pandavs not treat their wife as property? Putting her on stake and seeing her humiliated in public. Did Sita not suffer as a woman and a wife? Was Buddha kind to his Yashodhara by leaving her in pursuit of his own quest? And much thereafter was Mirabai treated as a

person searching for her own identity? The truth is we have failed her and at every step. We are raping her mentally and physically and as and when she protests we burn her alive. Whom are we trying to deceive by our lip service? Thanks to our shameless politicians, corrupt police machinery and inadequacy of judicial process, the culprits go free encouraged to repeat the crime. For the politician in power or yearning to be in power, a photo visit to the house of the victim with cameras flashing their lights is more than enough.

This is our *Bharat Mahaan*.

Justice Sachar having remained President of the Punjab High Court Bar, a Judge and then Chief Justice of a State knew well our judges and our judicial system. He often narrated the story of a Sarpanch. Allow me to repeat it. It goes as follows:

A potter's donkey was run over and killed by a speeding car. The potter approached the panchayat and claimed compensation saying what was killed was an elephant and that he needed to be compensated for the elephant. The owner of the car claimed to have accidentally killed a donkey only. The Sarpanch, after hearing the parties, decided in favour of the Potter holding that what was killed in the accident was not a donkey but an elephant. Obviously the Potter was very happy and blessed the Sarpanch and praised him over his very judicious approach to the case and while crying touched the feet of the Sarpanch. The Sarpanch asked why was he crying. Prompt came the reply from the Potter that in case of death of the Sarpanch whom will people look for such great justice. Of course, the Sarpanch assured him that there was no dearth of Sarpanchas like him. Thus ends the story as narrated by Justice Sachar. Here is my own addition. And I claim copyright over it.

A week or so after that great judgment the Potter again went to

the house of the Sarpanch crying loudly. Sarpanch asked for the reason. The Potter said that the car owner had filed an appeal and that he was crying because how was he to get a conscientious judge like him in appeal. The Sarpanch said: You are crying without a reason. Don't worry, the Appeal will also be heard by me. "How come", asked the Potter. "It is your judgment. How can you hear the Appeal against your own order." The Sarpanch laughed and laughed and said. "Don't you worry. Now there is a Supreme Court Judgment which allows me to hear the appeal against my own judgment". "But then" asked the Potter, "Will the lawyers not object?"

"Let them", said the Sarpanch. "In case they do object, I will threaten them with contempt of court".

Remember Shelley? The poet of all times? Here is what he wrote in *Rosalind and Helen*.

Fear not the tyrants shall rule for ever,

Or the priests of the bloody faith;

They stand on the brink of that mighty river.

Whose waves they have tainted with death.

Just look around. Administration is corrupt, police itself needs policing, Judiciary has lost its credibility, economy is in doledrums. What is prospering is propaganda machinery. Have you read Adolf Hitler's *Mein Kamph*? Read its Chapter 11 which deals with propaganda and organization and you will realize how faithfully it is being followed.

Education and educational institutions are under fire. After all they are breeding grounds of revolt against ignorance, against falsehood, against tyranny of all types and shapes. To achieve it, teacher is the first target. He must not have any communion that Martin Birber dreamt for. Sri Aurobindo may have longed for the union of "physical mental and psychic". It is no more acceptable.



Students must not protest. They must bow to a particular stream of thought, a particular political ideology. In short there has to be no liberty to see sunrise and no permission to admire sunset which

Jiddu Krishnamurthy wanted our children to have.

I would sum up by saying that we need more and more Indian citizens like Justice Sachar to quell this darkness and to kindle the path

of present and future generations.  
New Delhi

22<sup>nd</sup> December, 2019

**Justice Jaspal Singh (Retd.)** □

Press Note: Jaipur, 26<sup>th</sup> December, 2019

## **PUCL condemns strongly the Rearrest of Shahbaz Ahmed by the ATS, who was acquitted by the Jaipur Court in the bomb blast cases**

*It shows the vindictive and malicious attitude of the Jaipur police*

The PUCL is shocked at the vindictiveness of the Jaipur police who rearrested Shahbaz Ahmed son of Mumtaz Ahmed, a resident of Lucknow. He was an accused in the Jaipur bomb blast case since 2008 August, and on 18<sup>th</sup> December, 2019 he was acquitted by Jaipur Blast Court. After 11 years while giving the death sentence to 4 others, Salman, Saif, Saifi rehman, Sarwar.

Shahbaz had a production warrants for minor cases and therefore was not released immediately.

On Sunday the 25<sup>th</sup> December the

Rajasthan ATS police picked him up from the central Jail and arrested him in a case which did not get tried with the rest of the Bomb Blast cases. This is was an FIR of diffusing some bombs, on 13<sup>th</sup> May, 2008.

For 11 years Shahbaz and the four others, were in Jaipur Central Jail. Next to the office of the ATS. It's clear malafide of Jaipur ATS police to not investigate and charge sheet this case along with the other 8 cases. Were they not connected cases. Why was this case of diffusing the bomb left out. The world has to be told. Why the lack of transparency by the Jaipur police.

It's clear that the Jaipur police has operated maliciously and tried to

prevent the release of Shahbaz. They don't wish that he go back home and be a free man. It is clear to the PUCL that the Rajasthan police is trying to hide something, which is why it fears the release of Shahbaz Ahmed.

The PUCL sees this is an attack on Shahbaz's Constitutional and Human Rights

We condemn this malicious act and appeal to the Chief minister of Rajasthan who is also the Home Minister that he ensure the immediate release of Shahbaz.

The PUCL will move the NHRC and also assist the family in moving the highest court.

**Kavita Srivastava**, President, PUCL Rajasthan □

PUDR Statement: 26 December 2019

## **Bloody-Sunday 2019: Police Brutalities at Jamia University 13-15 December 2019**

A six-member team of PUDR conducted a four-day fact-finding from 16-19 December 2019 into the incidents of police brutalities at the campus of Jamia Milia Islamia University on 13 and 15 December 2019. The brutalities happened in the context of ongoing protests against the Citizenship (Amendment) Act 2019, passed by the Parliament on 11 December 2019. PUDR's report, "**Bloody Sunday 2019: Police Brutalities at Jamia University 13-15 December 2019**", based on our investigations, provides a picture of police terror and the police as a lawless force sanctioned to quell dissent. PUDR spoke to a number of students, teaching and non-teaching staff on campus; with

doctors, injured students, their parents; with local residents and their staff, eyewitnesses to different events. We also visited campus and found broken locks, empty tear-gas shells, broken windows and furniture, blood on the floor, among many other visible signs of the destruction of that night. The report provides an extensive, though not exhaustive account of the course of events from 13 December to frame the context for the ensuing violence on campus on 15 December.

