

**Inside :**

**Presidential Address for National Council Meeting: Rising Authoritarianism, Fascist Attack and Role of PUCL (1)**

**ARTICLES, REPORTS & DOCUMENTS:**

**General Secretary Report for NC Meeting: "Relentless Human Rights Violations, Dismantling of Constitutional Institutions and the Imperatives before PUCL" (2); State Reports presented to the National Council: (1) Report of PUCL Bihar (14); (2) Activity Report of Gujarat PUCL (19).**

**PRESS STATEMENTS, LETTERS AND NEWS:**

**Newly Elected Office Bearers of PUCL National Unit for the New Term, 2022 – 2024 (10); Letter from Prabhakar Sinha, former President, PUCL for NC Meeting (11); Press Statements: (1) PUCL Statement on Upholding of EWS by SC strikes at Basic Structure of Constitution (12); (2) PUCL Condemns Delhi Police Raids on the Wire's Editors & Seizure of Electronic Devices (13).**

**Annual Subscription: PUCL Bulletin (w.e.f. January 01, 2017)**

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Presidential Address for National Council Meeting by Ravi Kiran Jain, President, PUCL National:

## Rising Authoritarianism, Fascist Attack and Role of PUCL

First of all I will explain the extraordinary situation in which I am sending this written note to be read as my Presidential address instead of my coming to attend this National Council meeting and deliver the address myself. I was not able to function as President and I wrote a letter to Mr V. Suresh General Secretary PUCL and all the National office bearers in November 2021 in which I wrote :

“You all will know that for the last two years and more I have been suffering from several ailments which have affected my inability and involvement with different activities both professionally and with regard to PUCL .During 2020 I suffered several serious health setback which required my hospitalisation and prolonged recuperation”

“I feel that during my health condition, I am not in a position to continue actively as is required from the President of PUCL. Although my heart is willing physically I am unable to undertake responsibility of an active passionate President. I therefore, wish to inform all of you that I would like to withdraw from active role as National President of PUCL. I request the National office bearers to make alternative arrangements in the circumstances. I suggest that in the interim period until the new President is selected we all choose a person who is active and can give time to travel and engage with other state organisations”.

I became unwell in April 2020 and since then I am not able to undertake the responsibilities of an active President of PUCL. I had to quit my legal profession also since then.

The last meeting of National Council was held in February 2020. Soon thereafter since March 2020 the country remained for two years in lockdown on account of Corona virus. The political scenario and human rights violations in India were much worse during this period than what was experienced and witnessed during 2014-2020.

The institutional destruction that started with Prime Minister Indira Gandhi in mid 1970s continued under subsequent PMs and leaders and now greatly accelerated and intensified with the BJP's Narendra Modi as PM since 2014.

In *Indian Express* of 16<sup>th</sup> August 2019 there was an article “THE LONG DISARMAMENT OF THE LAW” by Pratap Bhanu Mehta in which he made the following three observations:

- i) The spectre of Indian legal system abdicating its responsibility to protect the liberties of ordinary Indians should alarm all of us.
- ii) There is an extraordinary restlessness in the legal profession in defence of liberty.

iii) Indian courts have had a spotty record in defending our civil liberty, but even by that spotty standard, the abdication of legal profession in reading the charge for liberty is striking”.

Seeing in the light of rising authoritarianism and fascist attack in the country the situation, as it exists now, is much worse than what it was during the excesses, during emergency. Recent years have witnessed systematic attacks on human rights defenders and fearless journalists, writers and Rationalists. The present political parties have no will or capability to face the situation which has emerged on unprecedented political victory of Modi. In fact,

there is virtually no fight against the threat of fascism at the political level. It is obvious that the present regime, with its religious majoritarianism agenda is trying to cause disaffection between the sections of people and destroying the social fabric of the society. In this scenario the role of PUCL becomes extremely important. PUCL took a decision to launch following three nationwide campaigns in December 2014 in the National Convention, Patna.

“1) A nationwide campaign for securing the dignity of the individual in practice.

