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Editorial:

Subverting Democratic Institutions, Devaluing Democratic Values and Making Irrelevant Democratic Processes - What is the game plan?

Two significant events occurred in September, 2020 which has enormous portents to the rule of law, democracy and human rights in India.

The first relates to the brazen, politically partisan and biased manner by which the Delhi police went about implicating and arresting young Muslim students and youth leaders and activists of other secular groups who had been active in the anti-CAA protests for being responsible for the mass violence that shook North East Delhi between 24th to 26th February, 2020. This contrasted with the unabashed manner by which the Delhi police whitewashed and gave a clean chit to prominent leaders of the BJP/RSS who had openly incited crowds of Hindutva supporters to 'shoot down' (*goli maro*) the traitors. The parallels to the witch hunt and motivated arrests of prominent human rights activists being carried out by the NIA in the name of investigation in the Bhima Koregaon case in Maharashtra was very obvious – in the Delhi case too, the police used the instrument of obtaining coerced statements from people falsely implicated and arrested in the Delhi incidents to name prominent academics and civil society leaders like Prof. Apoorvanand, Harsh Mander, Rahul Roy and many others as being part of the 'grand conspiracy' to foment violence in Delhi.

The other relates to the manner in which the NDA Government pushed through three key legislations through Parliament relating to the agricultural sector. The government did not respond favourably to the demand voiced by the opposition that the three Bills required greater discussion and deliberation in Parliament and amongst the general public, and also required to be referred to the Standing Parliamentary Committee for greater scrutiny. Using its numerical majority, the Modi-led government pushed through both Houses of Parliament the 3 Bills viz., (i) The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Bill, 2020; (ii) The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020; and (iii) The Essential Commodities (Amendment) Bill, 2020. In the Rajya Sabha this led to acrimonious scenes and walkout by the opposition parties. Unmindful of long established democratic traditions of holding widespread public consultation and discussion of any important legislation with all the relevant stake holders and respecting parliamentary practices of democratic debate and discussion, the Modi-led government pushed through these important legislations leading to the opposition announcing a boycott of Parliament owing to the denial of the demand for greater discussion on the farm bills.

On 23rd September, 2020, the last day of the truncated monsoon session of Parliament, unmindful of the boycott of Parliament by the entire

opposition the Government pushed through 8 important legislations. Amongst the laws passed are the 3 important Labour Codes which have the effect of not only replacing 44 key labour laws in India but altering the very architecture of labour laws in India – (i) The Occupational Safety, Health and Working Conditions Code, 2020; (ii) The Industrial Relations Code, 2020; and (iii) the Code on Social Security, 2020. Along with the Wages Code already passed in August, 2019, these 4 Labour Codes crucially affect labour protections in an economic climate supportive of the rights of corporates to 'hire and fire' and dismantling of earlier protections relating to lay off, retrenchment and closure of companies. One other key legislation passed without much discussion is 'The Foreign Contribution (Regulation) Amendment Bill, 2020' with key implications on the functioning and survival of the voluntary sector in India.

We are thus confronted with a very dichotomous situation: on one hand we are witnessing unrelenting assault on human rights in the form of continuing majoritarian violence against Muslims, Dalits and other minorities, hate crimes and other serious violations of human rights. Across the country the police is continuously showing their undisguised and brazen disregard for the 'rule of law' and respecting constitutional principles. On the other hand we are witnessing a calibrated and calculated subversion of all democratic oversight institutions tasked with

overseeing the functioning of institutions respecting constitutional principles and values. Be it the Election Commission or the CAG, the NHRC or the SC/ST Commission, the response to complaints of citizens of misuse of the law and abuse of institutions like the CBI, the ED, IT Department and other official arms of the government, has been tardy at best and absent on most occasions. The latest episodes in the just concluded Parliament demonstrate that the government is scarcely bothered to follow, respect or abide by established parliamentary procedures, ethics and practices. A matter of greater concern is the non-response of constitutional courts, both the High Courts as also the Supreme Court, when the cases of violation of constitutional principles and practices are taken for redress. So disappointing is the response, that several former Judges have been open about talking about the abdication of constitutional responsibilities by constitutional courts.

Is there any connection between the relentless assault on human rights on the one hand and the calculated and planned subversion of democratic institutions, devaluing of democratic processes and ethics we are witnessing today? What about the sweeping changes being brought to environmental law protection in the country as for example the dilution of EIA regulations and how is it connected with attracting more MNCs into India? Aren't these important legislative and policy

changes crucially going to affect the structure of 'federalism' and federal democracy underlying our Constitution? Over the last 6 years we have seen greater and greater concentration of power with the Centre – exemplified in the GST controversy over non-sharing of GST dues with each state on the proportion identified in the GST scheme. Apart from the issue of the implication of such centralisation of power with the Central Government on the Federal structure of the political system in India, is this in some way pointing to a plan to change the structure of Indian democracy from the present parliamentary system to an Indian version of 'presidential system' with one leader at the top?

A time has come, when we as concerned citizens and democratically minded groups have to start debating these issues in public. While we organise and campaign against specific instances of rights violations, we also need to step back and discuss and debate over the wider import of events of the last 6 years. We need to work to strengthen federalism in the country just as much as we work towards ensuring that governance is based on the rule of constitutionalism and constitutional values and principles. We cannot remain quiet.

We invite our readers to contribute more articles on how we as citizens and rights groups can strengthen democracy while protecting human rights and the Indian Constitution.

V. Suresh, General Secretary, PUCL National ☐

Subverting Judicial Institutions: from Indira, Rajiv, and Sonia Gandhi to Narendra Modi

Ravi Kiran Jain

This paper highlights the process of institutional destruction in India that started with Prime Minister Indira Gandhi in the early 1970s and continued under subsequent Congress prime ministers and leaders has now been greatly accelerated and intensified with the BJP's Narendra Modi as prime minister since 2014.

Between 1971 and 1977 during the 'personal rule' of Indira Gandhi, power distribution of the three branches of government, was gravely disturbed and a process of dominating the Parliament and weakening of the judiciary was started during this period. Granville Austin in "*Working a Democratic Constitution*" in Chapter 7 - "*Indira*

Gandhi: In context and in power" has said:

The executive branch came to dominate Parliament to such a degree that Parliament lost any effective identity of its own. And, authority within the executive became concentrated in the Prime minister's office and then was

exercised from Mrs Gandhi's residence, to the exclusion of all but a few. The two branches, if still they could be called that, attacked the third branch, the judiciary, intending to end its function as a co-equal branch of Government."

The Supreme Court, in its decision in the Golak Nath case on 27 Feb. 1967 held that Parliament's power to amend the constitution could not be used to abridge the fundamental rights. The lone dissenter among the eleven judges was Justice A. N. Ray in the Golak Nath case. At the age of 58 he had come to his August 1969 appointment to the Supreme Court.

On 31st October 1972- hearing in Kesavananda Bharti started which lasted until mid-March 1973, some seventy working days. Granville Austin notes unusual happenings in this case in his aforesaid work in the following words:

"The composition of the Supreme Court at the time of Kesavananda provides a useful starting point for an examination of the 'unusual happenings' during the case to which Justice Chandrachud alluded. For Justice Reddy, these happenings had their origins well before the bench was formed. He thought Kumaramangalam, Ray, and Gokhale had begun 'packing' the court in 1971 in expectation of an attempt to overturn Golak Nath. As a result, Reddy believed that one judge was a Kumaramangalam nominee (probably Mathew), two were H.R. Gokhale nominees (probably Palekar and Chandrachud), two were nominees of S.S. Ray (possibly Beg and Mukherjea), and one was Sikri's (probably Khanna). One of these judges (probably Dwivedi), told Justice Reddy that he had been interviewed by Gokhale, Kumaramangalam, and S.S. Ray before his appointment. Madhu Limaye charged in the Lok Sabha that Justice Dwivedi came to the court with the declared purpose of

overturning Golak Nath- but many judges and lawyers disliked the Golak Nath decision; this was not singular to Dwivedi.

The Kesavananda bench worked under continuous and sometimes intense pressures. The broadest of these was anxiety for the Court's viability and, by extension, of the judiciary as a co-equal branch of government. Several members of the bench felt this, and Justice Reddy referred in his opinion to 'the threat of the dire consequences which the Court would have to face if the judgment went against the Government'.

On 24th April 1973, the Supreme Court by a thin majority of 7:6 upheld the basic structure of the doctrine, which was subsequently affirmed in the Indira Gandhi election case in 1975 and in the Minerva Mills and in Waman Rao cases in 1980 and 1981.

A day after the Kesavananda decision, A.N. Ray was appointed as the Chief Justice of India by superseding three senior judges Shelat, Hegde and Grover. And thereby Mrs. Gandhi struck a grievous blow to democratic constitutionalism as well as to the independence of the judiciary. It was described as 'the manifest attempt to undermine the Court's independence' in a statement issued by eminent jurists such as M.C. Seetalvad, M.C. Chagla, V.M. Tarkunde, former Chief Justice J.C. Shah and N. Palkhivala. The chain of events from the date of supersession till the judgment in the S.P. Gupta case came shows how there crept in a permanent and sharp division in the judiciary as well as in the Bar and a race amongst the senior judges to demonstrate who is more 'committed' began.

On 12 June 1975 came the judgment in the election petition of Raj Narain unseating Indira Gandhi by Justice JML Sinha of the Allahabad Court. On the same day, V.N. Khare, the nephew and a junior in the chamber of S.C. Khare moved an application for a stay of the judgment of High Court which

was granted to enable Mrs Indira Gandhi to file an appeal in the Supreme Court till 22.6.1975. Had V.N. Khare not moved such an application Indira Gandhi would have gone forever. And if V.N. Khare would not have moved an application for stay, he would not have been appointed a judge of High Court at such young age that he became CJI.

