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## Safeguarding the Constitution: Task of Human Rights Defenders A Suggestion to the Members of PUCL

Ravi Kiran Jain, President, PUCL National

A series of events since 1971 that led finally to the destruction of the Babri Masjid in Ayodhya on the 6<sup>th</sup> of December 1992 demonstrate that both the major political parties-- the Congress and BJP-- have shown little regard for the rule of law and the country's judicial institutions.

Both the political parties *i.e.*, the Congress and the BJP wanted judiciary to be weak and have been making attempts to make the courts obedient to their government, both unbalanced the power equation among the three branches of the government. Both the parties also wanted to change the basic structure of the constitution. Mrs. Gandhi's government superseded three senior judges of the Supreme Court for their ruling in Kesavananda Bharati case laying the basic structure doctrine.

During 1971-77 Mrs. Indira Gandhi ruled the country in authoritarian way. 23<sup>rd</sup> March 1977 is regarded as the day of India's liberation from authoritarianism, but the danger of authoritarianism reappeared with the success of Mrs. Gandhi in the post emergency election of 1979-80 and it continued even under the unprincipled regime of Rajiv Gandhi. In 1984 Elections in which Rajiv Gandhi had a clean sweep, BJP could secure only 2 seats in Lok Sabha. The *Sangh Parivar* started a campaign for the construction of a magnificent Ram Janam Bhoomi Temple at the site and by 1985 built up a sizeable support in the Hindu Community. In January 1986, locks were removed from the mosque and Ram bhakts were permitted to offer prayers to Ram lala. It is said that the Prime Minister Rajiv Gandhi ordered the Chief Minister Veer Bahadur Singh to do so who got the District Administration to ensure this. The two major political parties BJP and the Congress started a race on pandering to communal Hindu sentiments. In 1988, Hindutva Organizations led by the RSS organized a mass campaign for building a grand temple exactly where the Mosque stood. They claimed that the Mosque stood at the precise site where Ram was born. By the time the fifth and final suit was filed on 1.7.1989 and all the 5 suits were transferred to the High court to be tried by the Full Bench by order dated 10.7.89, the political climate had changed beyond recognition.

- Union Home Minister Buta Singh signed an agreement with the VHP on 17th August 1989, that bricks for constructing the temple would be allowed to be brought from all over UP without hindrance and collected at the plot No. 586 near the mosque. This agreement was in violation of an order of the Allahabad High Court given on 14th August that no construction activity could be taken at that spot.
- Later, the VHP announced that 'karsewa' would be performed to lay the foundation stone. This was also a violation of the judgment given two days ago, prohibiting any such activity. This repeated defiance, of the orders of the court did not weigh with the Prime Minister, Rajiv Gandhi who inaugurated the campaign of Congress Party the next day from twin

city of Faizabad, and announced that the objective of the party was to establish Ram Raja .Soon thereafter the BJP President Advani, at Palampur, after the National Executive Meeting, announced that the inclusion of the construction of the temple in its Election Manifesto "would fetch votes"for it .It would thus appear that the two major political parties were in a race on this issue.

- The communalist nationalism which is being propagated by the BJP and the Sangh Pariwar represents a far greater danger to the Indian Democracy than personal authoritarian rule which Mrs. Indira Gandhi were likely to impose on the country. The movement for the construction of a Sri Ram Temple by destroying the Masjid was clearly a movement for encouraging the Hindus to humiliate the Muslims. The main reason why the Babri Masjid was destroyed on 6th December 1992 was that Narasimha Rao government at the centre did not like to take any firm action against the so-called Kar Sewaks because it was reluctant to alienate Hindu votes.

The Babri Masjid issue started soon after independence and continuing with full vigour even now. India became Independent on 15<sup>th</sup> August 1947. The idols were surreptitiously placed in December 1949. The first suit was filed on 16.1.1950.We became a Republic on 26.1.1950. The first Parliamentary Elections took place in 1952. Looking back, we find that the people of this country had an urge to participate in the political process, and this was evident in the elections that took place till 1967 and then in 1977 and even a common man could then hope to get elected, because by that time poll politics had not come in the vicious grip of casteism, communalization and criminalisation. It was in 1989, when the 5th suit was filed and all the suits were transferred to the High Court that the Poll politics came in the vicious grip of Casteism, communalization and

criminalization.

The controversial judgement in Ayodhya case by the Supreme Court came on 9<sup>th</sup> November 2019. Now Home Minister Amit Shah has declared the construction of the temple would be completed by 1st January 2024. That means in parliamentary elections they would use this as an achievement and claim that the grand temple has been built by their efforts.

The Constitution Bench which decided the Ayodhya case comprised of Chief Justice Ranjan Gogoi, Justice Bobde, Justice S.Abdul Nazeer, Justice Ashok Bhushan and Justice D.Y.Chandrachud. Chief Justice Ranjan Gogoi was nominated as Rajya Sabha member,Justice S.Abdul Nazeer has now been made the Governor within a month of his retirement and Justice Ashok Bhushan is currently appointed as the Chairperson of National Company Law Appellate Tribunal. These are post-retirement benefits given to the judges deciding the case in favour of the government.

The judgment in the NJAC case came on October 16, 2015. Unfortunately, till N.V.Ramana took over as the Chief justice of India at least 4 of his predecessors were seen as standing with the government, even when the fundamental rights and civil liberties of the people were under attack and dissent was being suppressed under UAPA and the Draconian law of sedition. It was only after Justice Ramana took charge that some faith in the judiciary was restored. During his tenure, Supreme Court agreed to revisit the sedition law and urged the government to refrain from lodging FIRs under the said laws. Justice U.U Lalit, who had a tenure of less than 3 months, made sincere efforts to bring about the much-needed reforms in the listing of cases with a view to ensuring that important cases no longer remained on the back burner and were heard expeditiously. The present Chief justice of India is known for his commitment to Fundamental rights and civil liberties of the people. The government had no problems with the Supreme Court so long as it was docile and was by

and large toeing its lines. But now fearing a more assertive court the Union Minister of Law and Justice and the Vice-President find the collegium system of appointment of Judges to the High courts and Supreme Court opaque and not accountable. He has also questioned the court's order putting the sedition laws in abeyance.

When Modi government was formed by a Majority in parliament in 2014, they announced that the appointment of judges by collegium should go. The NJAC Act 2014 was enacted. It's validity was challenged. The Supreme Court declared the NJAC Act and the consequential amendment to the Constitution as unconstitutional on the grounds that it was against the judicial independence and thus contrary to the basic features of the constitution.The court did what it is ordained to do under the constitution. Nothing more nothing less.

Most politicians while in power, are allergic and intolerant to an independent judiciary. It requires a politician to rise to the level of a statesman and a visionary to understand how vital an independent judiciary is to the functioning of a constitutional democracy. Authoritarian regimes want that the judiciary should be executive minded. Indira Gandhi also wanted to have committed judiciary. Committed means committed to the executive. The re-emergence of Indira Gandhi after her authoritarian and personal rule between 1973 to 1977, started after 1979- 80 elections when Indira Gandhi defeated the Janta party in the elections. Granville Austin in his book 'Working a Democratic Constitution' wrote,"During January 1980 Justice Bhagwati wrote 'Dear Indira ji' letter to the Prime Minister congratulating her on her election and praised 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 state of utter collapse. we 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 constitution bench of the Supreme Court headed by Justice Bhagwati in S.P Gupta case. In that case known as the First Judges case the Supreme Court appeared virtually to surrender itself to executive power exercised through the president. According to the decision in the First judges' case, the Court and the constitution the prime responsibility for the appointment of judges was upon the executive which meant the, executive government and opinion of the executive government was to prevail over views expressed by the Chief justice of India. The position of the chief Justice of India in the matter of appointment of judges was reduced to a nullity. Consultation meant little more than passing on information and definitely did not imply consent. The S.P Gupta case judgment was delivered on 31<sup>st</sup> December 1981 and it continued to hold the field for about 12 years upto October 1993 when the judgment in the Second Judges case was given. Thanks to the Second Judges case, the Supreme Court, realising the great mistake committed in the First Judges' case virtually reversed the judgment in the case holding that the judiciary shall have supremacy in the matter of appointment of judges, and not the executive. The Third judges' case arose out of reference made by the President under Article 143 (1) of the constitution as it was thought that the decision in the Second Judges' case created some complications. The questions posed by the President were answered by a unanimous opinion of 5 Judges of the Supreme Court. (Judgment delivered by Bharucha J) The ultimate effect of the Third Judges case at the end of the day, was the substitution of a collegium of five judges instead of three, i.e., the Chief Justice and the next 4 senior judges.

Now Vice President Jagdeep

Dhankhar sparked a debate on the separation of powers between the executive and the judiciary. He criticised the Supreme Court for using the doctrine of basic structure to strike down the constitutional amendment that introduced the National Judicial Appointments Commission Act. On December 7 in his maiden speech in the Rajya Sabha, Dhankar called the striking down of the NJAC Act a “Severe compromise “of parliamentary sovereignty and disregard of the “mandate of the people”.