2) A campaign against great threat posed by the divisive and fascist politics of the RSS and BJP and

3) A meaningful and effective reform of the criminal justice system.”

The discussion to launch these three campaigns at the National level **by involving all state units** continued thereafter almost in all the National Councils meetings and National Conventions and always it was found that the campaigns could not be launched for one reason or the other. Merely announcing that the three campaigns will be launched is not enough. How all the State units will be involved should also be discussed and now the campaigns should be launched. □

**General Secretary Report (2020-2022) delivered at the PUCL National Council Meeting held on 04<sup>th</sup> - 06<sup>th</sup> November, 2022 at Gandhi Peace Foundation, Delhi:**

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

Dear Friends,

It gives me great pleasure to greet you all for the National Council meeting taking place physically for the first time after more than 2 years of Covid lockdown when we were all forced to meet only virtually. We are meeting at a very critical historical juncture, when we are confronted with relentless attack on human rights by the Indian government and its agencies which brazenly abuses and subverts criminal laws to arrest and imprison people who question them or expose their anti-democratic policies and programmes. Ordinary democratic activities of journalists, lawyers, academics, teachers, writers and many other occupations have been criminalised using the law as the `weapon of choice' to silence critics and rights activists.

The raid on the founding editors of the Wire a few days back, is only the latest of such incidents in a long list of rights violations committed by the ruling party in the Centre and in

various states which they rule. Very sadly, the higher judiciary, has to a large extent, abdicated its constitutional role as the sentinels of the fundamental rights, enforcers of the rule of law and protectors of the constitutional framework. The mainstream opposition political parties, barring a few exceptions, are conspicuous by their near absence in opposing or challenging what are clearly fascist tendencies of the ruling majoritarian central government or in questioning the way constitutionally mandated institutions have been undermined to merely act in support of the ruling dispensation.

The vicious and violent, hate-filled and divisive politics of the last few years have been accompanied by a pliant and unresponsive police and administrative machinery which has totally succumbed to the pressure of the ruling party and its politics. The media too, has by and large failed to play its role as an independent, unbiased and objective sector meant to critically

analyse and examine the policies, programmes and politics of the present ruling party and its right wing, majoritarian Hindutva supporting organisations from the RSS, VHP onwards to smaller local groups like the Hindu Sene, Hindu Mnnani (Front) and other organisations.

It is in this challenging context that we are meeting today to discuss and analyse how we all understand the nature of the human rights crisis that confronts us so that we can collectively evolve a common plan of action to go forward to safeguard, promote, protect and preserve human rights in India.

Very crucial to the process of planning our future activities is however, a very crucial and critical task: to objectively and critically examine and analyse our internal functioning as an organisation. What are our strengths, weaknesses and limitations? What are we doing right? Where are we missing out? How inclusive and representative are we – at the state

and national levels? How consistent are we in the activities we undertake?

Unfortunately however, oftentimes, we do not talk about these issues or address internal organisational issues with the importance they deserve. While it is true that in the last 8 years since the Patna National Convention in 2014, we undertook such a task of internal analysis of our functioning. However much more needs to be done. We hope that in this NC meeting we will leave with a clear plan of action to review ourselves internally and to launch a workable programme on key human rights campaigns.

In this report we first start with a review of our work, organisationally, before we consider the type of human rights challenges confronting us.

**1. Organisational Report**

**Streamlining PUCL: Progress Stalled due to the Covid lockdown disruption**

The process of streamlining our functioning which started in 2013, focused on the following key issues, amongst other issues:

1. Regularising and updating membership in all state units;
2. Functioning in compliance with the PUCL Constitution, especially formation of State and National Councils and election of office bearers at state and national level.
3. Some measure of uniformity in the human rights activities and campaign launched by different state units with a common agreed national programme.
4. Regularising and ensuring continuous communication between state units and national office.

**1. Consolidation of Membership and regularisation of payment of membership dues.**

By the end of 2019, the membership process was well streamlined and in place. However the continuous disruption caused by the Covid lockdown starting March, 2020 severely affected the maintenance and updating membership lists and payment of subscription share to the National Office. All state units reported difficulties in ensuring regular update of membership especially ensuring continuation of annual memberships. As a result there have been difficulties in the process with confusion still prevailing, even on the date of this NC meeting.