On 26 June 1975, Prime Minister Indira Gandhi had declared an emergency because of the turmoil and incipient rebelling in the country. Thousands were detained throughout the country. The detentions were challenged by filing petitions in the High Courts around the country. Nine high courts out of thirteen decided in favour of detainees. On appeal in the Supreme Court, the ADM Jabalpur case (also known as Habeas Corpus case) was decided on 28.4.1976. Granville writes about this case as follows:-

"Before Chief Justice Ray could hear the appeals from the ten high courts, he had to select a Bench. Delhi's perennial crop of rumours had it that, having failed to overturn Kesavananda, he would select colleagues likely to hold for the government. Worried about the composition of the bench, members of the Supreme Court Bar Association, several of whom would represent the detenus before the Court, took steps that became choice morsels of judicial lore. They arranged to have telegrams sent to the Chief Justice from around the country urging bench selection according to seniority. C.K. Daphtary, formerly Attorney General, called on Ray, told him of the rumours, and suggested he follow the seniority criterion. Annoyed by such temerity, Ray asked if there were precedent for this. As quick-witted as he was courageous, Daphtary replied that S.R. Das once had done so- knowing that Ray much admired the Chief Justice of late fifties. Although this precedent is elusive, Ray

did select the bench according to seniority: himself and Justices H.R. Khanna, M.H. Beg, Y.V. Chandrachud, and P.N. Bhagwati. Many advocates and others were relieved. Surely, they calculated, Justices Khanna, Bhagwati, and Chandrachud would protect civil liberty. Chief Justice Ray and Justice Beg were expected to side with the government.

When the bench gave its decision on 28 April the detenus' lawyers found their calculations had gone awry. Two of the judges they hoped would find for the detenus, Justices Chandrachud and Bhagwati, did not. They, Beg, and Chief Justice Ray upheld the Government of India's position. Only Khanna dissented. Each judge wrote his own opinion. Although there was no single majority ruling, the four-judge majority held that no citizen had standing to move a writ of habeas corpus before a high court under Article 226 in light of the President's order of 27 June 1975 or to challenge a detention order as illegal, as factually or legally mala fide, or as based on extraneous considerations. Section 16A(9) of MISA (grounds for detention a matter of state and not to be revealed) was ruled constitutionally valid. And the four judges held that Article 21 was the sole repository of rights of life and personal liberty against the state."

Why did YV Chandrachud and PN Bhagwati side with Chief Justice Ray and M.H. Beg? The story goes that PN Bhagwati was appointed as a High Court Judge prior to the appointment of YV Chandrachud as a High Court Judge. But in the Supreme Court YV Chandrachud was appointed prior to PN Bhagwati. It became clear during the course of the hearing of the High Court case that Chief Justice Ray and MH Beg were going to decide in favour of the government and against the detainees. PN

Bhagwati was said to have thought that there was already a precedent of supersession of three judges in 1973, and if he sided with Chief Justice Ray and MH Beg then the majority judgment would be in favour of the government, which would enhance his chances to become the Chief Justice of India by superseding YV Chandrachud. YV Chandrachud smelt the move of Bhagwati and therefore he also sided with Chief Justice Ray and MH Beg to neutralize PN Bhagwati's moves.

In January 1977, Justice H.R. Khanna was superseded as he was not made Chief Justice of India on his turn and he resigned.

When Mrs. Gandhi announced a general election in 1977, the suppressed anger among the people against her burst out in the open. Democratic governance remained there for a short period through the formation of a government by the Janata Party. This government could not survive due to inherent contradictions among their political leaders, who by sheer opportunism had shared power at the Centre.

Indira Gandhi's Congress (I) defeated the Janta Party in the January 1980 general election., Justice Bhagwati wrote a "Dear Indiraji" letter to the Prime Minister in January 1980, congratulating on her re-election and praising her "iron will... uncanny insight and dynamic vision, great administrative capacity and ... heart which is identified with the misery of the poor and the weak". The Justice continued that "the judicial system in our country is in a state of utter collapse... [W]e should have a fresh and uninhibited look at ... [it] and consider what structural and jurisdictional changes are necessary ...".

The unfinished task of having a "committed" judiciary which Mrs. Gandhi wanted to accomplish during 1971-77 was achieved on her re-emergence with the help of the judgment of a Supreme Court Constitution Bench headed by Justice Bhagwati in S.P.Gupta. Granville Austin described the situation as "Given

Mrs. Gandhi's past policies towards the judiciary, it was a small wonder that after 1980, the ever-simmering issue of judicial independence boiled again. After the emergence of Indira Gandhi, the train of events began in mid-1980 with the government intending to appoint the Chief Justice of each High Court from outside of its jurisdiction. Additional judges appointed during the Janata government were given short-term extensions. Then Law Minister Shiv Shankar issued a circular instructing that one-third of judges and Chief Justices be appointed from outside of the state. The controversy reached the Supreme Court and that is how came the S.P.Gupta case.

In the S.P.Gupta case the Supreme Court held that the opinion of the CJI and High Court Chief Justices had to be ignored in the matter of appointment and transfer of judges, and that power had concentrated completely in the hands of a corrupt executive to the exclusion of the judiciary. The S.P.Gupta case held the field for about 12 years, from 31.12.81 to 6.10.93 when the S.P.Gupta case was overruled.

During the period when the S.P.Gupta rulings prevailed, there was a policy that Chief Justices of High Courts would be from outside the state and 33.33% of the Judges appointed to the High Court came from the District Judgeship. The Second Judges case came on 6.10.93 in which it was held that the judiciary will have the supremacy in matters of the appointment of Supreme Court Judges and transfers of High Court Judges. But the policy decision of the executive during the S.P.Gupta case to have transfer of Chief Justice from outside and appointment of 33.33% judges from the district judges was maintained. When the judiciary had the supremacy, the policy of having High Court Chief Justices from outside and appointment of 33.33% judges from the district judges should have been changed. The appointment of a district judge as High Court judge is no more an elevation. It has virtually become a promotion.

The political race between the Congress and BJP over the Mandir and Masjid issue

The assassination of Indira Gandhi took place on 31st October 1984. Rajiv Gandhi was sworn as Prime Minister immediately after Indira's assassination. In these elections Rajiv Gandhi had a clean sweep, and the BJP could secure only two seats in the Lok Sabha. The Sangh Parivar-attached to the BJP-started a campaign for the construction of a magnificent RamJanam Bhoomi Temple at the site and by 1985 mobilised a sizeable support in the Hindu Community. In January 1986, locks were removed from the mosque and Ram bhakts (devotees) were permitted to offer prayers to Ram lala. It is said that Prime Minister Rajiv Gandhi ordered the U.P. Chief Minister Veer Bahadur Singh to do so who got the district administration to ensure that this order was carried out. The two major political parties—the BJP and the Congress-- started a race on pandering to communal Hindu sentiments. In 1988, Hindutva Organizations led by the RSS organized a mass campaign for building a grand temple exactly where the mosque stood. They claimed that the mosque stood at the precise site where Ram was born. By the time of the fifth and final law suit was filed in July 1989 the political climate had changed significantly.

There used to be two Hindu Judges in the bench and one Muslim Judge. The first suit was filed on 16.1.1950 and the fifth and the last suit was filed on 1.7.89. It was thereafter on 10.7.89 that the High Court transferred the suits to itself. (After 9 days of filing of the last suit). This fact that the suits were transferred to the High Court only after 9 days of filing of the last suit shows that the High Court became interested in transferring the suits to itself immediately after 1.7.89. It was obviously on account of the reason that the Mandir –Masjid controversy became a matter of high –profile politics, that the suits were got transferred to the High Court to be tried by a bench of three

Judges. The profile became all the more high on subsequent developments, starting from demolition of Masjid on 6th Dec, 1992 followed by setting up of Librahan Commission. From 1950 till 1989, 4 suits remained pending before the Munsif and the Mandir –Masjid dispute remained confined only to be decided in the litigation in the lower court as it did not become part of agenda of political parties by then. It started becoming agenda of political parties after 1984 elections.

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

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

"A new dimension was added to the campaign for the construction of the temple with the formation of the Government in Uttar Pradesh in June 1991 by the BJP which declared its commitment to the construction of the temple.....The focus of the temple construction movement from October 1991 was to start

construction of the temple by way of 'kar-sewa' on the land acquired by the Government in Uttar Pradesh while leaving the disputed structure intact." has been noticed by Supreme Court in M. Ismail Farooqui's case, (AIR 1995 SC 605).

After the demolition of Babari Masjid of 6th December 1992, a J.P. Memorial Lecture was delivered by Shri V.M. Tarkunde on 23rd March 1993 (just after three and a half months of demolition of Babri Masjid on 6th December 1992). In that lecture Shri Tarkunde made the following observations:

"In the meantime, a graver and most serious danger to Indian democracy has appeared in the horizon. It is represented by the growing strength of the Bhartiya Janata Party and the power behind it – the R.S.S and the *Sangh Parivar* consisting of such organizations as the Akhil Bhartiya Vidyarthi Parishad, the Vishwa Hindu Parishad and the Bajrang Dal. *They are giving to the Indian people a heady mixture of aggressive Hindu communalism and equally aggressive Hindu Nationalism. In that process they are promoting animosity between Hindus and Muslims.*"

"As I will show later; the movement which is being fostered by these forces contains all the essential characteristics of Fascism".

"I am of the view that the communalist nationalism which is being propagated by the BJP and *Sangh Parivar* represents a far greater danger to Indian Democracy than the personal authoritarian rule which Mrs. Indira Gandhi and the Gandhi- Nehru family were likely to impose on the country".

"Our difficulty arises from the fact that a theocratic State may possibly be established in the country after the next elections and therefore it is necessary that besides a long-term program of a socio-cultural transformation, we must have a short term program which would prevent a communal party coming

into power in the country in near future.”

“ There is indeed a great deal of similarity between the politics of BJP and that of Hitler's Nazi party . Hitler fostered a sense of pride among Germans on the ground of their Aryan's race and hatred for the Jews because the Jews diluted the ethnic purity of that race . The BJP and the *Sangh Parivar* are striving to promote the pride of Hindus in their Hinduism and to foster hatred for Muslims . Secondly, the Nazis were aggressively Nationalistic and wanted Germany to be the strongest and the greatest nation in the world. The BJP and the *Sangh Parivar* is also intensely Nationalistic and although it cannot under the existing circumstances think in terms of India being the strongest country in the world, they want it to be militarily a strong country so that it would dominate over the neighbouring states . Recent events, moreover, have demonstrated that, like the Nazis, the *Sangh Parivar* have no regard for law and thus believe that Might is Right. Although there are, some obvious differences between the Nazi movement and movement of *Sangh Parivar*, they have basically the same Fascist characteristics.