The Law Minister had also written to the Chief Justice of India seeking a place in the collegium .....as a representative of the Government.

The Law Minister and the Vice-President questioned the judgment of the Supreme Court which came to be known as the Kesavananda Bharati case. The said judgment was delivered 50 years ago, the court had held that while Parliament has the power to amend the constitution, it does not have the power to amend its basic structure. It was and is held as one of the finest judgments delivered so far. The Law Minister and the Vice-President attacked the basic structure doctrine not only to challenge the NJAC case but the BJP has on its agenda to challenge the basic structure theory as they want to make amendments in the constitution changing its basic structure. The BJP, for example is against the words “Secular “ in the Preamble of the Constitution. Although this word was not in the preamble as the constitution stood initially, but it was inserted in the preamble by 42nd Constitutional Amendment Act. The BJP does not want that India should be a secular country. They want that this word be omitted in the Preamble of the constitution. It is worthy to note here that Chief Justice Sikri and Justices Shelat, Grover and Khanna had declared secularism as a basic feature of the Constitution even before the forty-second amendment by which the word 'secular' was introduced into the Preamble of the Constitution. That the 'secular' nature of the Constitution is one of its basic features has subsequently been

emphasised in innumerable cases.

Subsequent to the Kesavananda Bharati case, the Supreme Court made occasional exploratory searches to identify the basic features of the Constitution. In Kesavananda itself, Chief Justice Sikri enumerated what he considered were some of the basic features of the Indian Constitution:

- 1) Supremacy of the Constitution.
- 2) Republican and democratic form of government.
- 3) Secular character of the Constitution.
- 4) Separation of powers between the legislature, the executive and the judiciary.
- 5) Federal character of the Constitution.

Illustrating the statement that the basic structure of the constitution could not be altered, Khanna J said:

“It would not be competent under the garb of Amendment, for instance, to change the democratic government into dictatorship or hereditary monarchy nor would it be permissible to abolish the Lok Sabha and the Rajya Sabha. The secular character of the State according to which the State shall not discriminate against any citizen on the ground of religion cannot likewise be done away with.”

In *State of Rajasthan vs. Union of India*, independence of the judiciary, judicial review, and separation of powers were held to be basic features of the Constitution. This was reiterated in *Subhash Sharma vs Union of India*, Bench of 7 Judges.

The present political parties have no will or capability to think beyond the centralised system of governance. They are incapable to maintain the integrity of the constitution and its secular character, and their calculated political actions towards weakening the key democratic institutions are ruinous. I suggest a new movement must emerge which is a non-party based civic movement with the aim of defending the constitution and democratic institutions. Human right defenders activists and people who respect the constitution should come to gather to fight to safeguard the constitution. □

## ANNOUNCEMENT

**42<sup>nd</sup> JP Memorial Lecture** (Topic: **Majoritarian Politics and the Dalit**) will be delivered by **Shri. Bhanwar Meghvanshi** on 23<sup>rd</sup> March, 2023 in **Swaraj Vidyapeeth**, Opposite Women's Campus, Allahabad University, Allahabad  
- **V. Suresh**, General Secretary, PUCL Natinal

PUCL National Council Meeting - 4<sup>th</sup> to 6<sup>th</sup>, November, 2022 at Gandhi Peace Foundation, Delhi

## "Relentless Human Rights Violations, Dismantling of Constitutional Institutions and the imperatives before PUCL"

### Report of Proceedings

The following is the record of the proceedings of the PUCL National Council meeting that took place at the Gandhi Peace Foundation, Delhi between 4<sup>th</sup> to 6<sup>th</sup> November, 2022. Many National Office Bearers and NC Members from about 11 states participated in the 3- day meeting held for the first time after the Covid lockdown was first declared in March, 2020 and restrictions on travel that followed during the first and second Covid wave. In all, over 75 people participated in the discussions.

The proceedings were prepared based on the detailed notes taken as the discussions were going on, by Aishwarya and Manavi from Karnataka state unit. The notes taken were in addition to the prepared text of the Reports presented by each state unit. Considering the numerous

issues which were discussed during the 3 days, we felt that it would be useful to share the bulk of the discussions in the proceedings as a record of the NC meeting and the key decisions made. Of course, the proceedings should be read in conjunction with the written reports presented by each state. The decisions made and resolutions are in a separate note annexed to these proceedings.

The English version of the State reports have already been shared with all the state units through the respective State Presidents and General Secretaries. They have also been published in the PUCL Bulletin on December, 2022 and January, 2023 issues. Hard copies of the Hindi language version of the Reports were circulated by UP and Rajasthan units during the NC meeting itself.

However, since English soft versions were not provided, they have not been shared in the PUCL Bulletin. As and when they are readied, we shall publish the same.

In circulating these Proceedings, we must apologise for some gaps in the following proceedings. The discussions following the UP state unit's report took place in the terrace on the first floor of GPF, in the twilight time. Halfway through, the laptops ran out of power, and it was too dark to take notes. So we have not been able to add the notes of the discussions. As regards the presentation of report of TN, the GS of TN read the report which has already been circulated. Similar is the case with the oral report presented by West Bengal colleagues.

**Prepared by Aishwarya & Manavi; finalized by V. Suresh, General Secretary, PUCL National.** □

## PUCL National Council Minutes of Proceedings

(for formal Reports of National General Secretary, PUCL National and State units, please refer to the Reports already circulated and published in the *PUCL Bulletin*).

### Summary of Address by Dr.

**V.Suresh** (04<sup>th</sup> November, 2022)

- PUCL NC has met after 4 years, at a very critical juncture. In this political climate, it is important that we recognise the importance and urgency with which we should work. Political parties have no ways to address the hate politics and this authoritarian and fascist model of government. There could be many reasons for their silence. ED, CBI, IB and such institutions have been weaponised against anyone who stands up. The

sense of fear and apprehension one can gather in this climate must push us to strengthen our internal organisation and go to the people directly. It is in this context we should locate our role and carve a path for ourselves. We should know our limitations, strengths and critically look at our work.

- I want to be blunt. We need to talk critically about our own ways of working. The idea is not to find fault, but to start processes of change. Unless we have an objective analysis of our strengths and weaknesses,

nothing will change.

- It is a must that we have to end this three days with an action plan.
- Read letters from Prabhakar Sinha and Ravikiran Jain.

### Streamlining

- All membership lists should be updated and shared with the National Unit's office. That is the only membership list that is recognised. If there are any doubts regarding membership criteria, maintenance of lists and so on, the GS of that state unit should raise it with the National GS and National Office.

- December 31, 2022 should be the last day to update these lists and January 30, 2023 is the deadline to send the list alongwith the subscription share to the National unit to the National Office in Delhi. The National Office after verification of each state list should inform the state GS if there any queries or clarifications required. The deadline for finalisation of membership lists of each state is March 31, 2023.
- The State unit's General Secretary, Treasurer and President should send these lists before the deadlines. It is their responsibility.
- All members should be asked to read the PUCL Constitution. This is not just a mechanical task. Translate if needed, in local languages, for respective states.
- Statement of accounts and income tax accounts have been published in the latest Bulletin.
- State units should respond when we ask for information regarding memberships and finances.
- Finances of PUCL are under strain. Some of the usual donors are now very restrained and do not donate to us as much as before. Sometimes, our funds dip so low that even paying rent is challenging.
- We have to come up with organisational mechanism to raise funds. We cannot depend on office bearers who pay from their own pockets.

**Reimagining and Reviving PUCL - to ensure that it is vibrant again by 2025**

- Firstly, after streamlining of functioning memberships, it should be ensured that office bearers play an active, proactive role and should not act in a token manner. It is a very big challenge to coordinate between state units and the national unit. State units should define the responsibilities of officebearers.

- We have to involve more youth, and we should ensure that we are active on social media.

**PUCL Bulletin**

- The bulletins have had a huge impact and we have many institutional enquiries about the Bulletin. But for us to continue to publish the Bulletin, we need to increase our subscriptions so as to make the publication of the Bulletin sustainable.
- Soft copies of the Bulletins uploaded in the PUCL website need to be easy to search and find on the website too.

**Website**

The new PUCL website is a work in progress. One of the main features is that it will contain all information about PUCL in one place ranging from reports brought out by the National unit and the state units since 1980, JP Memorial Lectures, Reports of Fact-Finding Teams and a wide plethora of articles, submissions, reports and so on. We have recently completed a major study on the UAPA and are working to upload all the material collected by us. It will be a one-stop data space for all resources and data on UAPA.

**Campaign against new criminal law reforms**

An important issue we have to focus on and campaign about is the plan of the Central Government to introduce major changes in the structure and framework of Criminal laws This is something that we in PUCL will need to work on very seriously, as the information raised by media friends is that the major changes in criminal law have to work on because they are saying they will bring these changes by January 2023.

**Discussion on Report presented by National General Secretary Responses / Comments (arranged topic wise)**

1. Information about activities initiated by the National unit

should be shared with the local units and informed to all state units as well. The local unit should be informed because the media and other local groups usually rely on communication with the local unit.