The following table summarises the current membership position of PUCL:

Period	Total National Membership		
	Life	Annual	Total
2009 – 2012	1258	2559	3817
2012 – 2014	1446	2477	3923
2014 – 2016	1258	2928	4186
2018 - 2022	1656	1948	3604

**Membership in 22 states**

**Active State units: 12**

**Little / No presence in North East, J&K**

We should point out that a comparison of the 2022 active membership list with previous lists shows the following:

- a) There is a sharp drop in Annual membership in almost all states, with a drop of almost 400 to 500 annual members totally.
- b) State units in almost 10 states where members existed or were active earlier have become non-functional now.

There are 3 sub-varieties in this lot: (a) States where no new membership have enrolled such as Odisha, Kerala, West Bengal and MP though there are old members who are still active individually. (b) States like AP and Telangana where units existed earlier but which are non-functional now due to internal organisational problems; and (c) states like Goa, where no fresh set of people have joined to take the organisation's work.

- c) There is an increase in life Members as of 2022. But that

by itself doesn't mean they are also active. However the fact that more people are willing to become life members is an indication of interest to join PUCL, something that needs to be strengthened.

- d) Similarly, formal state units are yet to be formed in Uttarakhand, HP, Haryana even though there are old members from these states. Likewise we have little or no presence in Jammu and Kashmir or in the North Eastern states.

**Table 1: PUCL Total Members of All States updated as on October 2022**

S.No	State	L/P	M	Total	No. of NC Members eligible In ratio of 1 NC: 50 state members
1	ANDHRA PRADESH (State Unit is dissolved consequent to bifurcation of State)	69	00	69	0
2	BIHAR (Active)	142	437	579	12
3	CHHATTISGARH (Active)	39	254	293	06
4	DELHI (Active)	176	94	270	05
5	GOA (Non-Active)	02	00	2	0
6	GUJARAT (Active)	70	45	115	02
7	HARYANA (Non-Active)	21	00	21	0
8	HIMACHAL PRADESH (Non-Active)	03	00	3	0
9	JAMMU & KASHMIR (Non-Active)	01	00	1	0
10	JHARKHAND (Active)	83	157	240	5
11	KARNATAKA (Active)	248	124	372	7
12	KERALA (Non-Active)	59	123	182	4
13	MADHYA PRADESH (Non-Active)	24	00	24	0
14	MAHARASHTRA (Active)	30	00	30	1
15	MUMBAI (Active)	49	00	49	1
16	ORISSA (Non-Active)	16	00	16	0
17	PUNJAB & CHANDIGARH (Active)	31	00	31	1
18	RAJASTHAN (Active)	201	155	356	8
19	TAMIL NADU & PUDUCHERRY (Active)	211	416	627	9
21	UTTAR PRADESH (Non-Active)	157	195	352	7
22	UTTARAKHAND (Non-Active)	08	01	9	0
23	WEST BENGAL (Active)	21	54	75	2
	<b>Total:</b>	<b>1661</b>	<b>2055</b>	<b>3716</b>	<b>70</b>

**M – Annual Member;**

**L/P- Life Member/Patron Member**

**Note:** States where no activity has been undertaken in last two years or where there has been no response of people who had represented the state earlier have not been included in list above.

### 1. Streamlining elections to State Council and National Council

Almost all the active states have conducted their state council meetings where members to the National Council have been elected. These include the state units of Bihar, Chhattisgarh, Delhi, Jharkhand, Karnataka, Maharashtra, Rajasthan and TN. A few states where Ad Hoc / Coordinating Committees were formed like Gujarat and UP which were reconstituted recently, alone have not been able to conduct their state councils and elections; members were nominated / elected from amongst the Ad Hoc Committees. West Bengal too does not have an elected body and 4 members who are active have

informed they plan to attend the NC meeting. At the time of preparing this report, Punjab and Haryana state unit has not reported whether fresh elections were conducted as per PUCL Constitution.