The report finds that, prior to the incident of crackdown on 15 December, there had been a similar crackdown against protestors by the Delhi police in riot gear on 13 December, when the police

attempted to stop a rally comprising thousands of students and residents of neighbouring areas from marching to Parliament street to express their opposition to the CAA. At the time, the Delhi police used unauthorized and excessive force to restrain the rally from proceeding further, through indiscriminate lathi-charging, teargasing and destruction of public property in and around campus. At that time too, the Delhi police unauthorizedly entered campus, beat up students and destroyed property unrelated to the protest, and unlawfully detained many. The crackdown on 15 December was an escalation of the same strategy by the Delhi police to overpower students through

indiscriminate force.

On Sunday, the police again resorted to excessive lathi-charging and teargasing to restrain a thousand-strong rally of protestors from moving towards Mathura Road. The DGP (South East) claims that this was necessary to control a violent mob of protestors. But the *modus operandi* and nature of injuries on those admitted at hospitals for injuries during the violence indicate otherwise. Apart from confirmed bullet injuries and the use of approx. 400 tear gas shells, injuries were predominantly on the head, face or legs, showing intent to maim or cause maximum damage.

Further, the report finds that the use of force by the Delhi police inside campus, ostensibly to address stone-pelting from inside the gates, was entirely unauthorized and unjustified. The report details gruesome accounts of the police forcefully entering campus by breaking locks at gates, assaulting guards, breaking CCTV cameras, proceeding to indiscriminately lathi-charge, tear-gas, beat up, communally abuse and humiliate every single person- men and women alike- in their sight, and then to launch unprovoked attacks on students and workers unrelated to the protests in the libraries, mosques, bathrooms, gardens etc. This combative and communal treatment against students

continued at the police stations and hospitals where the injured had been admitted, as the Delhi police systematically obstructed and denied emergency and necessary medical care to dozens of injured, and unlawfully detained more than 50, and denied them legal aid. At all these times, students were continuously abused with communal slurs and threats. The intent appears to be to inflict maximum damage and terrorise the university, as opposed to one of minimum damage in efforts to control a violent assembly.

PUDR notes that since 15 December, the Delhi police has unleashed similar brutalities at both protestors and Muslim neighbourhoods across Delhi. The patterns have been similar: lathi-charge, tear-gas firing, followed by large-scale detentions, and denial of legal and medical aid to detainees. Between 13 and 23 December, about 1500 persons have been detained in Delhi under the cover of violence relating to anti-CAA protests. Protests have been disrupted at Jamia University (13 and 15 December), Arts Faculty DU (17 December), Red Fort and Mandi House (19 December), UP Bhawan (21 and 23 December) and Assam Bhawan (23 December). Targeted attacks at Muslim neighbourhoods were seen at Seelampur-Jaffrabad, Daryaganj and Seemapuri (20 December).

The most brutal of these were at Daryaganj where about 11-12 minors were detained at the police station until 3am, with denial of medical and legal aid. Preceding that had been brutal lathi-charges at protestors, with injuries reported mostly on the head. At least 1 minor had also been detained at Seemapuri thana on 20 December until late night hours, again without medical or legal aid for long hours.

FIRs have been registered against at least 40 persons who are presently in judicial custody, charges ranging from arson, to rioting, to unlawful assembly, destruction of public property etc., for incidents at Jamia University on 15 December, Seelampur, Seemapuri and Daryaganj on 20 December. PUDR investigations into these incidents are ongoing.

PUDR demands that an FIR must be registered against the Delhi police for brutal use of force in and around Jamia Millia Islamia University, and that a Commission of Inquiry be instituted to examine the unauthorised, unjustified and excessive use of force and wanton acts of destruction by the Delhi Police. PUDR further demands that the right of citizens to protest must be recognized as inalienable and the practice of routine refusal to grant permission must be stopped.

**Vikas and Radhika**, Secretaries, PUDR ☐

Note: Following the outburst of anti CAA Protests across India, Chennai too witnessed continuous protests led by young people – college youth, women professionals, members of the LGBTQ community, and numerous other groups. We carry below an article by Gayatri Khandhadai, one of the key organisers of the protests, who was arrested by the Chennai Police for a unique form of protest – for drawing anti-CAA slogans in 'Kolams' or 'Rangoli' which is a traditional cultural practice in December – January period in Chennai, when people use rice flour and coloured rangoli powder to draw 'kolams' in front of their houses. Gayatri and a number of her colleagues were falsely arrested by the Chennai police in the early hours of the morning; lawyers who went to enquire about their arrests were themselves arrested. However when hundreds of ordinary citizens gathered outside Besant nagar Police Station in South Chennai, the police beat a hasty retreat and released them.

### **Anti CAA Protests in Chennai: The fraud on Chennai and irony of AIADMK's Claim to Anna's Legacy Gayatri Khandhadai\***

Citizens across the nation are out on the streets fighting fascist policy making - demanding the repeal of the Citizenship Amendment Act (CAA), National Population Register (NPR) and the National Register of Citizens (NRC).

Meanwhile, the city of Chennai has woken up to the rude reality that we now need to fight for our basic right to protest.

In a city which has long been the epicenter of revolutions in the name of social justice and political reform,

it's residents are forced to watch on the sidelines as the nation takes on hate and discrimination. This is the result of the Commissioner of Police in Chennai putting in place prohibitory orders under Section 41 of the Chennai City Police Act from

13 January to 28 January citing traffic and law and order concerns. This is not new, such orders have been consecutively in place for several years according to multiple sources.

Chennai has effectively been labouring in a state of undeclared emergency - this fact has come into sharper relief over the past few weeks. Since mid December 2019, hundreds of citizens have been temporarily detained, foreigners have been deported, meaningless FIRs were filed against thousands of unnamed individuals, false allegations have been foisted against peaceful protesters and women have been maligned with tags of anti-nationalism. The message has been loud and clear. Forget rallies, you will not be allowed to draw even Kolams if you oppose the establishment. Indisputably, we are now at a place where political diktat trumps rule of law or citizen's rights.