2. Communication between national and state units and with ordinary members – this infrastructure should be reviewed and changes brought about. This infrastructure should consist both of top down and bottom-up communication.
3. Membership: PUCL should aim to bring in newer members and involve new people.
  - Delhi PUCL, has made it a policy that every activist should reach out to 10 people and invite them to join the work or attend events.
  - Memberships should increase this way as well as through participation in programmes hosted by PUCL.
  - Some State units have not been focusing on increasing membership. The numbers don't reflect these efforts at all.
  - These efforts are important because it is a democratic organisation, not depending only a few individuals.
  - There is a large gender bias and age bias. We should be able to provide membership data showing gender and age profile so as to help us ensure involvement of different social sections.
4. Coordination between State unit and National unit is a very challenging issue which requires to be streamlined.
5. UP and Rajasthan produces reports in Hindi which does not get a lot of coverage amongst other units or gets published in the PUCL Bulletin. This requires to be addressed so that there is a two-way communication stream in both English and Hindi for members in Hindi speaking states.

### **About State Body elections**

#### **6. State units must conduct elections and intimate the National unit so there can be a representative from the national unit.**

- According to the PUCL Constitution, there are processes how an election should take place. They should be recorded in writing, there should be intimation in advance to the NC, the names of new office bearers should be sent to National unit.
- State units where elections take place should have a national observer. There should be a discussion between NC members as to who will be the observer for the state election.
- Once a state decides election dates, adequate time should be given for making travel arrangements for Observers. As a thumb rule a minimum of 21 days to a month should be planned for.
- State should ensure that all district units should also be informed about dates fixed for elections and the names of office bearers elected.

#### **7. Bulletin in Hindi and local languages**

This is a part of democratising information that is produced by PUCL. The Hindi Bulletin should be launched at the earliest.

#### **8. Fundraising**

- Raising funds for PUCL is a very huge challenge and there is a need for a new system to take this up.
- Money is always raised in an ad-hoc way. This is not an efficient way. Fund raising has to be a collective responsibility. All state units have to contribute to the National office. Bulletin is being run with meagre funds. We are only paying a minimal salary to 2 people. All state units should be informed of PUCL finances, and vice-versa.
- Reports and information

regarding number of members, activities undertaken - these are things that should be transparent and accessible to all.

9. PUCL can become strong and grow only if these internal processes are strengthened.

#### **10. PUCL Delhi Unit should include some places of UP and Haryana and be called NCR unit - Ashok**

- PUCL Delhi should become PUCL NCR unit since there are many places which are closer to Delhi than their state units.

#### **NCR Sub-Committee**

- Members of UP, Haryana, Rajasthan and Delhi agreed to form a sub-committee, which will be chaired by Sanjay Parikh. Their discussion should be

#### **General Comments**

##### **Anant Bhatnagar, Rajasthan**

- We should appreciate what PUCL has done because of National General Secretary.
- Usually, the work that is done even with the guidance and help of general secretary with state units, such work by state units should also feature in the report.
- Bulletins - we should be subscribers as members and the numbers in the report should be updated to the correct one.

##### **Mihir**

- Many PUCL members have passed away between 2020 and today. We should find a way to remember them.
- Regarding the report by the National General Secretary, we should be able to see things in the current political context, in which all opposition voices are being wiped out. One of the few national level organisations which is yet to be attacked is PUCL. They have not been able to come at us directly. We have a long history, which also includes Arun Shourie, Arun Jaitley, Ravi Shankar Prasad. Lot of organisations see this as an umbrella of different minds coming together.

- PUCL is more important than it ever was before. In the next 5 to 10 years will see the the value of an organisation like PUCL.
- One of the agendas we should take up-
- PUCL should have research done on rights of those who are attacked-raids, seizure etc.
- It is important to strengthen people to ensure that when they face these things, they know how to tackle this.

#### **Response by General Secretary**

- Suggestions have been useful. But I request you to also bring a plan along with suggestions. By the end of this NC meeting, we should have action points, based on which we can take forward some important work.
- All state units are requested to clarify data presented in the GS report wrt finances, memberships - in the next two days.
- It is difficult to hold meetings offline, especially for elections. We have been trying to work it out in a practical way such that the state units have an observer for elections.
- To wrap up one of the main points that have come up, I think we should have a clear communication architecture with 3 levels
- Office bearers in NC
- All executive members in national unit and General Secretaries of the state.
- National Council Members
- I am taking the comments and critique in a constructive spirit for only then can we, as an organisation grow. Even though there are many issues and problems confronting our style of functioning there is no point in going into tremendous detail and pointing fingers. We have to streamline communication within the NC.
- I agree that state Presidents and state General Secretaries should take charge of

communicating on their respective state centric WhatsApp group.

- We will streamline the NC WhatsApp group. This is a useful channel for dissemination of information.
- State unit Presidents and General Secretaries should discuss with the National General Secretary about sending a National observer for state unit elections.
- Dates for election should be informed. State office bearers should take responsibility.

#### **Funds**

- Yes, all state units should give their contribution. But this is not the only solution. If we must run only dependent on state units and membership fees, then we cannot function at all.
- Some state units have still not given their annual contribution.
- We recognise that it may not be possible for all state units to contribute equally or continuously. Therefore, organizationally we should form a 'Fund Committee', with a member from National Council apart from the National General Secretary.
- We have now reached a time, when National office bearers should have functional responsibilities so that we

#### **Updating records of NC Finances report**

- All office bearers from state units should connect with Babitaji and verify the amounts that have been recorded.

#### **Are we a mass organisation?**

- We are not a mass organisation. What binds us is not ideology, but what binds us is the constitution and framework of human rights.
- We should not be going into large number of membership drives. There is a lot of risk in indiscriminately allowing people into PUCL. So we should be

careful. Memberships should not be automatic. The State Executive has to approve membership.

- The conversation about taking human rights to the mass movements is a different one. We still command credibility and respect, so we should definitely operationalise this effort to reach out to ordinary citizens.

#### **Presentations by State Units**

- 1. PUCL Bihar Unit – Sarfaraz,** GS presented their report.

#### **Reflections**

- We are trying to organise common masses more effectively, so that when the police call them they have legal help. They normally do not get access to good lawyers to defend them or enough people.
- We meet every Sunday. Even district units meet every week. We are going to start offering free legal aid.
- The workshops we have conducted will play a crucial role in strengthening PUCL Bihar.

#### **In response to questions**

- We are not focusing on membership. PUCL acts a meeting place for people in social and political movements. We do a membership drive once a year with social workers and activists.
- Some are left, Gandhian, some others, some like me (Sarfaraz) who are not in any group, some active, some are academics (Professors). All kinds of people are members. That's why Bihar PUCL works on many kinds of issues.
- We want to reduce membership drives now. Because we want members who can understand and are committed to PUCL. By this I mean a commitment to human rights, and they should be able to work with people from different backgrounds.
- The legal aid cell will focus on the rights of the poor, who are

facing state violence - political prisoners and human rights defenders.

- PUCL Bihar is focusing on custodial death because it is very high in our state.
- It is the second highest in UP.
- Prison reform efforts are also underway. 58 prisons in Bihar are all overcrowded. Even a single hearing has not been conducted for so many undertrials. We have made a small committee for undertrials. It is a very grim situation.

- 2. Chhattisgarh PUCL Unit -** Report presented by Degree Prasad Chouhan, President.

#### **Reflections**

- General Secretary of Chhattisgarh unit is still Sudha Bharadwaj.
- The human rights situation in Chhattisgarh is in a dire state.
- The number of suicides, especially of girl students during examinations has increased. The number of caste atrocities, especially when people take bath or look for bathroom facilities. The burning and attacks on villages happen only in lower caste villages. In a place like Bastar, casteist forces are extremely pervasive in the Adivasi communities.
- The police use RPG indiscriminately. We conducted a fact-finding and even went to the NHRC, but they did not respond or follow up with the issue.
- Among Adivasi communities, non-Christian communities are identifying with the Hindus and are targeting the Christians. Now, there are even social boycotts on Christians.
- Forest rights of Adivasis are being violated across the state. Tribal houses have been broken in many places despite the FRA making it abundantly clear that it is not allowed.
- For the Sarke Goda massacre, even though the Commission's

report was in favour of the people's rights, there is still no FIR filed.

- We also intervened in petitions in the SC. We have been active in regularly reaching out to NHRC, conducting factfindings and filing police complaints.
- We used to meet on the first Sunday of every month. We are now trying to conduct one meeting every three months. We do not organise these meetings in one place but go to different villages and have conversations with various communities. Because of this, many new people are able to be actively involved.
- Even though it is a Congress ruled state, there is no difference in the influence of Hindutva politics. It is rampantly spreading in Adivasi villages.
- After BK-16, we conducted a campaign across the state to protest the government's attack on human rights defenders.
- Because of the small number of people in PUCL, following up with many of the cases is difficult. For example, in a case of a custodial death of a young girl, we started work but could not continue and follow up.
- Surveillance on human rights defenders is increasing sharply. 5 to 6 people connected to PUCL Chhattisgarh here have been targeted by Pegasus. We petitioned local authorities, but they dismissed it. I (Degree) also testified before the SC Committee, but they said that malware other than Pegasus was found.
- Even in the BK case, NIA called 3 people from the unit. I was also interrogated along with Soni Sori for 10 hours by the NIA. False report of COVID negative was given, despite her being symptomatic and testing positive afterwards. She was interrogated for 7 hours. CBI also interrogated me on some fake

encounter cases.