The above mentioned observations made by Shri V. M. Tarkunde after three and a half months of the demolition of the Babri Masjid indicated that the BJP which held only two seats in the 1984 election was likely to come into power in the following election. The election took place in 1996 but the BJP did not come into power,;however, it won the 1999 election in which the NDA (a coalition of parties with the BJP as the main party) formed government with Atal Bihari Vajpayee as the Prime Minister. For the 2004 general election public opinion polls suggested that Vajpayee was likely to return to government The emergence of an UPA government was highly unlikely.As President of PUCL (UP branch) I wrote a letter on the letterhead of PUCL, on July 22, 2004, together with the PUCL

National President, Shri K.G.Kannabiran and Shri Y.P.Chibber PUCL General Secretary.The letter was a covering letter to a note attached therewith which was sent to all PUCL members. The letter is reproduced below:

“Dear Friends,

July 22, 2004

PUCL, as you know, is not a political organization, but over a period of time, it has been keeping pace with the emerging needs of a developing society. Civil liberty is the only one aspect of the human rights. A holistic view of human rights means that Civil and political rights i. e. social, economic, and cultural rights are all inter - related and inter-dependant.

How does one define development? Part III and Part IV of the Constitution of India contain the Constitutional goals of human development. In, "Development as Freedom", Amartya Sen unequivocally sets down, " Development requires the removal of major sources of unfreedom ;poverty as well as tyranny ;poor economic opportunities as well as systematic social deprivation ; neglect of public facilities as well as intolerance of over activity of repressive states". In other words ;development can only be about transforming societies from an exploitative order to an egalitarian one. The expressions used in the Preamble to the Constitution should define the social, economic, and political activity of our state and society.

We are writing this letter to share our thoughts with you through a separate note attached to this letter. Its central theme is that in the changed political scenario, there is a welcome opportunity to bring people's issues of social, economic and cultural rights at the Center of national politics.

This opportunity has come after a long time. Thanks to the

recent Lok Sabha poll verdict the national mood at the moment seems very conducive for formation of a coalition of people 's movement to clear the decks for the emergence of a powerful alternative political force to lead the country from the politics of non-issues, which was resulting in violation of human rights, to the politics of issues. How this seems to have become possible is analysed in the accompanying note.

Let us hope our suggestion will receive your careful consideration and positive response.

Yours Truly

Ravi Kiran Jain, President, UP PUCL; **K. G. Kannabiran**, President PUCL National ;**Y. P. Chibber**, General Secretary, PUCL National”

The opening paragraph of the note attached with the aforesaid letter reads as follows:

“A significant political scenario has emerged in the country after a recent Lok Sabha election. After years of sheer disgust and frustration with the system which the Indian polity has remained plagued with, the unexpected poll results have revealed that the voters have finally delivered a hard blow to the high profile politics, based on emotive communal divide, which had literally dumped the basic issues into the dustbin of electoral politics”.

And the concluding paragraph of the note reads as follows:

“ The implications of placing at the centre of political and economic change are profound . What is needed is a profound human revolution that makes people's participation the central objective in all parts of life. Every institution- and very policy action – must be judged by one critical test: how does it meet the genuine aspirations of the people and vast it is in its reach. As for fixing the priorities, they must include preservation of ecology, eradication of poverty and

hunger, primary education, employment, improved health, and environment sustainability of land air. People's participation intolerance can alone ensure achievement of the goals, and this would call for accelerating the process of emergence of a civil society in the country, based on issue-based politics in the coming years. For this, we will have to build a political thinking which is different from what is at the center of the agenda of the existing political parties, including the BJP, the Congress and the Left parties."

Mrs Sonia Gandhi, either guided by strategic reasons or a sense of sacrifice has seriously demoralised the political forces, represented by the Bhartiya Janata Party, by nominating Manmohan Singh as the Prime Minister.

On the floor of the House, the Prime Minister Dr. Manmohan Singh had expressed in the last session of the Parliament in 2011, that it was the Coalition Compulsion on account of which he was not able to make an effective step to stop the activities of his Cabinet colleague Raja, who was involved in 2G Spectrum Scam. It means that in order to keep him in majority a Prime Minister may ignore unconstitutional act of his Cabinet

colleague. There was a lot of hue and cry in the Parliament on this issue in the last session which was also likely to continue in the coming sessions and since Dr. Manmohan Singh commanded the majority, by heading a coalition Government, if he did not resign he would set a wrong parliamentary practice of not resigning although owning collective responsibility of the Cabinet in a parliamentary democracy.

Dr. Manmohan Singh had never been elected as a member of Lok Sabha. He had been thrust upon by the largest single party of UPA. The compulsion of coalition was likely to continue as in the near future, no party seemed to be able to secure a majority in the Lok Sabha. This compulsion of coalition cannot be permitted to be an excuse for succeeding Prime Ministers. Dr. Manmohan Singh must have resigned. He could not continue to be the Prime Minister with impunity for the misdeeds of his Cabinet Colleague Raja.

The UPA government brought a drastic amendment to the Unlawful Activities (Prevention) Act 1967, in 2008, bringing the draconian parts of TADA and POTA therein. As the validity of TADA was upheld in the Kartar Singh case by the Supreme Court in 1994, the UPA used UAPA and booked human rights activists

and other activists under UAPA, or sedition. The political scenario was similar to the Emergency on account of false implications of the activists under UAPA and Sedition charges. In the 2009 elections the UPA returned to power because of its popular policies such as MNREGA and the Right to Information Act. In this term the UPA government was mired in many corruption cases and scandals to the extent that the prime Minister Manmohan Singh had to admit on the floor of the Lok Sabha that the corruption was on account of coalition.

The 2014 general election from the outset was perceived to be an uneven contest. The Congress and its partners in the UPA had been on the backfoot owing to a variety of factors, primarily triggered by the anti-incumbency of a ten year regime, while the principal opposition party, the BJP, and its allies in the National Democratic alliance found themselves in the position of primary beneficiaries of this anti-incumbency. The Congress and the UPA too were weighed down by charges of lack of direction in policy formulation and governance, administrative inaptitude and corruption scandals that hit the government at regular intervals over the previous Five years.

(To be continued) □

PUCL - Representation to Commissioner of Police Delhi about Motivated arrests of anti-CAA protestors and Ignoring True perpetrators of violence:

To,
Mr. SN Srivastava, IPS
Commissioner of Police,
Delhi Police Headquarters,
Jai Singh Road,
New Delhi

Subject: Urgently stop the motivated and malicious investigation and carry out bona fide investigation into the violence in North East Delhi in end February, 2020;
Stop filing of charge sheet on the basis of fabricated evidence and false confessions in the conspiracy case made out in FIR number

59/2020, Crime Branch police station, New Delhi.

Dear Commissioner,
We represent the *People's Union for Civil Liberties*, which is the oldest human rights organisation in the country, founded during the Emergency by Shri Jayaprakash Narayan, Acharya Kripalani and others and led by prominent jurists/ academics like Justice Tarkunde, Justice Sachar, Shri Kannabiran, Prof. Rajni Kothari and Prof. Prabhakar Sinha, amongst others. The PUCL is an independent, voluntary human rights body unaffiliated to any political party

which believes in the primacy of the Indian Constitution, works to uphold and protect the constitutional, democratic and human rights of citizens and to promote democratic values in all walks of life consistent with the Constitution and rule of law.

We approach you as the Head of the Delhi police to express our deepest concern over reports which allege bias in the investigation by the Delhi police in the North East Delhi violence cases. This tragedy, which occurred between 23rd -26th, February 2020, took 53 lives and

injured scores of others, is a matter of grave shame for our country. We are aware this is a mammoth investigation with over 751 FIRs, of which 61 FIRs are being investigated by Crime Branch; 689 FIRs are being investigated at the Police Station level and one by the Special Cell of the Delhi Police.

Our concern today is specifically with reference to FIR 59/2020 registered at the Crime Branch Police station and being investigated by the Special Cell, Delhi police and examining the conspiracy angle of the Delhi riots. This FIR was registered on March 6, 2020, by an officer of the Crime Branch, based solely on 'information' by an unnamed informant under very simple sections of the IPC 147/148/149/120B, relating to conspiracy, for unlawful assembly and rioting among others. It is matter of great alarm the manner in which Delhi police is trying to beef up an otherwise hollow foundation and has added charges which include 19 IPC Sections - 120 (B) read with 302, 307, 124 (A), 153 A, 109, 114, 147, 148, 149, 186, 212, 353, 395, 427, 435, 436, 452, 34 - and sections 3 & 4 of the PDPP Act, sections 25 & 27 of the Arms Act and sections 13, 16, 17, 18 of the UAPA. The charge-sheet in this matter is to be filed before September 17, 2020.

We wish to draw your attention to the following concerns we have regarding the investigation under FIR 59/20, and we seek your urgent intervention and assurances in this regard.

1. False theory of conspiracy by all those who were part of the movement against CAA

- The scrutiny of several other charge-sheets that have already been filed in the riots cases, indicates that the Delhi Police is developing a theory of a wide-ranging and deep-rooted conspiracy to cause violence between communities in February 2020, allegedly to

destabilize India and ruin its international image. It is alleged that the planning into this violence preceded even the passage of the Citizenship Amendment Bill (CAA), on December 11, 2020. The entire democratic movement against the CAA, which many legal experts in India and outside and Special Rapporteurs of UN have opined is unjust, unconstitutional and against India's obligations under the Universal Declaration of Human Rights (UDHR) is sought to be criminalised and is being projected as the front for this conspiracy.