Unsurprisingly, there have been no reported instances of detention from any of the pro-CAA gatherings. Technically, these are unlawful assemblies as well. Were we living in times where the law applies equally to all, we could have expected some semblance of parity in treatment. But this has not been the case. For instance, members of the Tamil Nadu Brahmin Association (TAMBRAS) were allowed to gather near Valluvar Kottam on 12<sup>th</sup> January 2020 to express their support for CAA. In contrast, citizens who sought to gather at the same venue the next day to oppose CAA were brutally manhandled and kept in preventive detention.

This has an interesting parallel in the history of Dravidian politics. 62 years ago, on 3 January 1958, Annadurai was detained for proceeding towards a public meeting. This meeting was to take place at the Marina Beach to challenge Brahminical repression and Hindi imposition. The then Commissioner of Police had issued

an order banning all assemblies citing law and order for the period during which this meeting was to take place. Under the caption "My Duty" Anna wrote that he was determined to break the ban and address the meeting. He further wrote to his followers, that in the event of his arrest, they should restrain themselves. Asking them to overcome their anger, he requested them to behave non-violently - in a manner worthy of Tamizh culture. The women and youth of Chennai, braving the arbitrary actions of the police, are essentially walking the path that Annadurai paved. It is ironical that citizens following in the footsteps of his rich legacy are being put on trial by none other than the All India Anna Dravida Munnetra Kazhagam.

Anna went on to fight the case in the High Court of Madras. He emphatically stated that the bans imposed on protests under the then Section 41 of the Madras City Police Act, 1888 (now Chennai City Police Act) were squarely in violation of his fundamental right to assembly guaranteed by the Constitution of India. On the limited question of the lack of stipulation of time period for such prohibitory orders, the court in C.N. Annadurai And Ors. vs Unknown (AIR 1959 Mad 63), upheld the validity of the Act. The Court, however, observed and recorded the need for amendments to the Act. Anna's position was that the restrictions imposed under Section 41 were unreasonable and arbitrary as they conferred autocratic, unlimited and absolute powers on a police officer, namely the Commissioner of Police. This is essentially what we have as a revised Section 41 of the Chennai City Police Act today, which too is fraught with several problems. In my view, parts of the provision, as it stands today, are indeed ultra vires the Constitution.

The Section 41 of the Act, is clear in its intention. Unless there are specific grounds on which the

Commissioner puts in place an extraordinary prohibition under Section 41(2), all individuals are entitled to peacefully protest. The only power bestowed on the authorities is regulation, and regulation does not entail prohibition. In fact, the only circumstance under which a notice or prior intimation of 24 hours is envisaged to the local police station is when one intends to carry out a procession.

The repeated promulgation of unreasoned and unpublished prohibitory orders, under the emergency and Section 144 of the CrPC like provision of Section 41(2) of the Chennai City Police Act, is nothing short of an absolute abuse of power. It is shocking to witness the cavalier manner in which unacceptable curtailment of our fundamental rights under Article 191(1)(b) of the Constitution is unfolding. Beyond the violation of our fundamental rights, these actions are a hurdle to the discharge a range of our fundamental duties under Article 51A of the Constitution. Particularly our duty to cherish and follow the noble ideals which inspired our national struggle for freedom and the duty to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities.

The police and the state government have systematically robbed the ability of ordinary citizens to organise themselves and raise issues that are important to us. We are left at the mercy of unions, political parties and other organised groups that have the ability and infrastructure to negotiate permission or other arrangements with the police to make available a space for us to speak up. This has also eradicated the importance of spontaneous assemblies on important developments or the ability of individuals to organise counter

assemblies. While detentions have not taken place in the past weeks in cases where the protests are organised by political parties, repeatedly citizens have been detained. This is especially the case when the gathering is of a smaller number. The state has reduced the right to assembly without arbitrary police action to a numbers game, where the concerns of a smaller gathering of citizens is sought to be squashed.

Essentially, the Commissioner with the tacit support or under the direct diktat of the State Government has kept the city of Chennai under a

permanent state of undeclared emergency, curating protests. These prohibitory orders neither carry material facts necessitating them nor are they published in a meaningful way. This leaves citizens in a vulnerable position where we are unable to distinguish between lawful and unlawful assemblies, forcing us to come out and exercise our democratic rights at the risk of detention, harassment and much more. We are all complicit in having allowed this illegal and illegitimate repression go on unchallenged.

All this begs a simple question. If,

the AIADMK stakes claim to his name, must they not also defend his legacy of defending the right to protest? Anna may have been abandoned by the AIADMK, but he belongs to all of us. We will continue to walk the path of Periyar, Anna and the many others that came before and after them to challenge oppression.

*\*Gayatri Khandhadai is a lawyer with expertise in international law and human rights. Currently, her work is centred on the intersection of human rights and technology, with a specific focus on freedom of expression, assembly and association with freedom of religion in online spaces. □*

**PUCL Karnataka:**

## **Report of the incidence of Alambadi Kavalu village, KR pet Tq, Mandya District**

Why the outrage? The outburst of the Hindu outfits opposing the grant of bail for the 16 PFI activists who were arrested for 'suspicious activities' at Alambadi Kavalu village of KR pet taluk, Mandya district prompted us, the human rights groups to investigate the incidence. A delegation of members from Peoples Union for Civil liberties (PUCL), All India Progressive Front (AIPF), National Council of Human Rights Organization (NCRHO) and Raitha Sangha on 01-11-2019, visited the KR pet town for the purpose of investigation. The team visited, the Gulshan Khadri Darga at Alambadi Kavalu village, which is about 20 Km from the town. The team also went to the sugar cane field behind the darga where the alleged incident happened. Later the team met the elders of the Alambadi Kavalu village. Even one of the parents of the accused met us. On returning to KR pet town the team met the Circle Inspector of police and also the accused youth who were on bail.

The incident: On 27-10-2019 16 PFI activists around 8.30 am assembled at Gulshan Khadri darga of Alambadi Kavalu village to practice for parade for the upcoming event in February 17, 2020, the foundation day of PFI. Since the ground of Darga and the adjacent field was uneven, not fit for the parade, the activists choose the sugar cane field behind the Darga, for the practice. Around 10.30am they

sat for breakfast. All of a sudden an armed contingent of police landed at the spot. They rounded off the activists. A police man with rifle asked these activists to run and threatened to encounter. Nobody ran! They searched not only the sugarcane field but the entire area for weapons and suspicious materials. Later police took activists into their custody, were then taken to remote place, subjected them to intense questioning (some of them alleged physical torture by police). They were then brought back to KR pet, around 5.30pm, the police filed FIR. They were later produced before the Magistrate. He remanded them to police custody to be lodged in Mandya sub-jail. The next day lawyers from Bangalore came to apply bail for these activists, when the Hindu outfits' activists tried to prevent the lawyers from entering the court premises. However, timely intervention of police prevented any untoward incidence. There was a KR pet bundh call by these Hindu outfits. PFI: All over the state the PFI had been conducting conferences. Such conferences were held in Davengere, Ramanagar, Sulya, Mysore, Hunsur and many districts. Disciplined parade was one of the activities of these conferences. Young activists are given disciplinary trainings for the success of parade during the event of the conference. This was one such activity!