The slip back in the compliance with PUCL Constitution regarding elections will have to be addressed in the coming years so that all the units are brought into conformity with the PUCL Constitution.

### 2. Constitution of new state units

In states like Kerala, Odisha, MP, AP and Telangana and West Bengal there were formerly functioning state units which for various reasons had become non-functional. Though plans were drawn up to visit these states to meet with old members who are

keen to revive the units, the visits could not be finalised. Similarly there is no unit in the entire North Eastern region, where too many individuals and small groups of people have indicated their interest to know more about PUCL. The visits planned in 2020 collapsed due to the lockdown and unfortunately could not be revived this year. This will have to be a priority for the next term.

### 3. Financial Status of PUCL

As all members know PUCL is a voluntary organisation which has only 2 full time staff at the national office to take care of documentation and office work. As a rule, we do not take institutional financing. Our work is largely supported by (i) membership subscription, (ii)

contributions by NC members and (iii) donations by members or well wishers. Occasionally, we have also sought donations for meetings like National Councils or Conventions from the Trust.

Members may remember that in the National Council meeting in Allahabad in September, 2015, it was decided that each State unit should contribute Rs. 25,000/- per year to the National Office towards maintaining the NO; it was also decided however that those state units who did not have much membership will pay Rs. 5000/- as for example Odisha.

In 2021 – 2022 our finances were in a perilous state and we had issued an appeal to all the state units to send their share of the annual contribution to the National Office. I am happy to report that a number of the states came forward to share their part of the contribution. A few states however have to make their contribution.

The Annual Audited accounts are available for scrutiny by members.

### **Revival of Gujarat, UP and Maharashtra state units**

During the period between the last NC meeting in Allahabad in February, 2020 and now, attempts were made to revive 3 units, Gujarat, UP and formalise the Maharashtra unit.

It is a matter of satisfaction that in the last year, the attempts initiated by the National Office resulted in the revival of the Gujarat unit. In the initial period several virtual meetings were held by National Office Bearers with old but active members of PUCL Gujarat, members who had become inactive but were interested in participating again, and people newly wanting to become members after getting acquainted with PUCL's history and work. As the Report of PUCL Gujarat shows, the newly reconstituted Committee has managed to bring many people together and undertaken a number of key interventions which are described in the state Report.

The reconstitution of UP State unit

has not yet fully completed. Two National Office Bearers, Mr. Sanjay Parikh and ND Pancholi had been entrusted the task of meeting members of UP PUCL and forming an Ad Hoc Committee which would plan the revival of the state unit. But the initial set of members appointed by the 2-member team to begin the process of revival could not work as planned. Thereafter, another working Committee was formed with Mr. Farman Naqvi, a well-respected lawyer, appointed as the Coordinator. However this process also suffered due to various reasons and could not be completed.

The Maharashtra unit which was formed as an Ad Hoc Committee before Covid continue to become very active and numerous campaigns, meetings, joint-activities and litigation were started by them. The lengthy State Committee report is testimony to the numerous activities undertaken by them. It is important to point out the key role played by the Maharashtra PUCL unit in unifying numerous organisations into a single campaign on issues of human rights concerns, particularly the Bhima Koregaon case.

A PUCL team of Kavita Srivastava and Divyanshi Sharma were part of a Fact Finding Exercise alongwith several other women's organisations to enquire into the Ankita Bhandari murder case. During their visit in October, 2022, representatives of women's groups and media from across Uttarakhand met the PUCL team and requested that the National PUCL assist them to restart the PUCL in the state, a legacy they say they owe to Shri. Ravikiranji, Shri Dasmana and Shri. Purushotham.

### **1. Activity Report**

#### **A: Work on Thematic Committees**

Members will recall that during the Patna Convention (2014), it was decided that the National Unit will coordinate the work of the following thematic Committees:

The 5 thematic discussion groups issues were:

1. `Human rights violations under ordinary laws: Crisis of the criminal justice system, the travails of the ordinary citizen and a human rights response.
2. `Draconian laws, state terrorism and impunity'.
3. `Challenges posed by majoritarianism: Communalism, communal violence, casteist attacks on Dalits and Adivasis and State response',
4. `Development process, ecology and human rights issues'.
5. `Human rights violations of marginalised communities: Dalits, tribals, women, sexual minorities and others'.