- In order to build a foundation of conspiracy and book people under UAPA, Chargesheets like the latest Supplementary charge-sheet in FIR No. 50/2020, Jaffrabad Police station shows the motivated investigation that the Delhi police have indulged in. The frequent clubbing of the terms "anti CAA Protestor / rioter" in the chargesheet shows a predetermined mindset of the Delhi police to project every law abiding citizen, who in exercise of their fundamental right of freedom of speech and expression and in the performance of their fundamental duties to defend the country and its Constitution, protested against an unjust law. It is a matter of great concern that statements which the persons in police remand denied making, have been made the basis to implicate more law abiding citizens, with the clear motive to target eminent academics and University professors, writers, film makers, civil society activists, political party leaders and also MLAs as being the instigators, mobilisers of road blocks and motivators of dharnas, in order to build a baseless case. There is hardly any circumstantial or electronic

evidence, to even show any involvement; yet, brazenly such chargesheets implicating people have been filed, to build a larger case of being conspirators of the violence. We bring to your attention two such news reports.

- **Delhi Police Spreads Riots 'Conspiracy' Net, Drags In Eminent Academics and Activists**

(<https://thewire.in/rights/delhi-police-riots-conspiracy-academics-activists>)

- **Delhi riots: Police name Yechury, Yogendra Yadav, Jayati Ghosh, in supplementary charge sheet**

(<https://indianexpress.com/article/cities/delhi/delhi-riots-police-name-yechury-yogendra-yadav-jayati-ghosh-apoorvanand-as-co-conspirators-6593612/>)

- Under this wide ambit, a large number of people continue to be interrogated and arrested, as conspirators and provocateurs. This includes young people from the Muslim community, senior activists, academics, writers, professors, cultural artistes, trade-unionists who supported the anti CAA protests.

- The interrogation of more than 60 people under FIR 59/2020, shows a clear line of investigation - every activity which was part of the peaceful anti CAA protest is now being made suspect. Even a women's solidarity yatra, wherein a group of women over three days visited a dozen sites, is now suspect. Visits to dharna sites to make speeches on the CAA is being looked upon as provocation, discussion on whether a road block should happen or not, which is a strategy used by all protests, is being considered as the gravest criminal offence that could have occurred, more important than the road block

itself.

- A WhatsApp group, the 'Delhi Protest Solidarity Group' (DPSG), comprised of a motley group of people, who were there with a simple objective as citizens to support a people's movement, is being made out to be some dangerous hub of this alleged criminal conspiracy. Discussions on this group are being taken out of context and being presented as a part of the 'sinister' plan to provoke violence. The absurdity of these presumptions and line of interrogation and investigation has not gone unnoticed by the media also.

- **How Delhi Police Turned Anti-CAA WhatsApp Group Chats Into Riots 'Conspiracy'**

- (<https://thewire.in/communalism/delhi-riots-police-activists-whatsapp-group>).

- **Inside Anti-CAA WhatsApp Group Tagged for Delhi Riot 'Conspiracy'**

- (<https://www.thequint.com/news/india/anti-cao-whatsapp-group-delhi-protest-support-group-delhi-police-riot-conspiracy>),

- **Delhi riots: In WhatsApp group to support protests against CAA, vibrant debates about strategy**

- (<https://scroll.in/article/969951/delhi-riots-in-whatsapp-group-to-support-protests-against-cao-vibrant-debates-about-strategy>).

2. Manufacturing of evidence through custodial interrogations & coerced confessions

- Twenty people arrested under this FIR were subjected to custodial interrogation, amongst whom, it is reliably learnt, at least 5 were allegedly forced to make confessions. The actual number may be higher. Of these 20 people, 17 persons have been booked under sections 13, 16, 17 & 18 of the UAPA, and remain incarcerated. The invoking of

UAPA sections is to clearly ensure that those arrested do not get bail for the next five years or more. The invoking of UAPA is not only an abuse of law but it is in fact trivialising a law which was enacted to deal with serious threats and was not meant to crush democratic and constitutionally guaranteed rights.

- Additionally, over 40 people said they were interrogated. Some young people were repeatedly called, kept till late into the night, and asked to sign on pre-drafted texts of "confessions". Some refused and some succumbed under pressure.

- (<https://thewire.in/rights/citing-instance-of-witness-coercion-umar-khalid-accuses-police-of-framing-him-in-riots-case>).

- In other riots case also, people have reported being coerced during police interrogation

- (<https://www.thepolisproject.com/manufacturing-evidence-how-the-police-framed-and-arrested-constitutional-right-defenders-india/#.X00TkS2B2qA>)

- A scrutiny by independent media found the following:

- In the Ankit Sharma charge-sheet (FIR 65/20), Dayalpur Police station, presented by the Delhi Police, there were 4 identical 'confessional' statements.

- There were 7 identical statements in the Ratan Lal (FIR 60/20), Dayalpur police station, chargesheet.

- And there were 10 identical statements in the Jaffrabad police station, (FIR 50/20) charge-sheet.

- (<https://scroll.in/article/967881/delhi-polices-grand-riots-conspiracy-where-is-the-evidence>).

- In a fourth charge-sheet of the Dilbar Negi case (FIR number 39/20) Thana, Gokulpuri, the Indian Express found that 9 out of 12 confessional statement

were near verbatim copies of each other.

- (<https://indianexpress.com/article/cities/delhi/delhi-riots-9-of-12-confession-statements-near-copies-of-one-another-6485967/>).

This pattern of coerced statements and false evidence is alarming.

- We are all aware that confessional statements made in police custody have little evidentiary value in court. Yet, they are being repeatedly leaked to select media, to build a public opinion and allow a media trial. This has already vilified and harmed people like Professor Apoorvanand and Dr. Umar Khalid. It has also vilified Asif Iqbal Tanha, Meeran Haider, Tahir Hussain, Gulfisha, Natasha Narwal and Devangana Kalita, Khalid Saifi, Sharjeel Imam and others who remain incarcerated. All this is happening despite High Court orders in the Devangana Kalita case asking the police to stop such leaks of information of ongoing investigation.

3. Shocking nature of biased narrative being presented in several charge-sheets

We draw your attention to the kind of utterly absurd story that has thus far been presented in some of the charge-sheets:

- The background in several charge-sheets has targeted simple speeches like that of Harsh Mander, (a widely respected former senior IAS officer), given to protesting students of Jamia Millia Islamia on 16th December; claiming that this speech "behind the facade of peace", provoked unlawful acts and violence, when there is nothing to prove such an allegation. The speech, which actually called for peace, love and non-violence, is in the public domain. It falls within the domain of the right to freedom

of speech and expression recognised in Article 19(1)(a) of the Constitution of India.

- Several charge-sheets contain elaborate flow charts, alleging entirely fictitious layers of planning, and alleging that this wide range of people who supported the movement against CAA were all part of a well-coordinated conspiracy - this includes people like film maker Rahul Roy, student activist Kanwalpreet and others from AISA, members of 'Pinjra Tod', the young women students group from several Universities in Delhi and others from the Delhi based group of activists, called the 'United Against Hate' working for secularism in the country. The Delhi police has not even spared D. S. Bindra, a philanthropist from the Sikh community who sold a flat to feed people at dharna sites and Dr. Anwar of Al Hind Hospital who deposed over the phone in the midnight hearing in front of a High Court judge, regarding ambulances being prevented from reaching his hospital to take the injured to specialised hospitals in Delhi. These allegations of conspiracy have no basis in fact, or in evidence.

- There appears to be a race to implicate as many bonafide law abiding citizens into a non-existent conspiracy case in the chargesheet which is to be filed. Clearly this investigation is leading farther and farther away from the real rioters. It appears that it is being carried out solely to spread fear among citizens so as to silence all democratic activities and not for the purpose of bringing the real perpetrators of the violence to book.

4. We urge you to uphold sanctity of due process, conduct a fair and just investigation, as mandated by the law, CrPC and

the Delhi Police rules.

We appeal through this letter, to *urge you as the Head of the Delhi Police, to ensure a fair and just investigation* into the violence that shook Northeast Delhi in end February, 2020 so that the real perpetrators are brought to book. We look up to you to restore faith in the Delhi Police's investigation. We urge the Delhi Police to probe into the matter with the skills and objectivity that it has been trained for, following the constitutional mandates and established procedures of law, and not pursue this malicious line which appears to be politically motivated. We are constrained to point out that the Delhi police seem to be abdicating its constitutional duty to conduct independent, fair and objective investigation. The fact that the police is not investigating the role played by BJP leaders, like Kapil Mishra and others in actually instigating and promoting the violence, despite so much electronic evidence of speeches, social media posts being available only deepens our concern.

We would like to point out that we are not alone in pointing out to the patently partisan role seemingly played by the Delhi Police. Very senior former police officers including well known former DGP level officers, eminent and experienced former IAS, IFS and Central Services officers and a large number of citizens, media as well as the Delhi Minorities Commission are asking the same questions.

- **Dead and Buried: Delhi Police ignored complaints against Kapil Mishra, other BJP leaders for leading mobs in Delhi violence-**

(<https://caravanmagazine.in/politics/delhi-police-ignored-complaints-against-kapil-mishra-bjp-leaders-leading-mobs-delhi-violence>).

- **No Evidence To Indicate Role Of Anurag Thakur, Kapil Mishra & Parvesh Verma In Delhi Riots: Delhi Police Tells Delhi HC-**

(<https://www.livelaw.in/news-updates/no-evidence-to-indicate-role-of-anurag-thakur-kapil-mishra-parvesh-verma-in-delhi-riots-delhi-police-tells-delhi-hc-159903>).

- Report of the Fact-Finding Committee on the North-East Delhi Riots of February 2020 (<https://ia801906.us.archive.org/11/items/dmc-delhi-riot-fact-report-2020/-Delhi-riots-Fact-Finding-2020.pdf>)

We have just come to know from media reports that Dr. Umar Khalid, a promising young scholar, who believes in the power of Gandhian non-violent, peaceful means for bringing about communal harmony and peace thereby strengthening secularism, was arrested by the Delhi police late last night on 13th September, 2020. It is pertinent to point out that he is a law abiding citizen and that he has always voluntarily appeared before the police whenever summons were issued for his presence. There is no fear of him fleeing justice. This being the case, there is absolutely no legal necessity to justify his arrest. This only underscores our concern about the Delhi police engaging in arbitrary arrest and conducting a partial, biased and politically motivated investigation.