The facts of the incidence: We were told by the village elders that the boys were conducting disciplined parade practice and nothing suspicious about it. The police also agreed with the villager's version. They could not get any weapon or suspicious materials in possession from the accused. The police had even searched some of the houses of the accused. They could not get any weapons or suspicious material. Only offence, if any, was that the activists had not taken permission from police and the owner of the sugarcane field to conduct the parade practice. All the accused have been released on bail. The PFI activists were in the age group of 20 to 23yrs. Many were self employed engaged in tailoring, workers in garage, cycle repair shops and the kind. They also alleged police torture. The intervention: The team was collecting facts from the PFI activists who were on bail at IB at KR pet. At this time very intriguing and unfortunate incidence happened. Somebody locked the door of the room where we were sitting and were holding discussion. When we objected repeatedly & loudly, door opened a person came in, accompanied with few persons, shouting at us indulging in shooting the video on his mobile. When we objected to his video graph, he was adamant was using foul language. Local rythu sangha activists and the

intruder exchanged words heatedly. Later the circle Inspector came and took the person (Manja RSS, a journalist) and apologised to our team for the inconvenience!

Opinion of the team: This incidence indicates that activities of a community are closely being watched by communal forces. On slightest pretence rumours & concocted news become the rallying point for communalising and thus vandalising by these outfits. This is

also the place where by poll is due. Intolerance is being systematically built in. Unless the District takes note of the activities of the majority outfits, no incidence may be blown into out of proportions, thus targeting the youth of a community. The right wing activists seem to be over active in preventing the HR groups from conducting fact finding missions, by threatening the delegates of the team and thus the general public. KR pet is known for peace, tranquillity and has

history of communal harmony. The history of coexistence & harmony should not be disturbed by these right wing evil forces.

FF team: Dr V. Lakshminarayana AIPF, Prof Panditharadhya, Mr Basavaraju GP, Dr E Rati Rao of PUCL, Mr Mohammad Kakkinje NCHRO, Mr Raju gowda & Mr Jairam of Raitha sangha.

**E Rati Rao**

Dated: 09-12-2019 ☐

## Condolence Messages

**Seema Azad** : Oh, heartfelt condolences

☐☐☐

A sad news. He contributed a lot in strengthening PUCL in its early phase in eighties in erstwhile Madhya Pradesh and later on in Chhattisgarh. He was also Secretary of Madhya Pradesh unit of Citizens For Democracy during that early phase. I cherish vivid memory of travelling with him on some occasions in MP of that phase investigating police atrocities and also participating with him in campaigns organized by Shankar Guha Niyogi. His demise is a great loss to civil liberty movement in general and PUCL in particular. I share the grief and my deepest condolence to the family. **N.D.Pancholi**, National Vice-president, PUCL.

☐☐☐

**Kavita Srivastava**, Secretary, National PUCL: Very sad. I remember spending so much time too with him, since 2007 onwards. My last conversation with him was when they came after ms. Jaising and Anand and he told me that she travelled frequently from Delhi to Jabalpur to argue the case of contempt lodged against him by the company mafia, against whom Shanker guha niyogi had waged a struggle and they had killed him.

So he wanted regular updates, but was in the middle of all this that he took seriously ill and then there was no communication.

☐☐☐

**Prabhakar Sinha**, former president, National PUCL: I am shocked to learn of Sailji's death. I had met him first at the PUCL convention at Jabalpur in 1984. His dynamism was astonishing. He had hosted the convention at Jabalpur though he was living at Raipur. I had been meeting him from time to time at PUCL meetings at different places. His spirit was very inspiring and never low. His loss is irreparable.

☐☐☐

Shocked to learn about the sad demise of our veteran HR activist Shri Sail at Raipur. This is an irreparable loss to the HR movement in the country. Heartfelt condolences. **Radhakant Saxena**, Former Vice President, National PUCL.

☐☐☐

**Sr. Carol Geeta** : Heartfelt condolences.

☐☐☐

**Anant Bhatnagar** : Very sad to know. Heartfelt condolences

☐☐☐

**Mihir Desai** : My condolence

☐☐☐

**D.M.Soloman** : RIP. A Very Inspiring human never compromising on Democratic rights. May we walk in the path trodded by Sail.

☐☐☐

**Sarfaraz**, GS Bihar PUCL: Very sad news

☐☐☐

**Arvind Avinash** : Very sad to know. We have lost our veteran fighter. My Condolences

☐☐☐

**Shravanan K** : Our deep condolences!

☐☐☐

**Rohit Prajapati** : Very sad, Salute and Zindabad.

☐☐☐

## From the horse's mouth: MHA releases data on deportations and illegal immigration<sup>1</sup>

Sanchita Kadam, Sabrang

*A collation of data provided by MHA from time to time in the Parliament on number of illegal immigrants, deportations and citizenship granted to immigrants*

The Modi 2.0 government has had two sessions in the Parliament and has been in power for 6 months. In this short stint so far, the ruling government's actions have spread continued discontent among its populace. First major step was the effectual revocation of Article 370 of Indian Constitution and reorganisation of the state of Jammu and Kashmir and effecting a communication blockade in the Kashmir valley.

Secondly, the Citizenship Amendment Bill was introduced and passed by both houses of Parliament in December 2019, thus the bill has now become a law effective January 10, 2020. The law enables grant of citizenship to Hindus, Parsis, Sikhs, Jains, Buddhists and Christians from Pakistan, Bangladesh and Afghanistan. The law categorically excludes Muslims from its purview and this has been seen as a divisive policy of the government. Before the passage of the bill, it was also introduced in the previous stint of the government, i.e. in 2016 but the same had lapsed in 2019 as Lok Sabha had dissolved due to end of its tenure.

It was expected that in their new tenure as well they will introduce the law and hence the parliamentary sessions of 2019 saw quite a few questions on illegal intrusions and deportations taken place on the Indian soil, some questions were trying to get an estimate of number of illegal immigrants in the country while some were trying to gauge whether this law was really necessary.