- In "fake encounter" cases in Chhattisgarh, despite them increasing, instead of filing complaints against the police, they are interrogating human rights activists.
- The recent SC decision in the case of Himanshu Kumar which will be applied to all states is very dangerous and will only increase the way the state is targeting human rights defenders.
- PUCL Chhattisgarh is struggling because of the lack of a functional general secretary.
- PUCL is constantly labelled as a Maoist frontal organisation. Bringing in new members is very difficult because of this too.
- The threat to human rights of Dalits, Adivasis, Muslims are increasing exponentially. Using this narrative of calling human rights defenders 'Maoists', they are grabbing land and resources of the people.

#### Himanshuji

- It has become extremely normal for armed forces to assault women sexually. Their stories are never ending, and we feel helpless and angered. When the police threaten to empty entire villages, they have the impunity and tell us that even the Supreme Court is on their side.
- Chhattisgarh has become a second Kerala. There are attempts to ruin the relationship between communities and missionary groups. RSS, VHP are very active and are regularly spinning stories of false conversions.
- Adivasis who worship nature and Adivasis who are converted - both such communities who don't change their caste even if they convert. They are governed under PESA.
- According to Hindutva organisations, such communities should not be given SC certificates because they are tribal. They are regularly

targeting churches.

- Even feuds and riots between Hindu and Muslim communities are becoming frequent. There was a collective pledge taken by Hindutva groups in Chhattisgarh in Kalyan Ashram to strengthen a social and economic boycott of Muslims.

#### Kavita Srivastava

- Among Christian Adivasis, even in Jharkhand, Rajasthan and other Vth Schedule places, this is a common issue. We need to anticipate the challenges, especially after 2024. We need to think about what PUCL can do, to accommodate this dimension of identities.
- We request PUCL National to support us with some leadership because we are facing issues from not only state actors, but also non-state actors.

#### 3. PUCL Delhi – presented by TS Ahuja, GS

- Since the work report has already been submitted, we will only speak of organisational issues.
- In the recent elections of PUCL Delhi, we have tried to start a new system.
- 174 members in PUCL Delhi - from 4 folds - Legal fraternity, academics, media personnel, social activists.
- All members - almost 165 are from these four categories. This analysis was presented before the executive committee. We presented a strategic plan to have clarity on the goals of Delhi PUCL.
- The main goal is that - All citizens should be aware of their rights so that they are able to resist and protect themselves.
- We analysed our weaknesses - Finances and Communication
- We decided that the Delhi state executive committee should have the right to elect office bearers.
- We should have 3 secretaries with specific focus areas.



- 3 Secretaries
- Secretary, Legal and Finance (renamed Treasurer's post)
- Secretary, Media and Gender (focusing on non-mainstream media, YouTube channels)
- Organising secretary (to take care of the organisation, events, documentation)
- General Secretary and President of Delhi unit should have a monthly meeting separately with each of these secretaries.
- We also spoke of our Operational Plan for the year and discussed what some measurable targets can be.
- For the first three months, we are focusing on
- religious intolerance, and how it affects the idea of liberty, equality and fraternity. We will focus on speaking with academics, specifically professors of sociology and psychology, researchers and lawyers.
- PUCL Delhi should consider going to court for the rights of refugees. The largest settlements of refugees are here. Maybe the unit should collaborate with other state units and plan in anticipation - because there will be large scale Rohingya deportations.
- Delhi should not be seen as any other state since the parliament also functions here. Delhi should be consistently intervening and working with MPs. Or come out with information for other civil society bodies to intervene and work with the bureaucracy and MPs.
- Delhi Unit has now elected 7 members to the executive with 5 office bearers. Representation of women in office bearers now is better. 5 women elected as office bearers. There are also many younger members. Roles and responsibilities of office bearers are very focused and specific and therefore we are working

towards functional membership.

#### Questions and Answers

Notice was issued immediately to PUCL. Office bearers have added responsibility, especially in coalitions and collaborative work.

**Pancholi Ji-** There was a misprint in the Tripura Fact Finding report. The members of the FF team didn't go as PUCL. They went in their individual capacity.

There was an argument about whether PUCL office bearers' participation in political activities and associations with political parties should be restricted or not.

#### Suresh:

- It requires to be clarified that PUCL is an independent, non-partisan and unaffiliated body. The convention is that no office bearer participates in a meeting organised by an individual political party so that our identity as an independent organisation is maintained. Also, it is important for office bearers to note that so long as they remain office bearers, when they participate in political party events even in their personal capacity, others may not view this as a personal activity and will tend to see their participation as one of a PUCL office bearer.
- This decision was clearly made many years ago (first in 2014, then 2016 and 2018) and it was articulated again when the *Bharat Jodo Yatra* was being planned when we declined the request to participate formally in the Yatra in our personal capacities.
- Do not make formal associations without talking to National Council or exercising caution. These things can happen by accident too, so we have to be disciplined about such decisions.

#### 4. Gujarat State - Report presented by Pankti

- The PUCL Gujarat unit was revived in March 2022, when

people working on civil rights issues formed an ad-hoc committee and tried to get districts also involved. Now, there are 10 districts in which PUCL is active.

- In these 10 months, we have issued press statements and conducted fact-finding visits.
- The major issues the unit is dealing with are demolitions of houses of minorities, attacks on religious minorities and indiscriminate overuse of Section 144.
- There is no space to congregate, and even 4 people can't get together in public. While political parties can convene, but civil society organisations are denied the right to assemble. Activists are regularly illegally detained. Police even barge into homes and take people to the station, making them sit there for 8 hours. RTI activists, environment rights activists and human rights activists are all targeted.
- PUCL Gujarat needs to think about what issues we can focus on. Some of these areas are

#### Forming a lawyers' network in PUCL

- To develop an understanding of human rights and civil liberties, especially through the usage of RTI
- What are the civil liberties components in human rights issue?
- How PUCL should respond to the denial of the right to dissent? Not even a single protest or rally has been given permission. There is immense threat to any form of dissent. We want to engage with conversations with grassroot level organisations to emphasise on the importance of this denial.
- They feel that labour rights, violations of workers' rights, demolitions, monitoring of industries is important in Gujarat. And that PUCL should focus on

these things.

- So, we will streamline and choose 3 focus areas in this year.
- Active members of PUCL have filed a petition in High Court regarding the overuse of Section 144. But it is yet to become a major concern of civil society organisations.
- To protest or assemble, there are procedures for going to police for permission. Even in spaces that were available for us to host public meetings, we are now asked to fill a form and request for permission. Almost always, they tell us 30 minutes before that we do not have permission.
- Since 2003, Section 144 has been used this way. Gujarat Vidyapeeth has even mentioned in the permission form that no political or religious discussion will be allowed.
- The government is on a mission to completely eliminate religious minority communities and tribal communities from the coast. They have formed a Security Committee, who in the name of national security are usurping huge portions of land. 1500 homes were demolished in one place. The livelihood of fishing communities has become extremely communalised. Hindu fishing communities are unwilling to petition against the government. Most families in the fishing community are Muslim. The government is selling massive amounts of land to refineries, Adani and their subsidiaries, SR and other companies, solar projects.
- Gujarat has communalised the area to an extent that minorities are targeted both legally and on the ground.
- PUCL Gujarat is trying to think about facilitating dialogues between majority and minority communities.
- We need PUCL NC's help to train us in conduct fact-findings.

## Questions/Comments

### Seema

- UP is also facing a similar issue. They have given us one designated place. We are not allowed to conduct marches, rallies or any protests outside the designated place. If we do so, they arrest us for violating Section 144.
  - Even as regards the one designated place. We can't do a march or something. They will arrest us for violating Section 144.
  - Mihir
  - Protest and dissent are being crushed systematically
  - One is through 144 and one is by denying space to civil society organisations
  - - In Bombay it is only possible to assemble in Christian organisations.
  - This is an all-India issue. The right to protest is being systematically curbed.
  - This should be taken up in the national level. There are different ways in which this curb happens. Courts are not necessary helpful.
- ### Kavita
- When Prashant was president of Delhi unit of PUCL, we had a meeting to monitor the use of Section 144. All state units were asked to do this exercise in 2000. I don't know if we should go to High Courts to challenge this.
  - We should convene at a national level. To also understand the history behind the struggle against 144.
  - Gujarat PUCL needs an applause. It is a very difficult context in which they have revived the unit. It is also a very diverse group with people from all walks of life. They have tried to put in money and actually found an alternative and purchased a space for their meetings.
  - In Delhi, it is also difficult to find places for meetings. Because

the police even checks the registers for visitors.

