

29th September 2022*Operation Octopus: Undermining Democracy***PUCL condemns the Mass Raids, the Arrests of PFI leadership and cadre and the Ban on the PFI**

The PUCL is deeply concerned about the implications for democracy and the constitutional rights of freedom of speech and association in the light of the ongoing '*Operation Octopus*' which is being carried out against the Popular Front of India (PFI) and its affiliates, across the country as a joint operation of the CRPF, the home ministry, ATS, NIA, ED, RAW, State police, and other agencies. It has consisted of mass raids being carried out in two rounds, in more than 16 states of India over hundreds of locations and with over 300 arrests. The raids, which have been conducted as a media spectacle showcasing massive state power, bodes ill for a constitutional democracy based on rule of law, pushing the Muslim community further into fear, intimidation, alienation, and silence.

Undermining Federalism

At the outset it should be noted that there are serious implications related to federalism in the way raids have been carried out and arrests made by the Central Agencies. The local police of non BJP states such as Tamil Nadu and Rajasthan were kept out of the operation. In fact, the TN police were in the dark about the raid and the arrests until the very end. Despite law and order being a state subject, the Centre arbitrarily used the NIA trampling the powers of the state government and undermining the Constitution

These raids were followed by a notification of the Ministry of Home Affairs dated 27th September under the Unlawful Activities Prevention Act, 1967, which declares PFI 'the PFI and its affiliates the Rehab India Foundation (RIF), Campus Front of India (CFI), All India Imams Council (AIIC), National Confederation of Human Rights Organization (NCHRO), National Women's Front, Junior Front, Empower India Foundation and Rehab Foundation, Kerala as an "unlawful association" and hence banned.

Setting the Stage for a ban on PFI : Might of the Indian State on Display

In a massive show of force, the Ministry of Home Affairs, Government of India initiated and coordinated between 22nd and 27th September, raids in more than a hundred locations in 16 states and arrested 106 people on day one; The second round of Operation Octopus was carried out by the State police in 8 states, mostly ruled by the BJP. Officially it has been stated that more than 170 workers were arrested, with almost 30 in Delhi. However, according to the PFI, over three to four hundred of its cadre have been picked up with almost the entire top leadership at the central and state level of the PFI and the Social and Democratic Party of India (SDPI) being taken into custody. Many of the arrestees include professors, practicing lawyers, and community level organizers.

According to the press note put out by National Investigation Agency (NIA) on its website dated 22nd Sept, 2022, “.... these searches were conducted at the houses and offices of the top PFI leaders and members in connection with 5 cases (RC 14/2022/NIA/DLI, RC 41/2022/NIA/DLI , RC 42/2022/NIA/DLI, RC 2/2022/NIA/KOC, RC 3/2022/NIA/HYD) registered by the NIA following continued inputs and evidence that *the PFI leaders and cadres were involved in funding of terrorism and terrorist activities, organising training camps for providing armed training and radicalising people to join banned organisations.* RC 3/2022/NIA/HYD, was initially registered as FIR no.141/2022 on 04/07/2022 at Nizamabad PS, Telangana against over 25 PFI cadres”.

The Raids: A means to instil fear in the Muslim Community

The disproportionate nature of the response to the PFI was visibly seen in the ongoing mass raids undertaken all over India. Mostly late into the night busloads of armed CRPF suddenly set up blockades in Muslim dominated residential localities, closing access to streets where the raid was to happen, they were under siege for several hours. The idea was to intimidate and terrorize the entire Muslim community, by the display of weaponry and security gear. The police also promulgated sec 144 in some areas, like in Jamia Nagar, Delhi, where it is in force till Mid November 2022. This, in effect, ensures that protests and other democratic expressions of opinion are curtailed.