Number of illegal migrants: A common thread or piece of information that has been consistent throughout the year, is the answer on number of illegal migrants from Pakistan, Afghanistan and Bangladesh. The government, rather the Ministry of Home Affairs (MHA) has consistently maintained that there is no accurate data on data of number of illegal migrants in the

country. Ideally an estimate can be made basis the number of cases filed under the Foreigners Act which is the statutory sanction for booking illegal migrants and making them undergo trial. However, the MHA has maintained that they have no data on this as such data has not been maintained.

Ideally for a government claiming that so many people have fled these 3 "Islamic" countries to India to find safe harbour from the religious persecutions in their home countries, they should have first gathered the data on number of such migrants actually present in the country, if they have managed to nab any. It appears therefore, that the law has been made for the benefit of an unspecified set of people, while the government is either unaware how many such people exist in the country or is hiding such figures from its citizenry.

The MHA however, did provide data on Afghan and Pakistani nationals belonging to religious minorities, living in India on long term basis. Per MHA, 41,331 Pak nationals and 4193 Afghan nationals belonging to religious minorities have been reported to be living in India on Long term basis as on December 31, 2018. This data however indicates people from these countries living in India on legal terms, probably on basis of Long Term Visas (LTV).

Deportations from India: Before the six non-Muslim communities could seek refuge and citizenship in India, they have been deported over the years as per the law of the land. Since the data on the religious background of such deported individuals is not available, it is impossible to ascertain how many people of these communities have already been sent back and hence do not stand to benefit from the new law, now known as Citizenship Amendment Act (CAA).

The Central Government is vested with powers to deport a foreign

national illegally staying in the country under Section 3(2) (c) of the Foreigners Act, 1946. These powers to identify and deport illegally staying Bangladeshi Nationals have also been delegated to the State Governments/Union Territory Administrations. Detection and deportation of such illegal immigrants is a continuous process. Details of such deportation orders issued by the State Governments/UT administrations are not centrally maintained.

Official data from MHA, as presented in Parliament in 2019: Karnataka has registered 143 cases against illegal immigration and so far 114 persons staying in Karnataka have been deported.

The latest data on number of inmates in 6 detention camps in Assam is as of November 28 and stands at 970. This number does not indicate that these many people are illegal migrants, nor do they indicate that only these many people have been deemed to be illegal migrants in Assam. For now, there is no definite figure on this number even in the state of Assam. From Assam alone, 6 persons have been deported in 2019 and 227 have been deported (starting range not known) as on December 5, 2019.

The Border Security Force (BSF) has been given the authority to detain people who are caught illegally crossing the border between India and Bangladesh and deport them back to Bangladesh. People who illegally enter India from Bangladesh are being arrested/intercepted by BSF/State/UT Police and after completion of legal action against them, are being deported to Bangladesh. The deported persons are handed over at the border to Bangladeshi officials who ensure that the repatriated persons are sent home.

As per MHA, BSF has deported 1,154 people till October 31, 2019 in

that year alone. Cumulative data of last 5 years suggests that from 2015 to October 31, 2019, a total of 8,948 persons have been deported to Bangladesh, as a result of having been apprehended on the Indo-Bangladesh border.

While Bureau of Immigration's data suggests that 1,731 foreigners/immigrants were deported to various countries in 2018, BSF data suggests that in 2018, 1,118 persons have been deported across the Bangladesh border. Which means that out of the total 1,731 deportations in 2018, 1,118 deportations have been made to Bangladesh alone. The Bureau of Immigration's data remains consistent with data provided by Foreigners Regional Registration Officers (FRROs), while the office of FRRO also provided deportation data for 2016 which stands at 2,476 and for 2017 which stands at 2,272.

As per the Annual Report 2018-19 released by the Ministry of Home

Affairs, in a span of 15 months from January 2018 to March 2019, a total of 1,982 foreigners were deported by the FRRO and out of these deported persons, 491 were from Bangladesh and the rest from African countries of Nigerai Somalia.

Citizenship Granted: As per data provided by MHA, 391 Afghani and 1595 Pakistani migrants, have been granted Indian Citizenship between 2016 and 2018. In 2019, 40 Afghani and 712 Pakistani migrants, have been granted Indian Citizenship till 6th December 2019. A total of 927 Sikhs and Hindus (separate figures not known) from both Afghanistan and Pakistan have been granted citizenship since 2018.

As per data provided by MHA in July, 2019, it has specified that Collectors of 16 districts including three Districts of Jodhpur, Jaisalmer and Jaipur in the State of Rajasthan and Secretary (Home) of the seven states including the state of Rajasthan would exercise powers of the Central Govt. to grant

Indian citizenship by registration or naturalization to legal migrants belonging to six minority communities namely Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Pakistan, Afghanistan and Bangladesh. This was done as per powers conferred on the government under section 16 of the Citizenship Act, 1955. Section 16 of the Act is a provision for delegation of power by the Central Government to any officer or authority as it may deem necessary. But the government can only delegate a power that it possesses or has been conferred upon it as per the Act. The act, at that time did not have the provision of providing citizenship to migrants belonging to the 6 specified communities. Yet, Rajasthan government and District Collectors of Jodhpur, Jaisalmer and Jaipur granted citizenships to people from these six non-Muslim communities much before the Citizenship Amendment Bill was even introduced in the Parliament. The data provided is as follows:Very saddened to share

Granting Authority	No. of Citizenship Cases Granted
Government of Rajasthan	82
District Collector, Jodhpur	1113
District Collector, Jaisalmer	7
District Collector, Jaipur	108

In conclusion, one can infer that the government may not have or is perhaps unwilling to release the data on the number of possible beneficiaries of its new amendment to the Citizenship Act. The law can be

said to have been formulated without having a data set on the number of people who stand to benefit from it, while the BJP leaders go about claiming from time to time that scores of illegal immigrants from

Bangladesh are settled in India.

<https://www.sabrangindia.in/article/horres-mouth-mha-releases-data-deportations-and-illegal-immigration@14Jan2020> □

## Mangaluru: Interim Report of the Fact-finding Team into Police Excesses in Mangaluru during the Anti-CAA Protests

Priyanka Kavish, 04 Jan 2020, Sabrang

To curb dissent and instill fear, the government had used strong-arm tactics against the protestors, with the police resorting to lathi charge, tear gas lobbing and firing at innocents

India has been gripped with vehement protests against the Citizenship Amendment Act (CAA). From Assam to Delhi, from Uttar Pradesh to Maharashtra and from Karnataka to West Bengal, there

have been continuous protests by students, civilians and activists alike that have invited the ire of a baffled and shocked Central government that had not expected such large-scale protests to take place in the nation.