We appeal that a fair and just probe be ensured. That all arbitrary arrests be immediately stopped and all those incarcerated be released. It is important that there is no travesty of justice in investigation and the truth, with evidence, is presented to the courts. The smallest tribute that can be paid to the numerous lives lost during the NE Delhi violence is to ensure that the true perpetrators are brought to book. It will also be the biggest demonstration that ultimately it is the rule of law and the Indian Constitution that triumphs in our country.

With regards.

Sd/-

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

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PUCL Statement on Supreme Court Order concerning Slum Demolition

People Union for Civil Liberties (PUCL) expresses its disappointment at the decision of the Supreme Court of India dated 31.08.2020 in '*M.C. Mehta v Union Of India & Ors*' (Writ Petition No. 13029/1985), and condemns the direction to demolish within the next three months over 48,000 homes of the urban poor in Delhi as being in complete violation of the principles of natural justice. The order of the Court is a summary decision on the fate of tens of thousands of families - without any consideration of their right to live a life with basic human dignity and a roof over their head. While the Supreme Court has ordered that within the first three months those structures in "safe zones" should be first demolished, there is no clarity as to how many are in these safe zones and thus are under immediate threat. In any case the Supreme Court's order is clear- all 48,000 structures have to be demolished very soon.

In a petition filed originally to rein in pollutants from vehicular emissions, the Supreme Court has directed that slums located around train stations in Delhi should be demolished within 3 months. There is no mention about rehabilitation of those whose houses are to be demolished; so much so, the issue of whether and if rehabilitation will at all take place, and if so, by when, where, how and who will be responsible for the rehabilitation is totally unclear. This is notwithstanding the fact that it is settled law, that forced eviction of slum dwellers, unannounced, without securing alternate rehabilitation for them, would be contrary to the law. It is by now well recognised that the urban poor have a "right to the city", as the NCT of Delhi survives on their blood, sweat and tears.

Just recently in April-May 2020, Delhi, as also other cities,

witnessed the tragedy of mass forced exodus of lakhs of migrant workers due to the COVID induced economic crisis. The sight of lakhs of workers walking thousands of kms home exposed not just the apathy of the elites and the governing classes, but also highlighted how much cities and economies are dependent on these workers. The enhanced sensitivity to the plight of urban migrant poor has however been chimeral and transient; even as COVID pandemic still rages, nothing seems to have changed with the right to housing and basic dignity of urban poor once again sought to be summarily denied to those who actually build and run the city daily and therefore have an equal stake in it.

In its order, the Supreme Court makes reference to an order of the NGT dated 01.10.2018, passed in an application praying for the prohibition of use, sale, carrying or dumping of any plastic product on the Indian railways stations, but failed to note that even in October 2018, the NGT had recorded that the Delhi Urban Shelter Improvement Board had been allocated a budget of only Rs. 11.25 crores for rehabilitation of slum dwellers residing besides railway track and only 257 families were rehabilitated. However, the Supreme Court passed further orders to demolish 48,000 slums, without any information about the present status of the rehabilitation of these slum-dwellers. In fact, the Delhi Urban Shelter Improvement Board was not even a party to the Writ Petition and could not clarify the extent out the scale of the rehabilitation challenge of 48,000 families who houses the SC has ordered to be demolished. Evidently, the Supreme Court only relied upon the affidavit of the Railways, which is not even formally a party to the Writ Petition,

to pass such sweeping orders condemning tens of thousands of poor families to homelessness.

Another aspect of the SC ruling which causes greater anguish and is to be deprecated is the further direction that no Court can stay these demolitions for any reason whatsoever. By putting an embargo on grant of stay by other courts of the demolitions and by rendering the interim orders of protection granted by courts ineffective, the Supreme Court has effectively taken away the right of access to remedy of the affected people without even granting them a chance of hearing. This is completely against the principles of natural justice and a violation of Articles 14 and 21 of the Indian Constitution.

What is most peculiar is that order itself does not provide any judicial reasoning as to why it is necessary to demolish 48,000 homes in a case addressing the issue of managing disposal of plastic and other waste in stations. While the report of the Environment Pollution (Prevention and Control) Authority held that the Indian Railways is not in compliance with the Municipal Solid Waste Management Rules 2016, the Supreme Court has not passed any directions against the Railways, or the Transportation Corporation of Delhi or the Ministry of Transport, who are parties to the Writ Petition, to ensure that the Indian Railways comply with the Solid Waste Management Rules. Alternative measures ensuring better waste disposal through alternative means avoiding demolition of homes was not even considered while passing the ruling.

It should be pointed out that Writ Petition 13029/1985 is a case kept in cold storage for thirty-five years. In all these years, no real and effective solutions to the ecological problems raised in the PIL has

been taken up. By order dated 04.11.2019, without hearing from a single farmer, the Supreme Court held all farmers in Punjab and Haryana to be the culprits behind the air pollution in the city due to their alleged practice of stubble burning. In effect the order denied the right to livelihood of farmers; the order now directing demolition of 48,000 dwellers, without hearing them or bothering to ensure that they would be rehabilitated first is a complete violation of the slum-dwellers right to earn a livelihood and live with basic human dignity under Article 21 of the Constitution. The present order of the Supreme Court appears to be a continuation of the narrative that hutment-dwellers and the urban poor are illegal encroachers, who are not entitled to basic dignities. This is despite the fact courts have, in the '**Sudama Singh**' judgment (2010) held that persons aggrieved by forced evictions should not be considered to be encroachers' and illegal occupants of land and **instead the agencies should first determine if the dwellers are eligible for rehabilitation in terms of the extant law and policy.** The Delhi HC Bench (of Justices S. Muralidhar and Vibhu Bhakru) in '**Ajay Maken vs Union of India**' (2019), relating to evictions of 5,000 slum dwellers on

railway land, held that proper enumeration was not undertaken of the dwellers whose houses were demolished, and that 'Right to Adequate Housing and Rehabilitation' cannot be denied to jhuggi jhompri dwellers in Delhi's railway lands.

The principles laid out in the SC judgment in '**Olga Tellis v Bombay Municipal Corporation**', (1985) pertaining to natural justice, the protection of the right to livelihood and the protections against arbitrariness should not only extend against the State, but should be applicable to slum-dwellers who will be aggrieved by the present order of the SC. Coercive orders requiring the eviction of slum dwellers should not have been passed without giving the slum-dwellers in question an opportunity to be heard. In order to redress the situation, it is imperative that the rights of the slum-dwellers be protected, and the Delhi Urban Shelter Improvement Board should intervene in WP No. 13029/1985 and seek suitable modification of the order dated 31.08.2020, such that the interests of the slum-dwellers are considered by the court, and no demolitions are undertaken without the effective rehabilitation of the slum-dwellers being completed first.

The demolition order has been passed when there is massive spread of COVID in Delhi. The evictions of 48,000 dwellers when the monsoons have not yet ended and with harsh Delhi winters just a few months away will unleash a worse and more horrifying scenario of mass spread of COVID with devastating consequences.

PUCL urges the Supreme Court to reconsider and review its order and protect the rights of the slum-dwellers instead of pushing them towards poverty and homelessness. The Delhi Urban Shelter Improvement Board and the Delhi Government must take immediate steps to protect the rights of the slum-dwellers and to come up with a rehabilitation plan for the slum-dwellers in consultation with them, before any demolitions are initiated. PUCL reiterates that no decision concerning the fate of the slum-dwellers and regarding the impending demolition or implementation of the Supreme Court order should be taken without giving an opportunity of fair hearing to the slum-dwellers and ensuring protection of their rights.

Sd/-

Mr. Ravi Kiran Jain, President, PUCL National; **Dr. V. Suresh**, General Secretary, PUCL National
05th September 2020 □

Delhi PUCL: Press Release: 11th September, 2020

PUCL Delhi Condemns Inhuman & Unlawful Demolition by Railway Authorities & Police in Delhi

A team of Delhi PUCL (People's Union for Civil Liberties) had visited Wazirpur Jhuggie cluster and found that the claim of Railway authorities that around 48 thousand jhuggies are to be affected by the demolition drive. The claim is false. The affected jhuggies will be around 3 lakhs and each jhuggie has around 3 to 5 members living in a family. The authorities' design gives a horrifying view. - N.D.Pancholi, President, Delhi PUCL

PUCL Delhi condemns the inhuman, horrendous and unlawful demolition of a number of *Jhuggies* (hutments) near Kesavpuram and Nangloi Phatak in Delhi on 10th September, 2020 (Thursday) under the garb of 31st August 2020 order of Supreme Court passed in the writ petition (civil) No.13029/1985 whereby the Supreme Court has

ordered demolition of *Jhuggies* near railway lines within three months. The railway authorities without any notice and without giving prior information to the residents reached the *jhuggi* clusters near Kesavpuram and Nangloi Phatak in the morning of 10th September, 2020 and went on a spree of ravaging the *Jhuggies* and

attacking the residents. Most of the menfolk were not at home and the police brutally attacked the old, women and children who tried to question them. Many got serious injuries. The residents were not even allowed to take their belongings lying in the *Jhuggies* which were also destroyed. While residents, mostly women and old,

pleaded the officials with folded hand to give them some time to salvage their household goods and to look for alternative arrangement, the officials did not listen. Now large number of residents whose *Jhuggies* have been demolished are on the road having no place for their habitation.

The action of the railway authorities is totally unlawful and inhuman as these jhuggie dwellers have been residing at the said places for about more than 30 years, some even more than 40 years. They have their ration card, voter id, Aadhaar cards, electricity connections etc. The settled position of law is that the government or any authority cannot evict those who have settled possession of long years. The law as already enunciated by the Supreme Court and many high courts is that the authorities cannot evict jhuggie dwellers without providing them alternative accommodation nearby. In its various judgments the Supreme Court as well several high courts have said that 'right to shelter' is a fundamental right. The Delhi High court in its celebrated judgment 'Sudama Singh and others Vs. Govt. Of Delhi: WP(C)8904/2009' decided on 11.02.2010 by the bench of Justice A.P.Shah, CJ and Dr.S.Muralidhar J while quoting several international provisions

and judgments of Indian as well as foreign courts, has held that ".....the removal of their *Jhuggies* without ensuring their relocation would amount to gross violation of their Fundamental Rights". The Supreme Court in its judgment dt.31.08.2020 has not overruled the above said judgments as referred to in the case of Sudama Singh by the Delhi High court and therefore the said settled law continues to operate. The railway authorities and the police have violated the law as well as mandates of our Constitution. They are guilty of contempt of court.