In later discussions within the National Executive and the National Council in 2015 and in 2016, it was decided that we will focus on the first three themes listed above to start with. This was based also in the limitation of finding members willing to anchor these Committees. During the National Council meeting on 17-18<sup>th</sup> September, 2016, there were further discussions by the respective anchors to the three committees to fine tune a detailed programme of action which will be presented to the National Convention for discussion and adoption. Of the three Committees, Vinay Kanth was to coordinate the Campaign to ensure dignity of the common citizen, Kavita Srivastava to anchor the Committee on majoritarian politics and threat to democracy and Sudha Bharadwaj was to anchor the committee on draconian laws, criminal justice system, prisoner's rights and related issues.

Very unfortunately, Prof. Vinay Kant fell critically ill and eventually passed away before the thematic committee he anchored could be taken forward. Similarly Sudha Bharadwaj was arrested in the

Bhima Koregaon case in 2018; prior to her arrest she had convened several meetings in Jharkhand and Chhattisgarh with other activist groups, including with Fr. Stan and it was decided to roll to a series of activities. However following her arrest and incarceration all activities came to a standstill.

### **Critical review of Progress**

Despite interesting and intense discussions and debates on the subject of the thematic committees for a variety of reasons, progress in concretising an action plan or to come out with a statement summarising our approach and with a draft plan of action has still to be formulated with respect to all the Committees.

It is a matter of regret that despite good intentions and common concern over these issues which manifest themselves in all the states of India, despite the passage of over 2 years we still a long way from launching a coordinated campaign.

It is perhaps symptomatic of a voluntary organisation like PUCL, which doesn't have full timers and where members are involved in other issues and organisations, the time available for investing to take forward a national – wide campaign is limited. The different anchors have been otherwise engaged in equally important campaigns and issues of human rights concerns and have not been able to provide the time or concentrated attention that is required to launch a campaign of such nature.

The issue of finances is another key limitation to effectively organising activities to take forward the work of the thematic committees.

It is a matter of deep regret that the activities of the thematic committees which were evolved after considerable discussion, could not be consolidated and taken forward. Though there are explanations, the harsh fact is that it represents a failure to concretise programmes which would have been useful to counter the current

state of human rights abuse.

As General Secretary, it is my responsibility to coordinate the various activities required to ensure that these thematic committees were made ready for launching. So far no Concept Notes have been prepared nor a clear cut action plan been released.

I accept full responsibility for the failure to ensure launch of these thematic committees all of which cover crucial areas of concern. At least in the next 2 year term the activities identified in the thematic committees must be properly planned, responsibility fixed and leadership taken up by the new office bearers to be elected in the upcoming NC meeting.

**Lack of response from the states:** In the same spirit of critical review I would also record my sense of disappointment that the response from other members of the National Executive as also members from the state units, has also not been forthcoming, in terms of following up with the decisions made to launch the thematic committees or seek report of implementation of different plans. In a sense, it is as though the responsibility having been delegated to some of the National office bearers anchoring the committees, other members will wait until something emerges; and if nothing concretely was launched, there was a sense of cynical resignation to the fact that nothing will come out of such exercises.

I point this out not to accuse or blame anyone but to point out to a crucial part of our organisational culture which we need to reflect upon. How can PUCL as a human rights body grow in strength unless there is a strong sense of demand and followup on plans; there has to be a sense of collective responsibility that each member is equally responsible to ensure implementation of whatever had been planned and that they should also themselves come forward to volunteer to actively associate with programmes.

My sense of disappointment also stems from the fact that we are tending to speak a lot and do not ensure that what we speak is put into action. I hope we will all work together with a renewed sense of urgency and conviction and ensure that we grow in strength.

PUCL as an organisation should speak through its actions and not in terms of statements which live on paper or merely in terms of posturing in public fora.