To curb dissent and instill fear, the government had used strong-arm tactics against the protestors, with the police resorting to lathi charge, tear gas lobbing and firing at

innocents. In the aftermath of this, Assam saw the death of 5 people, UP around 18 and Mangaluru 2.

On December 19, 2019 there were anti-CAA/ NPR protests held in Mangaluru city that were met with police action. Two people were killed in Mangaluru in police firing after protests allegedly turned violent, and scores were injured, properties were damaged and several criminal cases were filed

and with people also being arrested. Some journalists too were at the receiving end of police violence, while several journalists, especially from Kerala based media, were also detained by the police and later released. The State Government and the police claims that there was no police excess and that all actions by the police and district administration was in accordance with law, whereas the civil society organizations and the opposition have refuted the same, and believe that the police action was excessive, biased and specifically targeted the Muslim community.

After this incident, Karnataka CM announced a compensation of Rs. 10 lakh for the families for each of the deceased, only to withdraw it later. He also accused the people who had come in from Kerala for allegedly setting a police station ablaze and damaging public property after which the Kerala government intervened to make a safe passage for the people to get back to their home state.

A team of human right and civil liberty activists from Karnataka, Kerala and Delhi conducted a fact-finding exercise to unearth the realities of the happenings of the events that took place in Mangaluru, Karnataka on December 19, 2019. They met with the families of the deceased, other injured and their families, shopkeepers in the State Bank and Bunder area, administration and others in the Ibrahim Khaleel mosque, met the administration of Highland Hospital and District Medical Officer, Dr. Rajeshwari Devi of Wenlock Hospital, met Shri Madan Mohan, Assistant Commissioner, and Dr. P.S. Harsha, Commissioner of Police.

After going through gathered evidence (videos and photos), they have conclusively determined certain aspects of the incidents that occurred through the day of December the 19th.

They found out that heavy police

deployment, including that of external KSRP forces was in place with preparations of arrangement of sand bags and riot gear being undertaken at the location.

The first incident appeared to have occurred around 1.30 pm, when a handful of youth attempted to protest against the CAA but were dispersed by the police, which used excessive violence against them. From the videos circulating widely, it is apparent that their number was not more than 150 and that they were only shouting slogans. The protesters were violently thrashed, kicked, pushed around and abused before being thrown into police vans without any provocation in a premeditated manner. The police came down upon them with disproportionate force and violence.

The team found out that there was some confusion amongst the youth about whether or not the protest announced for that day had been cancelled, as the message of cancellation issued after imposition of prohibitory orders under section 144 had not circulated to all.

The police then went on a rampage and stormed into shops in the vicinity, pulling out people, selectively attacking Muslims. At around 4 pm, a team of police attacked Ibrahim Khaleel mosque where about 80 persons were praying peacefully. The police apparently sought to chase certain youth into the said mosque and then initiated an indiscriminate attack upon the mosque. The police launched an attack of stones and teargas through and above the slats of the mosque gate, causing havoc and confusion.

When the infuriated youth retaliated with intermittent stone pelting, the leaders of the community were brought in by the police to calm the situation. It was during this time, that the former mayor of Mangaluru was hurt on the head by the police which again aggravated the situation.

At this point, the police began indiscriminate firing of guns and teargas. Two innocent bystanders were killed during this firing, both of which took place on Azizuddin Road, where the Mangaluru North Police Station is located. One of them was a 42-year old father of two and daily wage earner on the docks, who had stepped out of his house to offer Namaz. There was no mob present, yet tear gas and bullets was being fired into the road, one of which hit Abdul Jaleel in the head. In another incident on another end of Azizuddin Road, 23-year old Nausheen who was attempting to return home from the workshop he was working at, fell prey to the blind and indiscriminate firing when a bullet hit him in his midriff. Highland Hospital where many of the seriously injured were admitted, reported that there were 5 persons admitted with bullet and shell linked injuries.

Both were declared dead when they were on arrival by the Highland Hospital. Jaleel and Nausheen's families filed complaints with the State Human Rights Commission (SHRC) and the hospital administration filed a complaint and wanted action to be taken against the responsible personnel but no action was taken in this regard.

However, the police even attacked the Highland Hospital demanding that the bodies be handed over to them as they were Medico Legal Cases (MLCs). The police upon arrival at the hospital were faced by an angry group of mourners, who pelted stones at the police outside the hospital. The police engaged in lathi charge outside the hospital. They did not stop there. The police then fired tear gas within the hospital compound and proceeded to storm the hospital. They tried to barge into patient rooms including the ICU.

The team also spoke to Dr. Rajeshwari Devi, District Medical Officer, Wenlock Hospital. She informed us that on 19<sup>th</sup> December, 66 people were treated in the OPD



of which 26 were civilians and 42 were police persons. Police continued to get treatment from the OPD till the 22nd of December. Apparently there were conscious attempts on the part of the police to make it appear that the number of policemen injured by the alleged stone pelting by the mob outnumbered civilians who suffered injuries from violence by police. The cases of police treated in Wenlock were mostly related to bruises, lacerations, contusions and swelling. There were 2 cases of bullet injuries in which one of the victims admitted took discharge immediately.

On December 20, 2019 too, the

police beat up people who came out of the masjid after their offering their prayers. The curfew had been lifted during those hours (12:00 PM to 2:00 PM) and when the people questioned the police as to why they were beaten up, the police simply said that they did not know of the curfew being revoked.

The police also targeted shops and street stalls owned by the Muslim community. Some open FIRs mention the accused as 'Unknown Muslim Youth'. The attack on the masjid and people coming out of the masjid, that all who were admitted either for bullet/shell injuries and severe injuries due to lathi charge even on those alighting

from buses, were all Muslim indicates that the police force has been communalized.

Within 2 days of the incidents, all the CCTV DVRs have been taken away by the police. Based on the criticism that the police have already faced, it is alleged that this was done in an attempt by the police to cover their tracks. Similarly, on the matter of the internet ban, it appears that it was done only to prevent videos about the police violence from being circulated.