### Suresh

- These are laws from colonial times, which are being weaponised by the government. All DGPs of various states meet regularly to exchange notes on how the right to protest can be curbed.
- There was a law in 1912, which said that you should take police permission to use the microphone.
- Justice (retired) Chandru conducted a study some years ago about Section 144 based on which he filed a PIL.
- PUCL should resolve to launch a nationwide study about the ways in which the right to protest, the right to assemble, the right to organise meetings are being attacked. We should aim to do this before the election fever begins in 2023.

## 5. Maharashtra State Report - Presentation by Lara Jesani

- Our first meeting was on August 12, 2017.
- PUCL Maharashtra has prioritised offline meetings and public gatherings because there is more engagement and youth. We also conduct monthly meetings for all members to train ourselves.
- We could mobilise members in collaboration with a lot of civil society organisations, through workshops and trainings on police reforms, citizenship laws etc.
- We also regularly submit representations to Ministries.
- Apart from publication of reports, some of major work has been on petitions and PILs - like the one on prison reforms, and the PIL on prison conditions during COVID.
- Prison reforms in Maharashtra are at a very abysmal state.
- We have issued press statements and undertook several advocacy initiatives and litigation for the Bhima Koregaon

case. We formed 'Mumbai rises to save democracy', a coalition of over 40 organisations.

- We have also conducted fact-finders and investigations on different issues.
- Institutional caste-based murder of Dr. Payal Tadvi
- Custodial death after a convict swallowed his suicide note which revealed that prison officials were harassing him.
- The rape and murder of a Dalit Muslim tribal woman
- Coalitions and collaborations with other civil society organisations is the main strength of PUCL Maharashtra. We have co-organised many campaigns with other organisations. One of the bigger events was the public hearing against Aadhar.
- One of our main challenges was that we have not been able to increase membership. Most members had enrolled for annual membership, who didn't renew their membership. Some life members have stayed. Our focus is on outreach now so that we have more people who come to PUCL.
- Another challenge has been that we have not been able to focus on long term issues. This requires more discussions, reflections, which we have not been able to do.
- We also haven't been able to reach the districts effectively. Most of our work is Mumbai centric. Although we have held meetings in Aurangabad, Pune and are in conversation with some others, we have not been able to formalise any district level units to start the work.
- We have been working on documentation of testimonies from different people's movements about their journeys and challenges. We are thinking of coming out with a report to publish these testimonies.
- In our plans, we want to focus on

talking about seizure of electronic devices. We want to highlight the rights of citizens in these cases and the laws that are applicable.

#### **Questions and Comments**

##### **Awdhesh Kumar**

- How are your relations with Dalit organisations or groups working on Dalit issues?

##### **Mihir**

- Some of us are lawyers for all organisations. Current members of PUCL Maharashtra represent all these organisations. They approach us not because of PUCL, but because we are lawyers.
- Some members have multiple identities, so the work that we take up is not necessarily always under the PUCL banner.

##### **Akhil**

- We need a training or a booklet on seizure of electronic devices. Mihir
- Yes, this is very important. We should be clear on what our rights are when someone comes to seize electronic devices. We should discuss and have clarity on what our entitlements are. For lawyers, if they seize devices with our emails and our clients' communication, then we will breach our clients' confidentiality.
- We should also insist on asking for the hash value and the backup before they take the devices. It is a clear indication of whether our devices have been tampered with. Sometimes, if you are too forceful, they will arrest if you say no. So you will need to be strategic, to avoid arrest.

#### **6. Rajasthan State Report—Presentation by Anant Bhatnagar, GS.**

- One of the main reflections is that PUCL Rajasthan, while being active, is also influenced by limited goals and ideas. We should bring in people from various backgrounds. Since we have only lawyers and women's

rights activists, our unit works according to some limited goals. Having said that, PUCL Rajasthan is able to fight battles on many fronts.

- The demand to repeal UAPA and sedition laws is a national level fight but PUCL is leading this in Rajasthan. We have been active in responding to the arrests of BK16 and the abuse of sedition laws against media and political leadership. The same Congress which opposes sedition laws now has abused this before.
- We also use the RTI regularly and ensure that we train more people to use the RTI infrastructure.
- When Article 370 was abrogated, Kashmiri students struggled in hostels and were even attacked. We supported them, negotiated with the state and ensured their return to J&K.
- With the state government, we actively work with different government officials. We would like to place this on record here, that the state government does listen to PUCL Rajasthan. While we collaborate with them, we also regularly protest against the government.
- We engage in several advocacy initiatives to ensure the implementation and compliance to policies guaranteeing people the right to health. We have also experienced that private hospitals and doctors are opposed to this work.
- The Lynching Bill was also passed in the State Assembly because of the noise we created after Pehlu Khan's murder.
- Rajasthan's syncretic history is under threat. We have been successful in even talking about this in village-to-village meetings.
- Nupur Sharma's statement was supported by huge rallies. Followed by this, in Udaipur, 2 men beheaded Kanhaiya and posted provocative statements.

While the government's action was prompt, and arrests took place immediately, there were massive demonstrations. Shops were burned, 1-2 crores of property damage. PUCL did a fact-finding and supported the communities to ensure they get compensation. Even in court, PUCL Rajasthan was active in providing legal support.

- Police was complicit in these riots. They either refused to take FIRs and complaints, or they wrote it so badly that it cannot be used in court.
- PUCL Rajasthan also actively works with prisons. We have been given permission for 2 of us to go to prisons for 2 days a week. They have allowed us to give prisoners legal support in 4 districts and we have brought about some changes in the conditions of prisons. Jails have also become communalised. Recently, a Pakistani was also murdered in prison.
- Our internships bring in young people from everywhere. Social work students and law students come for a 1 month to 3 months internship. In a year, we have about 300 to 400 interns. Interns are very helpful in the surveying of ration shops, hostels, shelter homes etc.
- Rajasthan has a rigid caste structure. And caste atrocities are also quite regular. We work with communities and conduct fact-finding in such cases. Recently, a child died because he was beaten for drinking water from a tap reserved for teachers.
- We conduct human rights trainings. Our last training was a 6 day workshop in which 125 students from different colleges participated.
- We also conducted another workshop for human rights defenders.
- During COVID, violations of citizens' rights on the street were a norm. Thousands of people

were in bus stations to return home and they were violently beaten up by the police.

- PUCL tried to compel the government too and actively worked on ensuring orders for the transport and travel facilities for people to be dropped to the state borders.
- PUCL also ran a help desk during COVID, to coordinate efforts for relief, food, water and hospital facilities.

#### **PUCL internship program**

- Students of different colleges and universities from all over India studying Law and in other social science fields seek internship with PUCL Rajasthan. The Internship programme is very popular among students and every year hundreds of students from all over India choose to join this program.

#### **Bhanwar Meghavanshi**

If we are fighting against Hindutva, we are fighting against caste and gender oppression. It is not the question of reservation, but to have an approach that Dalits, Adivasis and women should be involved in work on human rights. Those who are against Muslims the same are against Dalit rights and women rights.

#### **Akhil**

- We are working on around 10 cases of UAPA.
- We are also working on documentation of hate crimes and incorporate visual documentation as a part of fact-finding visits wherever possible.

#### **7. Jharkhand State Report**

Discussion after presentation

- Major issues that PUCL Jharkhand is trying to respond to are deaths due to hunger, custodial deaths, tyrannical land acquisition and land grabbing for mining - in the name of 'naxalism' and displacement of Dalits and Adivasis.
- Atrocities against women are some of the worst in the country.

From dowry deaths

- To violence, PUCL Jharkhand needs to build capacity to address these issues.
  - There is patriarchy even with the state unit. Should we consider a PUCL's women's wing?
  - Commissions that have been formed for the rights of Minorities, SC and ST
  - Communities are all defunct.
  - The story of Father Stan has also become like an illustration of what happens to those who dissent and speak up against the government.
  - Almost 20,000 people are there in our jails. In the Pathalgari case itself, there were around 10,000 people who were arrested. There is a lot of fear in the minds of the public.
  - PUCL Jharkhand has started a Hindi Bulletin.
  - We also offer internships for young people.
  - The unit currently lacks active membership both at the state and district levels.
  - PUCL Jharkhand is in need of support from the National Council.
  - We need to investigate the abuse of UAPA on Adivasis specifically.
  - We also need to increase efforts to talk about how the Forest Rights Act is being violated blatantly, and Community Forest Rights that have been granted to villages are also being snatched away by forest officers.
- 8. Karnataka Report**  
Presentation -  
by Shujayathulla, Manavi, Aishwarya and Arvind  
Reflections and Discussion after presentation
- PUCL Karnataka has undertaken a fact finding on the attack on Christians right not only to propagate but also the right to profess and practice one's faith. The report can be accessed here

(<https://www.pucl.org/reports/criminalizing-practise-faith-report-pucl-karnataka-hate-crimes-against-christians-karnataka>)

- Another Fact finding on the hijab issue was released titled, 'Closing the doors of education', (<http://puclkarnataka.org/?p=961>).
- PUCL also documented the communal policing issue in Dakshina Kannada through a report called , 'From communal policing to hate Crimes: The attack on Ambedkar's dream of fraternity', (<http://puclkarnataka.org/?p=930>)
- PUCL released regular statements on the alarming communal situation in Karnataka especially on the call to boycott Muslim businesses (<http://puclkarnataka.org/?p=910>)
- PUCL Karnataka is actively trying to collaborate with other forms and platforms.
- One of them is Bahutva Karnataka, which is talking about strengthening communal harmony and pluralistic traditions of Karnataka. We also worked with other groups to respond to the arrests of the BK-16 through a group called Bhima Koregaon Horata Samiti.
- Through our work we are also trying to rethink what the role of lawyers and the law is, in the human rights and civil liberties framework. It is not necessary to

only approach the court in some matters, instead, it becomes more important to amplify the voice of the community or take alternative approaches for the government to listen to the demands of the community.