Past record of the FIRs not bearing critical scrutiny.: The example of the Bihar Arms Training case of the PFI

In July of 2022, the Bihar police registered two FIRs naming 26 Muslims under “anti-national and terror activities” charges of the IPC in Phulwari Sharif in Bihar. The arrests were carried out just before the visit of Prime Minister Narendra Modi to Patna. The case is now with the NIA. One of the FIRs accused a member of the Popular Front of India (PFI) of “running arms training in the garb of martial arts.”

The other FIR named one Muslim youth who was “mentally ill”, accusing him of “running an anti-India WhatsApp group”. The police also alleged that they found a PFI document claiming that India would become an Islamic nation by 2047.

The fact finding conducted by the Bihar state PUCL branch found that “prima facie no arms training, terror activities or radicalising youth was being undertaken in Phulwari Sharif area of Patna district.” The report also deplored the vilification by the media of the Muslims living in Phulwari Sharif. For instance the Hindi daily, Dainik Bhaskar which repeatedly called “*Phulwari Sharif*”, the sacred garden as “*Aatank ki Phulwari*” the garden of Terror. They concluded that the Bihar police’s charges were baseless. The false narrative of terror was built up by the media in support of the Bihar Police’s fabrication of the FIR and false arrests.

The unconstitutional ban on the PFI: Examination of the Notification

If the FIR’s do point to cognizable offences, the resort to a ban by notification is **disproportionate and arbitrary in nature**. This sweeping response takes within its ken all activities of the PFI and its affiliates regardless of whether those activities fall within the framework of the Indian Constitution. *The right approach in a constitutional democracy is to respect a plurality of forms of speech and association, including organisations and voices which express disagreeable opinions.*

- The notification for example states that, ‘they have been pursuing a secret agenda to radicalize a particular section of the society working towards undermining the concept of democracy.’ *A democratic state’s response to perceived radicalization cannot be in the language of ban, which is a means of betraying the very values of the Constitution which we are claiming to uphold.*
- It is not the PUCL’s case that criminal acts should not be punished. Our emphasis is that the due process should be administered in an unbiased, non-discriminatory, fair and firm manner. In the incidents of the murders of specific individuals named in the Notification, viz., Sh. Sanjith (Kerala, November, 2021) or Sh. Praveen Nettaru (Karnataka, 2022), the due process of law should be followed and the guilty (whether they happen to be PFI members or not) should be punished in accordance with law. *To link these murders as a justification for a ban is perverse and an arbitrary state response.*

The consequences of the ban

The UAPA is a law which criminalizes guilt by association. Ordinary Muslims can now be arrested under sec. 10 of the UAPA on the grounds that he or she is a

‘person who is and continues to be a member of the association’ or that he or she ‘contributes to or receives or solicits money for the purpose of such association’. This is not an idle speculation but borne out by the two decades long history behind the ban on a range of Muslim organisations from SIMI onwards resulting in many innocent Muslims youth and leaders being surveilled, criminalised, detained and arrested under UAPA in the name of being members of either SIMI, the Indian Mujahidin or Daesh (IS) based on flimsy evidence.

The world’s largest democracy should not resort to the *politics of banning* when it comes to organisations and viewpoints which it considers as ‘anti-national’. Instead India should demonstrate that as a functioning democracy there is no discrimination on grounds of religion. That is the only sustainable way of preserving ‘unity, integrity and fraternity amongst Indians’. The unity of India depends upon how Indian state and society ensure that the promise of a plural and inclusive nation is delivered to all its citizens. Bans are no solution.

The PUCL demands that

- ⊙ The ban be revoked, and a dialogue be established with the PFI.
- ⊙ All the arrested persons be released.
- ⊙ Desist from an arbitrary utilization of the power of arrest to target Muslim youth on grounds of membership or support of PFI and its affiliates
- ⊙ Repeal the unconstitutional Unlawful Activities Prevention Act and also the NIA Act, in toto. In the interim, the NIA Act should be amended to ensure that the concerned State Government is consulted, and consent obtained before the NIA and MHA, Government of India chooses to launch a raid or arrest a resident in the concerned state.

29th September, 2022

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PUCL