For the Conclusions and demands see the next article. □

*Excerpts from Fact Finding Team of PUCL and other rights organisation: For the full report contact <puclnat@gmail.com>*

## **“Police Excesses in Mangaluru on December 19, 2019”**

**Excerpts from the Final Report of Fact Finding Team, 20<sup>th</sup> January, 2020**

Introduction: On December 19, 2019 there was a protest against Citizenship Amendment Act, 2019/National Population Register/National Register of Citizens in Mangaluru city that was met with police action. Two people were killed during the police firing after protests allegedly turned violent, while scores were injured and several criminal cases were filed, and several people were arrested. Some journalists too were at the receiving end of police violence, while several journalists, especially from Kerala based media, were also detained by the police and later released. The State Government and the police claim that there was no police excess and that all actions by the police and district administration was in accordance with law, whereas the civil society organizations and the opposition have refuted the same, and believe that the police action was excessive, biased and specifically targeted the Muslim community.

In the wake of this, the Chief Minister initially declared a compensation of Rs. Ten Lakh each for the families of the deceased, only to later withdraw the same. The Home Minister Basavaraj Bommai has claimed that, “People who had come from Kerala to participate in the protest also tried

to set fire to a police station in Mangaluru and damaged public property. To control the mob, police had to use force”. All those arrested to date are locals from Mangaluru, and not a single person from Kerala is charged in any of the FIRs. The state government on its part has initiated a magisterial enquiry into the violence. Thus it was seen that there was no consistency in the response of various functionaries of the State Government as detailed further in this report.

The Fact Finding Team: The incidents of December 19, 2019 have shocked the conscience of the people of Karnataka. A Team of human rights and civil liberty activists from Karnataka, Kerala, Tamil Nadu and Delhi consisting of Avani Chokshi, Clifton D' Rozario, Swathi Seshadri, Venugopalan K.M. and (All India People's Forum (AIPF)), Himanshu Kumar, Panditaradhya, Venkatraju, YJ Rajendra and (All People's Union of Civil Liberties (PUCL)), Mohammed Nowfal and Umar Farouq (both National Coordination of Human Rights Organisations (NCHRO)) was constituted to conduct a fact finding into the same on January 1-2, 2020. The following were the terms of reference of the Fact Finding:

1. Clamping of Section 144 in Mangaluru – reasons and legality.
2. Incident at Mangaluru North police station (also known as Bundar police station) leading to the killing of two persons - Abdul Jaleel (42) & Nausheen (23).
3. Protest held at State Bank area, close to the Deputy Commissioner's office (where protests had been taking place all week) and the lathi charge here.
4. Incident of former Mayor Ashraf being brought in by the police to convince protesters and injury sustained by him.
5. Video where a higher police official can be seen stating in Kannada that roughly translates to “Why even after shots were fired not a single bullet hit and no one killed?”
6. Incident of the police entering Highlands hospital at 6:56 pm.
7. News reports indicate that over 60 people were identified and detained by the cops after the December 19 violence.
8. Arrest and detention of journalists including Mujeeb and his cameraman Pratheesh, Media One reporter Shameer, his cameraman Aneesh, News 24

reporter Anand, his cameraman Ranjith, News 18 cameraman Sumesh and Media One driver Salik.

9. Journalists beaten up including Ismail Zoarez, journalist working for Varthabharati's English web portal.
10. Police entering into, and firing teargas shells, in Masjid Ibrahim Khaleel, near Deputy Commissioner's office.
11. Injuries to 66 policemen and their treatment at Wenlock Hospital, (the government-run district hospital) on December 23, including Gangaiyya Naik and Satish, who had serious injuries.
12. Internet ban from the night of 19th December for 48 hours and imposition of curfew till midnight of December 22.
13. Registration of 8 separate FIRs across different police stations of Mangaluru city, in which 78 people have been named and another 1,145 "unknown persons" are mentioned in the FIRs.

**Conclusion and Demands:** The events that transpired on December 19, 2019 undermines the very basis of Constitutional democracy. What started off as a protest by a small group of 100-150 persons shouting slogans snowballed into a catastrophe costing the lives of two persons and serious injuries to several others. The violence was instigated by the police given that the number of protestors was very small and could have been easily dealt. The actions of the police were to instigate and provoke the protestors, who indulged in stone pelting, which was then met with disproportionate use of force on the part of the police. That the police has blatantly displayed it communal mindset as it consciously targeted the Muslim community does not augur well for the future in Mangaluru. As various Dalit activists and progressive people said, sections of Hindus, even in Mangaluru, are hurt by this entire incident since it is seen not just as an attack on Muslims, but on democracy and the rule of law.

The policing of protest mirrors an aspect of the relationship between the state and society. Existing

research on state repression typically points out that authoritarian governments and dictatorships are prone to unrestrained use of force against dissidents, implying that democratic governments should consistently avoid forceful handling of protesters, principally due to their observance of human rights principles and the existence of political infrastructure governing police accountability<sup>1</sup>.

One of the Human Rights activists told the Team that even assuming that a mob had gathered, it was a small mob, and any responsible police official understands mob mentality i.e. the mob acts in a particular way when the police is friendly to their cause, and in another when it is inimical. Similarly the mob acts in a particular way when the police functions within its bounds and respects the right to protest, and in another way otherwise.

The testimonies of the victims and the videos leaves no option but to conclude that the police action was communal, premeditated, disproportionate and in total violation of constitutional norms and human rights principles. As a Dalit activist put it, the actions of the police were excessive, draconian and unacceptable; the imposing of section 144, lathi charge and firing was a classic case of police high-handedness with the deliberate intention to target the Muslim community.

The death of two innocents, who were, from all accounts, bystanders raises the very serious question of the continuation of the use of police firing or "fatal force" by the police against protestors. This is especially so, since the Mangaluru police failed to stick to the standard operating protocol mandated by the Police Manual.

This incident again brings to the fore the "noxious colonial practice of firing on unarmed people", which is inextricably linked to its control over and management of political expression in India<sup>2</sup>. Surely, constitutional, human and fundamental rights have evolved enough since to include the right not to be fired upon with fatal intent and effect. Courts have held that the

doctrine of progressive realization of rights, as a natural corollary, gives birth to the doctrine of non-retrogression, which sets forth that the State should not take measures or steps that deliberately lead to retrogression on the enjoyment of rights either under the Constitution or otherwise<sup>3</sup>.

Viewed in this perspective, the actions of the police are contrary to the rule of law and in blatant violation of the people's rights and cannot be countenanced.