The railway authorities have lied before the Supreme Court that only about 48000 *Jhuggies* will be affected by the demolition. A team of Delhi PUCL consisting of N.D.Pancholi, Amit Srivastav, Surya Prakash and Mukesh had visited the *Jhuggies* near railway line situated at Wazirabad Industrial Area yesterday (10th Sept.2020) and talked to the residents. They found a huge cluster of *Jhuggies* spreading over a stretch of 4 miles. From the talk of the residents they gathered that there are about 15,000 to 20,000 *Jhuggies* over this stretch of 4 miles. Railway authorities claim that around 70 miles of railway lines are under occupation of the jhuggie dwellers and on this calculation

even a conservative estimate will make us realize that there cannot be less than 3 lakhs *Jhuggies* to be effected and each *jhuggie* has at least on average 3 to 4 members in a family. The residents are already living in a subhuman condition. There are only two blocks of common toilets –each block has twenty toilets for men and twenty for women in a cluster of around 15,000 to 20,000 thousand of *Jhuggies*. Sudden lockdown has rendered thousands unemployed who are struggling to survive. In the midst of such plights, the governmental authorities wish to add further woes to their miserable life. Nothing could more inhuman and brutal.

We therefore call upon the railway authorities, Central and Delhi governments to desist from embarking upon the demolition drive of the *Jhuggies* in Delhi without ensuring the jhuggie dwellers suitable alternative accommodation nearer to industrial area where they can seek employment.

N.D.Pancholi, Sheoraj Singh, Amit Srivastav, Surya Prakash, Mukesh for and on behalf of *People's Union for Civil Liberties*(PUCL), Delhi.

(M) 9811099532, 9871787075, 9968437413 ☐

Activist-Politician and Arya Samaj Leader Swami Agnivesh No More

September 11, 2020

Swami Agnivesh, who was suffering from liver cirrhosis, was put on a ventilator since Tuesday when several major organs stopped functioning.

A social worker and iconic figure of Arya Samaj, Swami Agnivesh has passed away. He breathed his last at a hospital in Delhi on Friday evening. Swami Agnivesh was admitted to the Institute of Liver and Biliary Sciences (ILBS) in New Delhi on Monday. Confirming the death of Swami Agnivesh, ILBS said, "Swami Agnivesh had a cardiac arrest at 6 pm on Friday. He breathed his last at 6.30 pm."

Agnivesh, who was suffering from liver cirrhosis, was put on a ventilator since Tuesday when several major organs stopped functioning. A team of senior doctors of the hospital was keeping a close watch on his condition, but he could not be saved.

Born on September 21, 1939, Swami Agnivesh was known for his outspoken comments on social issues. A political party named Arya Sabha was formed in 1970. In 1977, he was elected MLA in the Haryana Legislative Assembly and also served as the Minister of Education in the Government of Haryana. In 1981, he founded an organization called *Bandhu Mukti Morcha*.

PUDR Mourns the Passing away of Swami Agnivesh

13 September 2020

PUDR mourns the passing away of Swami Agnivesh on September 11, 2020. Like many civil rights organizations which came into being in the post-Emergency phase in Delhi, PUDR shared a warm and comradely relation with Swami Agnivesh as he participated in a wide variety of democratic rights activities in the city.

Besides being a fellow traveller in the country's civil rights movement, Swami Agnivesh's *Bandhua Mukti Morcha* which was founded in 1981, shared a particularly important relation with PUDR. The BMM 1984 judgment in which the Supreme Court reiterated that all labourers who are denied common minimum wages should be presumed as bonded labourers was preceded by PUDR's 1982 judgment in which the apex court had held the right against forced labour included the right to minimum wages. Both petitions shared a common goal of emancipation of working people by upholding the right to live with human dignity and the state's responsibility in ensuring the protection of fundamental rights. More importantly, the then President of PUDR, Mr Gobinda Mukhoty argued many of the BMM petitions in court.

In 2011, Swami Agnivesh was part of a joint team which included members of PUDR in Bastar asking for the release of 5 security men who had been held hostage for 18 days by the Maoists. Swami Agnivesh had hoped that the State would reciprocate this unconditional release. Instead, he was attacked by Salwa Judum goons in Chintalnar in South Chhattisgarh, where he had gone for relief distribution following the burning down of houses by the security forces in March 2011. His opposition to the anti-Muslim rhetoric led to him being severely attacked by a mob allegedly belonging to the Bharatiya Yuva Morcha in Pakur, Jharkhand, in 2018. The ire of vigilante groups was visited again, a month later in Delhi, when he was on his way to pay tribute to the former Prime Minister, Atal Behari Vajpayee.

Unlike the typical saffron robed faith healer, Swami Agnivesh was an activist at heart. Besides being a committed believer in democratic rights, he was a staunch advocate of peace and harmony and he led several interfaith initiatives in strife-torn Kashmir. Consequently, he paid a heavy price for raising these issues. His friends and aides have maintained that his health began to slide especially after the repeated attacks and assaults in 2018.

The passing away of Swami Agnivesh is a big loss to the democratic rights movement in India, as the movement has lost a friend, a comrade and a fellow activist.

Champion of Human Rights, Secularism, Swami Agnivesh, passes away at 81

The powerhouse behind *Bandhua Mukti Morcha* (Bonded Labour Liberation Front), Swami Agnivesh leaves a legacy of activism

The man who embodied the true meaning of saffron robes, as a symbol of service to the marginalised passed away in Delhi on September 11 at 6.55 pm. On September 21, he would have completed 81 years of age. He succumbed to multiple organ failure, and had been under critical care at Delhi's Institute of Liver and Biliary Sciences (ILBS), as he had been diagnosed with liver cirrhosis. According to his associates a liver transplant had been planned earlier, but his health took a turn for the worse last week and he was put on ventilator support.

Swamiji's ever smiling visage is how the thousands of labourers he had helped and become the voice of, will remember him. As will all

those who ever met him, including journalists who always saw him calm and composed, and armed with facts in answer to the most ignorant questions. He was no typical 'baba', he was Swamiji, an activist who spoke his mind, and faced all kinds of attacks.

In fact, as noted in a recent report in the National Herald, he was often called the 'Secular Swami' by both his friends and his critics. The social activist and the face of *Bandhua Mukti Morcha* (Bonded Labour Liberation Front) Swami Agnivesh has been in critical care for the past few days, with his closest aides, keeping vigil outside the hospital, and praying for his recovery. The news report quotes his friend and General Secretary, Rajasthan PUCL, Kavita Shrivastav stating that "his latest concern was the SC order on the demolitions of 48000 houses in

Delhi."

She also reminded everyone that the "erstwhile Jharkhand Government did nothing regarding prosecuting the accused who attacked Swamiji leading to grievous injuries. They did not even apply section 307 IPC, a section that defines the crimes as attempt to murder. They made it a simple Section 323 IPC case."

Swami Agnivesh's friends have earlier said that his health had begun to slide after that grievous attack. He had been opposing the "anti-Muslim regime" was beaten up by the right wing affiliated goons at Pankur, Jharkhand in 2017 recalled the NH report. The images of Swamiji's torn clothes and dazed face after he an unarmed saffron clad man was attacked had gone viral, even in those days. He was then on his way to Litipara to participate in an event organised by

the Pahariya tribal community when he was brutally attacked.

Activist and journalist Teesta Setalvad, a close friend and associate of his, recalled, "Swamiji, Agniveshji a true ascetic with Values of Truth, Non Discrimination Passed left us 6.55 p.m. today Believing in Non Violence, Human Rights & Dialogue, above all Constitutional Values he was violently attacked, & brutally by guess who?"

Swami Agnivesh, winner of the Alternative Nobel Peace Prize (the Right Livelihood Award), 2004, is a "cyclonic Swami", states the bio data on swamiagnivesh.com. He was just 28, when he quit his job as a professor of law and management in Calcutta and became an activist. Born into a

Brahmin family, in Andhra Pradesh, he shed his name, caste, religion, family, and became an Arya Samaj sanyasi, ascetic. He eventually settled in Haryana and founded a political party, Arya Sabha in 1970. He was elected to the Haryana assembly, in 1977.

Even after his political life, Swami Agnivesh remained the most celebrated leader of the Arya Samaj in recent times. He is known globally for his active campaigns against bonded labour, and was founder-Chairperson of the Bandhua Mukti Morcha (Bonded Labor Liberation Front). He was elected as the President of the World Council of Arya Samaj (Sarvadeshik Arya Pratinidhi Sabha) in 2004.

Always photographed clad in

saffron including his wrap around headgear, or pagri he would say, "saffron, is my uniform for socio-spiritual action, a call to battle on behalf of the oppressed." Saffron for him, was the colour of "sacrifice, and commitment".

It is a day of mourning for those who are co travellers in the journey of constant activism, and for the lakhs whose lives his work impacted. His friends are remembering and honouring him.

"The demise of Swami Agnivesh is a huge tragedy. A true warrior for humanity & tolerance. Among the bravest that I knew, willing to take huge risks for public good. Was brutalised in Jharkhand by a BJP/RSS lynch mob 2 yrs ago. Liver got damaged. RIP Swami Agnivesh Ji" □

PUCL Maharashtra Press Release:

PUCL Maharashtra Report titled Broken Slates and Blank Screens: Education Under Lockdown' released following a discussion on September 9, 2020

PUCL (Maharashtra) released its report '**Broken Slates and Blank Screens: Education Under Lockdown'** today at a discussion with **Professor G Hargopal**, (former Dean of School of Social Sciences, University of Hyderabad, currently visiting fellow with National Law School, Bangalore and Presidium member of the All India Forum for right to Education) and **Simantini Dhuru**, documentary fil-maker and educationist and author of the Report. **Dr. Meena Gopal**, (Professor and Chairperson, Advanced Centre for Women's Studies and School of Development Studies) moderated the discussion.