#### **Kavita**

When a movement is lawyer driven, we lose sight of the fact that we don't need to rush to court. We can use the court's previous orders and "threaten" that we will go to court. We should learn to use the court strategically. In some cases, you have to go to court. In others, we should learn from each other about the various alternative approaches we can use.

#### **Note:**

The GS of Tamil Nadu unit formally presented the report of activities which was also circulated to all members. The discussion focused mainly in the activities presented in the Report.

The discussion following the presentation of UP Report could not be recorded as it was held in the terrace of GPF without any light.

#### **Day 3**

#### **Newly elected National Council Members and Office Bearers**

The following persons were elected as new office bearers of PUCL National Unit on 6th November, 2022 for the new

term, 2022 - 2024. The Election Officer was Sanjay Parikh, former National Vice-President, PUCL.

**President:** Kavita Srivastava (Rajasthan);

**General Secretary:** V. Suresh (Tamil Nadu)

#### **Treasurer cum National Office**

**Secretary:** To be confirmed by Delhi unit.

**Vice Presidents:** Binayak Sen (West Bengal); Farman Naqvi (Uttar Pradesh); Mihir Desai (Maharashtra); Murali R (Tamil Nadu); ND Pancholi (Delhi); Surendra Kumar (Bihar).

**Secretaries:** Balamurugan S (Tamil Nadu); Ashok Bharti (Delhi); Bhanwar Meghwanshi (Rajasthan); Rajendra YJ (Karnataka); Rohit Prajapati (Gujarat); Seema Azad (Uttar Pradesh); Shahid Kamal (Bihar); Fr. Solomon (Jharkhand); Sudha Bharadwaj (Chhattisgarh).

**Organising Secretaries:** Arvind Avinash (Jharkhand); Arvind Narrain (Karnataka); Kailash Meena (Rajasthan) Lara Jesani (Maharashtra) Mujahid Nafees (Gujarat); Sarfaraz (Bihar); Sr. Sewti (Chhattisgarh)

**The Notes were prepared by Aishwarya & Manavi of PUCL Karnataka, edited by Arvind Narrain and Finalised by V. Suresh, 22.01.2023. □**

#### **FORM IV**

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I, V. Suresh, hereby declare that the particulars given above are true to the best of my knowledge and belief.

March 1, 2023

**V. Suresh, Publisher, PUCL Bulletin □**

# PUCL National Council Meeting - 4<sup>th</sup> to 6<sup>th</sup> November, 2022

## at Gandhi Peace Foundation, Delhi

### Summary of Resolutions and Decisions

This Report contains the summary of the key decisions made and resolutions passed in the NC meeting. A detailed Report of Proceedings has been prepared detailing the discussion on key issues taken up during the 3-day meeting.

The 'Action Points and Decisions taken' summarised below are arranged subject-wise.

It's important to form Internal committees anchored by National Office Bearers to take forward the decisions made / resolutions of the National Council.

#### **A: Organisational Issues**

##### **1. *Communications – Internal***

- 1.1 All major decisions made by the National unit in respect of issues connected with and related to activities in each state unit shall be communicated by the National General Secretary (GS) to the President & General Secretary of each state unit.
- 1.2 It will be the responsibility of the State GS to inform all the NC Members, State EC and other members of the state unit, as necessary.
- 1.3 A clear-cut communications system regarding communications between the National Office and State units and State units and district units should be set up and informed to all members. One of the national Office Bearers should be given the responsibility of heading this Communications system.
- 1.4 An Office Manual should be prepared informing all state unit and district office bearers about the procedures and requirements for formation of PUCL units, manner of functioning and organisational

procedures to be followed. This should also contain the prescribed procedures for holding state unit elections and district level elections. Elections of office bearers of State unit should have an Observer nominated by the National Office

##### **2. *Membership***

- 2.1. Records of membership should be maintained and updated with the utmost discipline. In this context the following date lines are important: 30<sup>th</sup> January, 2023 for the State Units to finalise the list of members and send to National Office in Delhi, who should verify details and publish final list of members of each state unit by 31<sup>st</sup> March, 2023. The final list is complete only when the names of members are sent by the State GS to the national Office in time with the share amount of Membership subscription that has been collected.
- 2.2. All state units should note that membership to the PUCL is not automatic on submission of Membership Application Form. Utmost care should be taken to inform people desiring to become members, about the PUCL Constitution, history and functioning and secure their acceptance of the same before they submit filled application forms. It should be noted that membership is finally approved by the State Committee after discussion in the State Committee.
- 2.3. A suggestion was made that the membership details should be capable of analysis to help study membership in terms of gender, age, location and other

diversity parameters. This should be attempted from 2023 year onwards and the desegregated details of members shared with all NC members. This suggestion requires further discussion and shall be one of the issues to be addressed by a new Membership Committee to be formed with one of the National Office Bearers as convenor.

- 2.4. It is important that PUCL units, from the district, state and national levels, take special efforts to enrol members representing diverse sections of our people including gender, caste, community, sexuality, language and other diverse minorities. (See separate resolution).
- 2.5. Another suggestion that was received was to have specified norms for removal of members found to be acting against the interest of PUCL or anti-PUCL activities. This suggestion too requires greater discussion amongst the National Executive and in other fora within PUCL.
- 2.6. In this connection it is necessary to constitute a small sub-committee of the National Office Bearers alongwith select members from the State units to streamline the rules, procedures and guidelines relating to membership. This should be discussed in the National Office Bearers group and appropriate decision taken and conveyed to other members of the National Office bearers, National Executive and National Council.

##### **3. *Elections***

- 3.1 All elections at the state level and national unit should

conform to the PUCL Constitution that spells out the procedures to be followed.

- 3.2. Elections should be announced in advance and intimated to all members. All elections to state office bearers in the State Council should be informed as soon as the decision is made, to the National GS who shall also send a National Observer for the elections.

#### **4. Finances**

- 4.1. All state units must maintain records of Minutes of meetings and Report of Proceedings of all activities they undertake. Equally they should maintain records of expenses incurred for conducting different events with receipts.
- 4.2. State units should send their annual contribution to support the National Office by 31<sup>st</sup> March, each year so that the operating costs of the National Office are taken care of.
- 4.3. A separate Finance Sub-committee must be formed to help smooth financial running of the PUCL.
- 4.4. Delhi unit has agreed to nominate a person who would be the National Treasurer of PUCL and take care of the National Office of PUCL.

#### **B: Activities of PUCL**

#### **5. Communications - Outreach: Publication, Bulletin, Social Media, Website**

- 5.1. Communication is crucial. Press Statements should get uploaded on the website at the earliest. It should also be uploaded on all the official PUCL social media platforms.
- 5.2. All state units should send at the earliest, all the Reports, statements and other material produced by them for sharing with other state units and others in general.
- 5.3. State Unit Reports that have been submitted for this

National Council meeting (2023) should be uploaded on the website.

- 5.4. Various states have undertaken various studies on contemporary human rights issues and brought out detailed reports. For example, the documentation done by PUCL Rajasthan of hate crimes or on prison conditions by PUCL Maharashtra, should feature on the PUCL website. Similarly other documentation of serious human rights issues undertaken by different state units should also be uploaded on the website.

- 5.4. Volunteers – (to begin with)

#### **Bhanwar**

Seema Azad – to anchor Hindi Bulletin along with Anant Bhatnagar.

Aishwarya - to anchor website and social media

#### **6. Studies to be undertaken by PUCL on (i) Criminalisation of laws, (ii) Cyber – security laws and rights of citizens, (iii) Repressive Laws etc**

- 6.1. Compilation of Repressive laws at the central Level as also each state level needs to be undertaken and completed within specific time period.

- 6.2. To launch a study of the policies of restricting protests found in all the states. In this regard to launch a State wise covering all the states where PUCL state units are functioning, documenting the long history of sec. 144 prohibitory orders so that a national level report can be prepared.

- 6.3. Study on the issue of Right to Protest and Right to Dissent and Closing of Public Spaces for dissent to be undertaken. The findings of the Report will help in conceptualizing the type of campaign to be undertaken and legal

challenges to be undertaken.

#### **6.4 Cyber-security and rights of citizens:**

An issue of grave importance is to study the rights of citizens to disclose personal details about electronic devices or services used by them in the event of demand made to disclose these details by prosecution agencies. After the study a note should be finalized for sharing with all members.