Demands based on the testimonies, observations and to ensure that justice is upheld, below are our demands:

1. Order a judicial enquiry into the events of 19th December, including the police firing and police and the police barging into Masjid Ibrahim Khaleel and Highland Hospital. Pending the completion of such enquiry, the police officials of Mangaluru North and South P.S. must be transferred.
2. Immediately suspend Dr. P.S. Harsha, Commissioner of Police, Mangaluru, for dereliction of duty in handling the situation leading to deaths, police excesses, false cases.
3. Immediately suspend Shantaram Kunder, Inspector, Kadri Police Station, for the undisputed statement made by him captured on video.
4. Order ex-gratia compensation of Ten Lakh Rupees to the families of each of the deceased victims.
5. To assuage the feeling of deep hurt that has been caused on account of fabricated open FIRs being lodged in various police stations, it is just and necessary that the said FIRs ought to be closed and all persons arrested on the basis of these FIRs be released.
6. Similarly, the FIRs that have been lodged against various predominantly Muslim persons for having exposed the correct situation in Mangalore on social media must also be closed.
7. State Government shall bear the expenses of all the injured victims, including the three patients in Highland Hospital

whose condition seriously deteriorated on account of the tear gas fired by the police.

8. State government and the police department must immediately undertake necessary reforms to address communalisation of the police force.
9. FIRs should be registered on the

complaints filed by the families of the two deceased and others injured in police violence.

10. Comply with the directions of the P U C L vs. State of Maharashtra<sup>35</sup> judgment on extra-judicial killings.

<sup>1</sup>*“Articulation of Legitimacy: A Theoretical Note on Confrontational*

*and Nonconfrontational Approaches to Protest Policing” Janjira Sombatpoonsiri*

<sup>2</sup>*“Reflections on the Use of Fatal Force by the Indian State: Colonial and Postcolonial Legalities” Arvind Narrain*

<sup>3</sup>*Navtej Singh Johar, v. Union of India [(2018) 10 SCC 1] 449.*

PUDR Press Statement: 2<sup>nd</sup> December 2019

## PUDR Condemns the Passage of the Transgender Persons (Protection of Rights) Bill 2019

PUDR condemns the passage of The Transgender Persons (Protection of Rights) Bill 2019 by the Rajya Sabha on 26 November 2019. The Lok Sabha had earlier passed the Bill in the Monsoon session on 5 August 2019 amid the chaos relating to the unannounced abrogation of Article 370. Presently pending Presidential assent, the Parliament has completely ignored mass opposition and protests by queer and trans groups since last year in passing the Bill. The result is a law that violates the constitutional rights to self-determine one's gender and guarantees of equality, and also increases the policing and criminalisation of transpersons.

The 2014 Supreme Court judgment in *NALSA vs Union of India*<sup>1</sup> upheld the self-determination of gender as lying at the heart of fundamental right to dignity and liberty under Article 21. The Bill, however, requires transpersons to apply to the District Magistrate for a certificate of identity, subject to whatever procedure the government may decide from time to time, perpetuating the systemic pathologisation and harassment of transpersons. The Bill perpetuates discrimination and policing of transpersons, while denying them protection under the criminal justice system. Sexual assault upon transpersons is trivialised as it invites imprisonment for 2 years as compared to the IPC prescription for sexual assault against women as 7 years minimum. The Bill criminalizes "enticement" to

beggary and sex work, but meanwhile, it is completely silent on long-standing demands to decriminalise sex work, provide reservations in education and employment, and ensure equal protection for transpersons under criminal and family laws. While the Bill contains broad provisions prohibiting discrimination and discussing state welfare measures, it is toothless, with no remedy mechanism if these provisions are not implemented. Further, the Bill empowers courts to send transpersons into the custody of 'rehabilitation centres' on being abandoned by their birth-families, which are often primary sites of abuse and violence. It undermines their right to reside with who they choose, regardless of whether they are immediate family, and violates the freedom to decide one's intimate and personal relations and the right to association of those facing common oppression.

The history and passage of the Bill demonstrates its undemocratic character. An earlier 2015 version, introduced by Tiruchi Siva of the DMK and passed by the Rajya Sabha, had provided for self-determination and self-identification of gender, extensive socio-economic guarantees, clear state obligations towards trans healthcare etc. The BJP government scuttled this Bill by re-introducing it with extensive amendments in the Lok Sabha on 2 August 2016, and passing it on 5 August 2019. In both houses, the

government refused demands to refer the Bill to a Select Committee, going against the established parliamentary practice of refining and scrutinizing the contents of the tabled bills.

PUDR vehemently opposes the passage of the Transgender Persons (Protection of Rights) Bill, 2019 which dilutes the rights and protection recognized by *NALSA*, and furthers injustice and violence against trans and gender non-conforming persons. PUDR demands that:

1. The President should withhold assent to the The Transgender Persons (Protection of Rights) Bill 2019 and refer it back to P a r l i a m e n t f o r reconsideration
2. The Bill should be referred to a Parliamentary Select Committee
3. The constitutional right to self-determine one's gender should be upheld, and effective socio-economic rights, non-discrimination in all spheres, and protection from abuse and violence should be guaranteed.
4. Enticement to beggary, and other criminal offences relating to livelihoods and associations of transpersons and sex work should be decriminalized.

**Shahana Bhattacharya and Deepika Tandon**, Secretaries, PUDR □

## RAJENDRA K. SAIL IS NO MORE

Very saddened to share the news that our respected PUCL colleague and veteran Human Rights activist, Rajendra K.Sail, former president of Chattisgarh PUCL, breathed his last a little while back at about 400 pm on Sunday (26th January 2020) in a hospital in Raipur. He's been ailing for some time.

Soon after the PUCL Chhattisgarh State Committee meeting we went to pay our last respects to him.

We remember his booming slogans and his courageous fight against State terrorism and for human rights. We salute a brave fighter for democracy, justice and human rights.

V. Suresh, National General Secretary, PUCL

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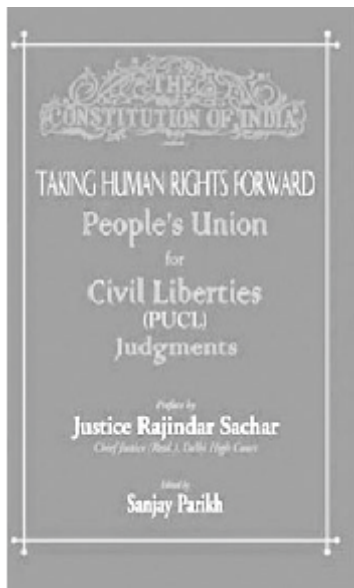
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