The pandemic has brought into foreground these perennial and developing issues that reveal the fact that education has been treated as a privilege or a commodity rather than a fundamental right. The lockdown has heightened existing injustices - malnutrition of children in the ICDS anganwadis and government schools, push-out of large number of children due to inward migration,

exposing and deepening of the 'digital-divide', profiteering by private managements, child-labour and child-marriage, suicides, apathy of the legal system. Along with the children the teachers are also bearing the brunt; being made to serve on COVID duties at check-points, pressurized to adopt to new technologies in absence of sufficient support, working without remuneration and facing job-loss. It also discusses the onslaught of ICT technology-based market forces that feed on the vulnerabilities, ultimately tightening their noose on individual freedoms. In Higher education we see political maneuvering and attack on federalism by disallowing States to take decisions about arranging centralized exams, decrease in enrollment to professional courses and ultimately adding to increase in the army of unemployed.

Ironically, rather than address these immediate challenges the Central Government is busy pushing epochal policy changes like the National Educational Policy 2020; without adhering to democratic processes.

The report is the third in PUCL Maharashtra's '**Lockdown on Civil Liberties'** series. It brings out the state of education in Maharashtra in context of the lockdown – its implications on the rights of children and youth. The analysis while focusing on immediate impact of the pandemic sets in context these systemic issues plaguing education. It brings out the urgent need to address malnutrition, attrition, child labour/marriage, suicides, exploitation by private schools. It also reveals the pit-falls of 'online education'- the widening 'digital divide', pedagogic implications, profiteering by big business. It discusses aspects related to higher education – the 'exam controversy', reducing enrolment and employment prospects. It also raises questions about framing policies that violate the fundamental principles of federalism and constitutional rights.

The report can be downloaded here.

PUCL Maharashtra Reports from the Lockdown on Civil Liberties Series I, II and III -

I. PUCL Maharashtra report titled "Imprisoned and Unsafe : Prisoners and the Pandemic" now publicly available at -

<http://pucl.org/reports/imprisoned-and-unsafe-prisoners-and-pandemic>

II. PUCL Maharashtra report titled The Double Siege - News Media in the Time

of Covid is now publicly available at - <http://pucl.org/reports/double-siege-news-media-time-covid-19>

III. PUCL Maharashtra report titled Broken Slates and Blank Screens: Education Under Lockdown is now publicly available at - <http://pucl.org/reports/broken-slates-and-blank-screens-education-under-lockdown>

Lara Jesani, Advocate, Bombay High Court

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Over 1000 citizens tell Delhi police to Stop coercing 'confessional' statements to manufacture evidence and falsely implicating people:
Press Release: September 04, 2020

We the Citizens Object to the Manner of the Delhi Riots Probe

Over 1000 citizens from all walks of life including, filmmaker **Aparna Sen**; former Culture Secretary culture **Jawahar Sircar**; Historian **Ramchandra Guha**; former Chairperson, Delhi Minority Commission **Dr. Zafar-ul-Islam Khan**; Former Governor, **Margaret Alva**; Academics – **Zoya Hasan, Partha Chatterjee, Jayati Ghosh, Poonam Batra, Nivedita Menon, Sucharita Sen**; former senior civil servants - **Wajahat Habibullah, Madhu Bhaduri, Deb Mukherjee, Amitabha Pande, Sundar Burra, Aditi Mehta**; feminists and trans rights activists – **Meera Sanghamitra, Vani Subramanian, Chayanika Shah, Hasina Khan**; Journalists – **Vidya Subrahmaniam, Geeta Seshu, Manoj Mitta, Anjali Mody, Antara Dev Sen, Priyanka Borpujari**; political leaders, **Brinda Karat, Annie Raja, Kavita Krishnan**; Artists **Kiran Sehgal, Shuddabrata Sengupta & Writer Aruna Vasudev**; Social activists – Magsasay Awardees **Aruna Roy and Sandeep Pandey**; Democratic rights activists **Jagdeep Chhokar, Henri Tiphane, Teesta Setalvad, John Dayal, Lara Jesani**; Former Chief of Naval Staff, **Admiral Ramdas**; Scientist, **Amitabha Basu**, along with scores of others - have issued an urgent statement, strongly objecting to the manner in which Delhi Police has been conducting the probe into the riots cases, and calling on them to restore the public's faith in the investigation.

Citing strong evidence of coerced 'confessional' statements and manufactured evidence, the signatories have sought assurances from the Delhi Police Commissionerate that these practices will be stopped, and have urged them to conduct a fair and impartial investigation to book the real culprits of the riots.

Full Statement

Delhi Police – We the Citizens Object to the Manner of the Delhi Riots Probe Restore the Public's Faith in Your Investigation

Stop coercing 'confessional' statements to manufacture evidence

Stop falsely implicating people, including Umar Khalid

Stop wrongly invoking UAPA to give the colour of conspiracy against the state

We are alarmed by the news that on Sept 1, 2020, Umar Khalid sent a letter to the Delhi Police Commissioner, Shri SN Srivastava, with shocking evidence of the Delhi Police manufacturing evidence against him, through extorted statements. The letter reveals that a young man was interrogated by the Delhi Police (Special Cell) and a false confession against Umar Khalid, related to Delhi riots, was extracted and videotaped. The young man was threatened that he would be arrested under UAPA if he refused. He submitted to the coercion for he was scared, and yet his conscience allowed him to speak up about what had transpired. (<https://thewire.in/rights/citing-instance-of-witness-coercion-umar-khalid-accuses-police-of-framing-him-in-riots-case>).

We are gravely concerned that Dr. Umar Khalid, a young scholar, already vilified and targeted relentlessly by a section of the media, is now being implicated in riots cases on the basis of manufactured evidence. Umar Khalid is not above the law, and must support any police investigation. But when the process of law is sought to be short circuited and undermined, then any citizen's liberty is gravely threatened.

Other people have earlier reported being coerced during police interrogation in Delhi riots cases (<https://www.thepolisproject.com/manufacturing-evidence-how-the-police-framed-and-arrested-constitutional-right-defenders-in-india/#.X00TkS2B2qA>)

A scrutiny by independent media has found the following: In the Ankit Sharma charge-sheet (FIR 65/20),

Dayalpur Police station, presented by the Delhi Police, there were **4 identical 'confessional' statements**. There were **7 identical statements** in the Ratan Lal (FIR 60/20), Dayalpur police station, charge-sheet. And there were **10 identical statements** in the Jaffrabad police station, (FIR 50/20) charge-sheet. (<https://scroll.in/article/967881/delhi-polices-grand-riots-conspiracy-where-is-the-evidence>) In a fourth charge-sheet of the Dilbar Negi case (FIR number 39/20) Thana, Gokulpuri, the Indian Express found that **9 out of 12 confessional statement were near verbatim copies of each other**. (<https://indianexpress.com/article/cities/delhi/delhi-riots-9-of-12-confession-statements-near-copies-of-one-another-6485967/>).

This pattern of coerced statements

and false evidence is alarming. We ask the Delhi Police to confront this evidence of fabrication and coercion, uphold the sanctity of law and procedures, and conduct a fair and just investigation. So that the real culprits of the terrible violence that caused 53 deaths, injured hundreds and damaged property of thousands, are arrested.

We, as citizens of this country, bring on record our objections to the manner in which the North East Delhi Riot cases are being investigated, what this means for the rule of law, the protection of the civil liberties and booking of the real

culprits.

It is important that the faith of the public be restored in the police. The investigation of the North East Delhi riots has undermined this faith as it is being undertaken in a prejudicial manner, targeting the anti-CAA protestors and supporters, alleging a conspiracy.

We seek an urgent assurance from the Delhi Police Commissionerate, that practices like extorting 'confessions' to manufacture evidence will be immediately ended; that those who indulge in them will be held accountable; and that no action will be taken against

Umar Khalid or anyone else on the basis of these so called confessions and fabricated evidence.

Even these coerced confessional statements do not make for UAPA offences, and invoking this law appears to be done without application of mind, to give acts the colour of a conspiracy against the state. We ask the police to drop the application of UAPA in all these cases.

Signed/

Full list of Signatories attached □

Press Release: 28th August 2020

PUCL Delhi, Janhastakshep and Citizens For Democracy had planned to hold a demonstration today at Jantar Mantar raising certain demands relating to the release of intellectuals, writers, professors, students, anti-CAA activists implicated in Bhima Koregaon, Delhi violence and other accusations, repeal of CAA and UAPA, restoration of articles 370 and 35-A. However the police informed us one day before that the gathering for demonstration would not be allowed due to restrictions imposed on account of COVID-19. Therefore we issued information to participants that physical gathering had been deferred due to covid-19 restriction and that we would

submit a memorandum to the President.. However two of the participants reached Jantar Mantar today unaware of my later circular about deferment of the physical gathering. Heavy rain had poured in earlier. They took out two banners and were attempting to display them. . There was large police force ; some policemen immediately pounced upon the banners and took the same in their possession. One of the participant i.e. Amit Srivastava tried to argue with them and he was taken away in a van. The police people told them that they would neither allow any banner nor even a single demonstrator at Jantar Mantar. The usual place of demonstration at

Jantar Mantar was totally surrounded by police barricades and was emptied of vehicles or persons. Soon after I (N.D.Pancholi) reached the place and they told me also the same thing. I inquired about Amit Srivastava and he was soon brought back. However they allowed us to submit our memorandum to the President of India. Amit Srivastava and myself were taken to the President House in a police van where we delivered our memorandum at the reception. The said memorandum is following herewith for your information. **N.D.Pancholi, Aparna and Amit Srivastava** on behalf of *PUCL Delhi, Janhastakshep and Citizens For Democracy*

Memorandum to President

To
The President of India,
New Delhi 110001.