#### **6.5 Study of remissions policy and PUCL's stand:**

The national level condemnation of the release of 11 persons convicted in the Bilkis Bano case (Gujarat) was taken for discussion. While the issue in the Bilkis Banu case clearly indicated political bias by the ruling government in Gujarat, the larger issue of what PUCL's stand should be on remission policy was also discussed. It was decided that this issue needed greater study and a team should be constituted to compare different remission laws in the country and to come out with a comprehensive report.

#### **6.6 State and Status of Refugees in India:**

State units who are working on issues of refugees - should convene and share insights on the work being done. We should be able to strategise together and ensure that the human rights violations of refugees are met with strong public action.

#### **7. Litigation and Law**

- 7.1. We should be producing legal primers – relating to civil liberties and fundamental rights of citizens at the time of arrest, interrogation, torture and other issues. Separate primers are also required to educate people of their rights in the event when the police enter house and seizes mobile phones, tablets, laptops,

- desktops and other electronic devices.
- 7.2. All state units intending to file PILs should take note of the following:
- (i) A resolution should be passed by the State Committee resolving to file the PIL and authorizing the General Secretary to be the petitioner on behalf of PUCL.
  - (ii) The Resolution should be entered into the Minutes Book of the State unit and signed by the President and GS.
  - (iii) The National GS should as a rule be informed about the filing of the PIL, prior to filing.
  - (iv) In the event that the issue of the PIL has inter-state or national level ramifications, then the state unit must consult the National GS and President and a decision made collectively.
- 7.3. We also need discussions and organise training programmes on how to handle litigation, with grassroots movements and communities.
- 7.4. Volunteers:** Mihir offered to Anchor this Committee. Arvind Narrain, Suresh and Sanjay Parikh to be other members. Other lawyer and non-lawyer members of PUCL state units should also be invited to join this Committee.
- 8. Reorganisation of old units**
- 8.1.1. PUCL units in Kerala, MP & other states to be revived & strengthened.
- 8.1.2. Volunteers: Pankti, Shahid Kamal (offered to help coordinate activities in Bihar, UP and Jharkhand units).
- 9. Diversity - Representation, Membership & Activities**
- 9.1. We should ensure that people from various social groupings are adequately represented in active membership, decision-making powers and leadership positions in PUCL.
- 9.2. Special efforts must be taken to reach out to various

- marginalised communities including religious minorities, farmers groups, workers groups, LGBT communities and other social sections.
- 9.2.1. Volunteers: Shujayathullah & John Vincent
- 9.3. Volunteers to prepare a background note.
- Lara – to anchor :**  
Bhanwar, Seema, Goldie and Varthika would be members of the initial committee.
- 10. Research and Documentation**
- 10.1. PUCL should be talking about new areas of concern to the human rights movement and should be leading efforts to highlight the larger context of anti-democratic state action. Therefore, there needs to be specific discussions on the specific nature of research projects and studies that should be undertaken by PUCL.
- 10.2. Volunteers: Arvind Narrain - to anchor. Rohit Prajapati volunteered. A call should be made inviting others to join the Research and Documentation Committee.
- 10.3. Guidelines on the conduct of Fact-Finding Teams/Enquiries should be formulated and shared with all state units. Regular training sessions should be organised to help new members understand the 'Do's - & - Dont's of FFT exercises.
- 11. Organising an all-India convention – TS Ahuja (Delhi) volunteered.** There was no time to discuss this issue and Ahujaji can initiate a wider discussion on this.
- 12. Networking with other organisations and outside India**
- 12.1. PUCL needs to formulate a policy regarding networking with other rights organisations - whether in India or

- international organisations.
- 12.2. PUCL should network and collaborate with international organisations, which are not funding agencies, especially UN related organizations.
- 12.3. Volunteers: Pankti - to anchor efforts to network with organisations in India.
- 13. Campaigns**
- 13.1. Repeal UAPA - Seema Azad and Mujahid - volunteered
- 13.2. Implementation of NRC throughout the country.
- 13.3. Overhaul of Criminal Law.
- 13.4. These are just a few to begin with. Other campaigns should be undertaken after discussions in the National Executive and National Council.
14. Before the 2024 elections, PUCL should come out with a **human rights manifesto, and a human rights status report covering key themes.**
15. Various state units have articulated the need for trainings and workshops on **how to use the RTI and how to conduct fact-findings and use it as an effective tool for advocacy.**
16. Human rights situation in Assam, Northeast states and Kashmir – the actual human rights situation in these states is not well covered in the media. PUCL has also not constituted FFTs to visit these states and study the nature of human rights compliance and violations in these states. PUCL should lead efforts to document state violence in Kashmir, Assam and other North Eastern states.
- 17. Organising PUCL Events:**
- 1. National Convention:** Mihir Desai and Lara Jesani of PUCL Maharashtra said they will explore possibilities of organising the PUCL National Convention in Bombay or Pune and inform the National Office



Bearers by end – January, 2022.

2. **JP Memorial Lecture, 2023 and UP State Council Meeting and Elections:** Manish and Seema of UP Ad Hoc Committee said they will

discuss with other members about (a) Organising the JP Memorial Lecture, 2023 which is always held on 23<sup>rd</sup> March each year and (b) organising the UP State Council Meeting when the UP unit also intends

to have the elections to the post of Office Bearers.

**Prepared by: Aishwarya, Manavi, Karnataka unit.**

**Finalised by: V. Suresh, General Secretary. □**

## Announcement

15<sup>th</sup> PUCL National Convention will be held in Bengaluru on 28<sup>th</sup> (evening), 29<sup>th</sup> and 30<sup>th</sup> April, 2023.

Venue: Indian Social Institute, Benson Town, Bengaluru.

"Reclaiming Constitutional Democracy: Defending Human Rights".

On 28<sup>th</sup> March, 2023, there will be a public meeting - cum - Inaugural meeting of the Convention.

Detailed Programme will be shared in the next '*Bulletin V. Suresh*, General Secretary, PUCL National

## Creating An Action Plan

### The Challenge before the PUCL<sup>1</sup>

## Asserting the Constitution, Protecting Human Rights, Deepening Democracy

With the 2024 Lok Sabha elections not even 16 months away, we have no time to lose to plan how PUCL should respond to the challenges facing the human rights movement. While PUCL, as a policy, remains independent of any political party, the election situation presents an opportunity to take the messages and concerns of the human rights movement to the common person and to educate them about the dangers posed by a highly centralised, brutal and vengeful Indian state which has weaponised the criminal laws, criminalised long-recognised democratic activity and armed itself with unlimited powers to quell and silence dissent. We, in the PUCL need to discuss two broad sets of issues:

1. Critically analyse our internal working culture, method of decision making, systems of accountability and eventually evolve concrete working plans which will be implemented diligently, monitored continuously and concluded successfully.
2. Critically examine and understand the larger challenge to human rights,

democracy and the Indian Constitution, identify the key objectives we need to work towards and evolve clear cut strategies to achieve them.

To start such a process, I would like to propose the following issues on which we need to discuss and decide a proper action plan.

1. Assessment of the varied dimensions of the human rights challenges facing the larger human rights movement in India in general, and PUCL in particular.
2. Critical analysis / assessment of the strengths, weaknesses and potential of PUCL, both nationally and of the various states on the following vectors:
  - (i) Human rights / civil liberties - **ideological / conceptual frameworks**
  - (ii) **Organisational – structure, nature & style of functioning**, clarity of vision/mission
  - (iii) **Leadership** – how to characterise present leadership; preparation for second/ third line leadership; age – gender – sexuality - caste – community profile.

- (iv) Issue of '**Inclusivity and Representation**' in PUCL – what measures have we taken to ensure greater involvement and participation in PUCL of different members from socially marginalised groups & communities – Dalits, Adivasis, sexual minorities, women and other excluded groups..

- (v) Challenge of **increasing involvement of youth and students**, from across all social, cultural and regional diversities, with PUCL's work and activities.

- (vi) **Communication** – internally as also with other institutions / organisations.

- (vii) **Working Culture** – extent of accountability, cohesion and cooperation within PUCL. Institutional mechanisms to deal with internal conflicts.

- (viii) **Finances.**

3. **Strengthening 'Social Media'** presence across different media – website, Facebook, Twitter and other commonly used apps; evolving an architecture to coordinate social media content between

state units and national unit in such a way as to permit autonomy at the level of state unit in terms of messaging while ensuring that the messages conform to PUCL's larger positions, policies and stances on different issues.

4. Creating a distinct and separate '**Media Coordination' group** inside the organisation tasked with moderating the content of all PUCL communication between the PUCL Bulletin and other social media communication.
5. Launching a coordinated '**Internship programme**' to guide internship activities amongst different states.
6. Is there a need to consider '**restructuring nature of office bearers' responsibilities** – to make it functional. For example

Vice – Presidents / Secretaries in charge of different functional areas – Communication; Membership; Website; Litigation etc...