28th August, 2020

Representation of Demands

Hon'ble Sir,

On behalf of our civil liberty organizations we bring to your kind notice the alarming situation in the country. In the midst of growing poverty and unemployment coupled with the miseries wrought by the present pandemic, the state apparatus is busy in making

continuous assault on the fundamental rights of the people. Those who wish to exercise their right in voicing their protests in peaceful ways are sought to be suppressed and victimized. Large number of young students are being falsely implicated in for participating in peaceful protests against Citizens Amendment Act, 2019. The real culprits involved in inciting the recent violence in Delhi are moving freely and victims of the violence are being made accused. The police in Delhi under the

control of the Home Minister at the Centre is being misused against innocent social activists and members of the minority community. The proceedings relating to the recent Delhi violence pending in various courts is sought to be manipulated towards one particular end – even a court had expressed its surprise the way the Delhi police is proceeding violating the established procedures and norms for fair investigation. A senior police officer is reported to have issued a circular to the lower

officials that where members of majority community are involved, the police officials should proceed cautiously. The ordinary citizens are dismayed over open exhibition of communal trends in the police establishment. The political leaders who openly expressed provocative communal slogans against members of a minority community and peaceful anti-CAA protesters and who did their most to incite the violence are being unashamedly protected.

The situation relating to human rights prevailing all over India is also very dismal. Intellectuals, writers, human right activists, journalists, who raise their voices in favour of the downtrodden, weak and minorities are sought to be silenced by implicating them in false cases. About 12 such academicians, writers, professors, human right activists, advocates are in prison of the last many months, some of them even going to complete two years of detention. Some of the names are Anand Teltumbde, Sudha Bhardwaj, Gautam Navlakha, Varavara Rao, Arun Ferreira, Vernon Gonsalves who are falsely implicated in Bhima Goregaon case. Two years have passed but even charges have not been framed in court. In this manner it might take decades for the case to reach final conclusion. UAPA is being flagrantly misused for arresting the innocents and keeping them in jail for years.

All those who cherish democracy and rule of law in the country are anguished the was Citizens Amendment Act 2019 was enacted and articles 370 and 35-A were abrogated. These steps are a calculated attempts to destroy our constitutional values. CAA is clear violation of the preamble and article 14 of our constitution as well as international provisions to which we are signatory. It is for the first time in the history of constitutional development of India that a religion has been used to discriminate a particular community. It is not only an assault on our constitution but also violates all values enshrined in our glorious humanist traditions.

The manner in which articles 370 and 35-A were abrogated is against all democratic norms. The affected people, i.e. the people of Jammu & Kashmir were never consulted before imposing on them a dictatorial system. Large number of the political leaders and activists in Jammu * Kashmir were arrested and many of them are still in imprisonment. It was claimed that these measures were necessary for economic development for the people of Jammu and Kashmir. While taking these steps we forgot the popular anecdote richly used by the opposition leaders in their election speeches during elections of February-March 1977 declared in January 1977 during the 'emergency' : that 'a bird would always try to get out of the cage

even if that cage is made of gold'. Last one year since 5th August 2019 has shown that the alleged development of Jammu and Kashmir is a hoax. History of development of human civilization tells us that people prefer their freedom more than their curtailed rights even if assured of better economic life.

And there are some prominent media TV channels who are competing with each other in spreading hate and venom against one community to the enjoyment of concerned governmental agencies whose task is to curb hateful campaigns.

Therefore our demands are as follows:

1. Withdraw cases filed against the intellectuals, writers, professors, students and others falsely implicated in cases relating to Bhima Goregaon and Delhi violence;
2. Release anti-CAA protesters as they have been arrested with a view to silence them;
3. Release large number of citizens kept in unlawful detentions in Jammu and Kashmir;
4. Restore erstwhile statehood of Jammu and Kashmir;
5. Restore articles 370 and 35-A of the Indian Constitution;
6. Repeal CAA and UAPA.

We shall be highly obliged.

PUCL Delhi, Janhastakshep and Citizens For Democracy □

Who Is Secular? What is Secularism?

The word secular has a different meaning in Indian English from what it means in English. Whereas in English, it is an attribute of a state or activities or spheres of activities, in India, it is an attribute of a person. And in the Sangh's usage it has a special meaning. It is an attribute (characteristic) of a person with certain alleged characteristics. It means that a secular person does not believe in God. He is against religion. He is anti-Hindu. He is pro-Muslim and pro-Christian. But this is factually wrong and malicious and is a Sanghi propaganda and a term of abuse. It is part of their hate speech. When they call someone secular or

'sicular', they mean he is anti-RSS and anti-Hindu and an enemy. Gandhiji was murdered for being "secular" or "sicular" as defined by the Sangh.

In fact, Mahatma Gandhi was a devout Hindu. He was a deeply religious person. He respected all religions. He was not against any religious community nor partial to any religious community. Thus, he was 100% secular in the sense that he treated all religious communities on an equal footing. But it made him 'sicular' to Godse and cost him his life. The Sanghis and the Godse Hindus use secular or sicular in this sense of the word.

Unlike Gandhiji, there may be a non-believer, who treats all religious communities on an equal footing. He is also a secular person. Nehru belonged to this category.

There may be a religious Muslim or Christian, who treats all religious communities on an equal footing. He is also a secular person. Maulana Kalam Azad and Raj Kumari Amrit Kaur may be mentioned as examples.

It means that if a person (Hindu, Muslim, Christian Parsi, Buddhist or a non-believer) treats members of all religious communities on an equal footing without discrimination because of his religion, he is a

secular person. Sanghis call all who treat members of all religious communities on an equal footing 'sicular' or 'secular'. They use these words as an abuse. These are words out of the Sangh's vocabulary of hate speech. The Sanghis' usage has no connection with the word 'secular' or secularism in their actual sense . Secular actually means as has been defined above. It refers to all those who do not discriminate between people due to their religions. In the English language, secular means matters not related to religion. It is not an attribute of a person but of activities or spheres of life. The opposite word of secular is religious (not communal as in the Indian usage). It originated in the dispute between the Church and the State (the King) about their respective jurisdictions. It was resolved by an agreement that whatever was religious was under the Church's jurisdiction , and the rest was secular and under the King's (the State's) jurisdiction. .

Later, secularism became the

attribute of State. It means that a secular State would treat members of all religious communities as the same. It would not be partial to any religious community nor would be hostile to any religious community. Secularism also has different shades in practice. US secularism means that the State would not enact any law about any religion. But otherwise its functionaries do not shun their religious practices in public. White House has a church for the President. India is a secular State. In principle, it can not discriminate against any religion or religious community, but enacts laws in matters religious. For example, it enacted a law against triple talaq. The Supreme Court interfered with the practice of not permitting women of a certain age to visit Sabrimala*. On many occasions, priests from all religions offer prayers at state functions.

But the essence of secularism is non-discrimination against people on the basis of their religion. It is this principle, which is the life and soul of

secularism, democracy and the rule of law. But its soul has been under attack and has been badly battered in India because it has been under attack from day one by the forces currently ruling our country.

Most astonishing is the case of England . Christianity is the religion of the state. The Queen /King is the Head of the Church of England, but does not discriminate against people who belong to other faiths. In contrast, India is a secular State but is at war against her own minorities, not in principle but in practice against the letter and spirit of our constitution. If India has to survive as a civilized country, it has to follow secularism in letter and spirit and fight tooth and nail the forces of evil out to destroy secularism, rule of law and democracy.

*Reference to the cases is not to express any view on the issues , as it is not necessary for this post.

Prabhakar Sinha. On Facebook 25,September,2020 ☐

PEOPLE'S UNION FOR CIVIL LIBERTIES

MEMBERSHIP FORM

The General Secretary,
People's Union for Civil Liberties

Dear friend,

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

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

I also remit herewith Rs. 200/- at concessional rate as the subscription of the **PUCL BULLETIN** (optional).

I am not a member of any political party/I am a member of(Party).

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Signature

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

National Office: PUCL, 332, Patpar Ganj, Opposite Anand Lok Apartments (Gate-2), Mayur Vihar-I, Delhi-110091 (Phone: 011-2275 0014)

SWAMI AGNIVESH**A Tribute on behalf of PUCL**

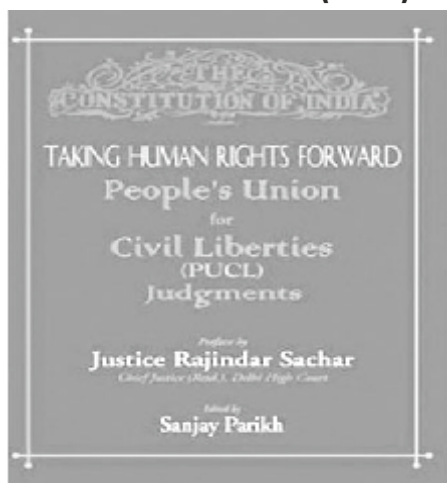
Swami Agnivesh, the fire-brand revolutionary monk, died on 11th September, 2020 at a hospital in Delhi at the age of 80. The news of his demise came as a severe shock to civil society activists. Swami Agnivesh throughout his life courageously fought religious fanaticism and religious bigotry. He boldly spoke against fanatical and chauvinistic Hindus who distorted the true essence of Hindu faith. He was vocal critic of inhuman caste practices and the degrading system of bonded labour. He stood and fought for the rights of minorities such as Muslims, Christians or of any other denomination. He tirelessly worked for communal harmony. Protection and promotion of civil liberties, especially of the poor and marginalized were dear to him. When People's Union For Civil Liberties (PUCL) came into existence in the later part of seventies, he immediately became its member and give his whole hearted support. He made significant contribution to its growth and was active member of its national council for several years. He was one of the strong pillars of PUCL in the making.

Swami Agnivesh fought on many fronts, his battles are legion. His life and deeds inspired and will continue to inspire those who are engaged in the struggle for social emancipation and human rights. In his life he exemplified the words of Faiz Ahmad Faiz, : LAZIM HAI KI HUM BHI DEKHENGE..... *We shall also see, we will see when the mountains of oppression and cruelty shall float away like the carded wool....*

His demise is a great loss to the Indian nation in general and to the PUCL in particular. PUCL salutes his memory and expresses its deepest condolences to Bandhua Mukti Morcha and to all his friends and colleagues. **N.D. Pancholi**, Vice President, PUCL National. □

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