7. '**Revisioning / reviving / revitalising / re-energising PUCL** – vision, strategies, steps – both nationally and in each state. Creating short term, medium term and long term plans in this regard.
8. '**Managing adversities** – vision and plan of action.
9. '**Litigation** – evolving clear cut, transparent and accountable institutional mechanisms for deciding on PUCL initiated litigation in the SC as also in various High Courts.
10. Reviving the '**thematic committees** and functioning.
11. Setting up of '**Internal Complaints Committee' (ICC)** in each state unit as an

institutional mechanism to deal with complaints of sexual harassment within PUCL.

12. '**Training** – creating a cadre of human rights conscious members especially amongst the youth and students.
13. '**Coordination with other rights organisations** – organising a conference of all the main rights movements in the country to brainstorm on the upcoming challenges and how to respond to the same.
14. '**Documentation** and writing the history of PUCL.
15. '**Producing a film** on PUCL over the decades.

03.11.2022 **V. Suresh**,  
General Secretary, PUCL National

<sup>1</sup>**Note:** This Note only contains the Plan of Action which was presented before the NC

## PUCL Mourns the sad demise of Shanti Bhushan

Shanti Bhushan, Senior Advocate and former Law Minister, veteran of many political and legal battles for just public causes, died at the age of 97 at his home in New Delhi on 31<sup>st</sup> January 2023 after a brief illness. He was very vocal against corruption in public life. He was always in the forefront of the campaigns launched from time to time in defence of independence of the judiciary..Democratic forces and civil liberty movement in the country have lost a firm supporter of the causes cherished by them. *People's Union for Civil Liberties* (PUCL) mourns and expresses its deepest condolences to his family members on his passing away.  
**Ravi Kiran Jain**, President; **V.Suresh**, General Secretary, PUCL National ☐

## PUCL Maharashtra strongly condemns the arrests of Fisherfolk from Uran Koliwada, demands immediate release\*

**February 10, 2023:** PUCL Maharashtra condemns the arrests and criminal cases filed against fisherfolk from Uran Koliwada who have been protesting against the destruction of their fishing areas due to multiple projects being carried out by JNPT, CIDCO, NMSEZ and other companies over several

years.

On 07.02.2023, 30 fisherfolk from Uran Koliwada were arrested and an FIR was filed against them under sections 353, 341, 143, 141, 186, 109, 506 r/w 34 of the Indian Penal Code, 1860. They were produced before the JMFC Court, Uran and remanded to judicial custody until 20.02.2023.

Their appeal before the District and Sessions Court at Panvel for bail will be coming up for hearing on Monday, 13.02.2023.

Fisherfolk from Uran Koliwada have been protesting against the rampant and widespread destruction of their fishing areas due to various projects carried out by JNPT, CIDCO, NMSEZ and

UP State Convention/ Conference will be held on 25<sup>th</sup> and 26<sup>th</sup> March, 2023 at Gandhi Bhawan, Mahatma Gandhi Marg, Opposite Shaheed Smarak, Lucknow. – **Seema Azad**

other companies for several years. In a number of orders passed by the Bombay High Court and the National Green Tribunal it has been held that the fisherfolk have a customary right to fish for a living in the creeks, in this case the Uran Creek. These projects have detrimentally impacted the practice of such customary rights.

Earlier the fisherfolk could fish vast quantities of various types of fish species. As of today, the reclamation for the various projects of CIDCO, JNPT, NMSEZ, has permanently destroyed their fishing lands. And due to the digging, dredging and piling by various JNPT projects, the creek bottom has been completely destroyed and with that, the marine life culture and feeding places are also destroyed. This loss to the fishing land is now unrecoverable. JNPT has started reclaiming additional lands on a massive scale without any compensation to the affected Fisherfolk.

In the year 2003, CIDCO started reclaiming about 461 ha. of land from the landing sites where the fisherfolk fish. This reclamation was done for the benefit of

NMSEZ, who paid about Rs.130 crore for rehabilitation of the fisherfolk. This amount is lying with CIDCO and not a single paisa has yet been paid towards their rehabilitation.

Now CIDCO is proposing to reclaim the remaining part of the landing site of Uran creek. An 11 meter wide Uran bypass road is proposed to be constructed which will cut through the landing site which is also covered with mangroves and mudflats. If this area is also reclaimed, then there will be no site left for fishing and the fisherfolk will lose their only source of livelihood.

The fishing community has repeatedly been asking for details of the project and sought protection from the destruction of their only fishing areas. They have also demanded that they should be rehabilitated and the earlier compensation which is lying with CIDCO be immediately paid to them.

Instead of prosecuting the officers of CIDCO for damaging and destroying their fishing areas, CIDCO has filed false cases against them with a view to terrorize and intimidate them. Section 353 of the IPC which has

been made more draconian following the state amendment has been falsely applied on the peaceful protestors.

People's Union for Civil Liberties (PUCL) Maharashtra strongly condemns the destruction of the fishing areas and the reign of terror unleashed on the affected fisherfolk who are merely asserting their customary rights and their right to a decent livelihood. PUCL Maharashtra demands that they be allowed to fish in the area, including the Uran Creek, unhindered and the areas that have been illegally reclaimed be restored immediately.

PUCL Maharashtra calls upon the government to ensure that the police authorities stop criminalizing the fisherfolk for exercising their constitutional right to protest. PUCL Maharashtra demands that the FIR and any other criminal cases filed against the fisherfolk in this regard be withdrawn immediately and those arrested be forthwith and unconditionally released.\*

**Mihir Desai**, President;  
**Lara Jesani**, General Secretary,  
PUCL Maharashtra ☐

### **PL Mimroth is No More**

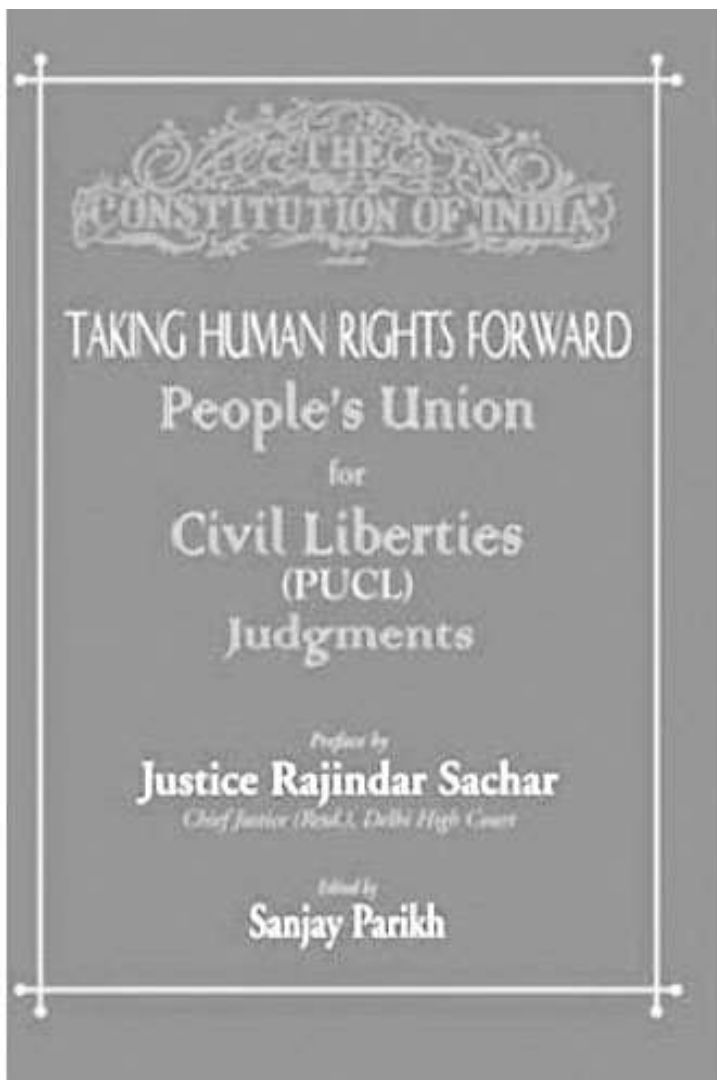
Mr. Prabhati Lal Mimroth, founder of Centre of Dalit Rights, one of India's leading Dalit Rights Activist of the country, passed away on 24th February 2023 (Friday) at 7.30 am in Jaipur. He is survived by wife and a son and daughter. A big loss to the activist world at large. Rajasthan ofcourse owes it to him in a major way for bringing professionalism in the field of Dalit Human Rights. He will be missed. He wanted his body donated to the SMS medical College Jaipur. Which the family will fulfill. Kavita Srivastava, President, PUCL Rajasthan

**Kavita Srivastava**, President, PUCL Rajasthan ☐

Delhi PUCL: Public Meeting to discuss on **Communal Harmony – A Bulwark of Democracy** will be held on N.D.Tiwari Bhawan, Deen Dayal Upadhyay Marg, (near Gandhi Peace Foundation), Delhi on Saturday, 11<sup>th</sup> March 2023 (3 PM). – **ND Pancholi**, President, **PUCL Delhi** ☐

## PUCL Announces the Publication of the Compilation of Judgements of the Supreme Court in PILs filed by the PUCL

Taking Human Rights Forward  
People's Union For Civil Liberties (PUCL) Judgments



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