This is a crucial challenge we all face. I offer my apologies if I am hurting anyone's sensibilities. I hope colleagues will respect the spirit with which I make these statements.

### **B: PUCL Bulletin**

One activity of National PUCL that was successfully carried out relates to the near continuous publication of the PUCL Bulletin. Barring the few months of the 1<sup>st</sup> and 2<sup>nd</sup> Covid lockdown, when all activities were banned, we have ensured that the Bulletin was published without any break during the last 2 years and more. Members may have noticed that over the years since 2015, there have been a number of articles published in the Bulletin specially written for the issue. We have tried several experiments including coming out with special issues focusing on specific themes and thereafter identifying specialists / experienced people to write for the Bulletin.

The following are the main changes brought about in the Bulletin:

1. On a general note, we are trying to ensure that at least about 40% of all articles published in any month's issue of the Bulletin are original articles and not reprints.
2. We have started the practice of having an issue dealing with exclusive themes.
3. We are placing a word count on articles, of about 1500 words for general articles and about 2000 – 2500 words for special articles.

I am happy to inform you that the response from members,

subscribers and others to the changes in the Bulletin has been very supportive and welcoming. The best response I got recently is from a librarian in a law college who told me that many of their faculty members refer to the PUCL Bulletin for preparing their lectures on a number of topics. While noting these successes there are still many issues which need urgent attention.

#### **Issues of Concern**

1. We have to print at least 1000 issues each month to avail of the postal department's special concession rate.
2. We have less than 200 subscriptions who pay the full amount.
3. We have requested all state units to enrol at least 50 new subscriptions for the Bulletin so that it can become self sufficient. Unfortunately this is yet to become a reality.
4. It is important for all the General Secretaries of state units to take this up as a priority task and get 50 new subscriptions. Considering that the annual subscription is only Rs. 200/- . State units should take p this issue as one of major importance and enrol at least 50 to 75 new subscriptions of PUCL Bulletin.
5. Very importantly, we invite more articles from PUCL members for consideration for publication in the Bulletin.

#### **Words of thanks to Ms. Babita and Mr. Ashok of National Office and Mr. Sanjeev Kumar Gupta of Royal Offset Printers who print PUCL Bulletin.**

Before concluding it is important for me to place on record the admirable work of Ms. Babita Garg at the National Office who without fail sent me the first version of each month's Bulletin and ensured that there was not a single issue which was missed out. It is a testimony to Babitaji's perseverance and grit to ensure that the Bulletin was formatted and sent to the printer in time to ensure it was printed and

sent by post that we got through the Covid period without any disruption. Our thanks are also due to Mr. Sanjeev Kumar Gupta of Offset printers who ensured the print copy was ready for despatch and to Mr. Ashok who ensured that the Bulletins were promptly posted to reach all of us in time.

#### **C: Specific Campaigns and Activities**

Despite the restrictions imposed by the Covid shutdown, National PUCL was able to launch a number of activities to take forward PUCL's key mandate of protecting and promoting human rights consciousness and work. The following is a brief summary of the various activities and campaigns initiated by PUCL National.

##### **1. #RepealUAPA Campaign and #StandwithStan Campaign**

Even in 2019, a year before Fr. Stan was arrested, PUCL had issued a strong statement condemning the raid on Fr. Stan's residence in Bagaicha, Ranchi, Jharkhand. We had also issued statements at the time of interrogation and eventual arrest of Prof. Hany Babu, Anand Teltumbde, Gautam Navalakha as also arrest of Sudha Bharadwaj, PUCL National Secretary (a post she holds even now). However following the unconscionable arrest of the 84 year old Fr. Stan Swamy, who was ailing with Parkinson's disease and was clearly unwell by the NIA police, we decided it is important to bring all democratic rights groups and human rights organisations in one platform. After a lot of effort a campaign was organised by PUCL to protest against Fr. Stan's arrest and also to get as many mainstream political parties together in one platform to oppose his arrest and also demand not just his release but also of others and repeal of the law.

A virtual Press Conference was organised on 21.10.2020 in which Mr. Hemant Soren, Chief Minister of Jharkhand, Mr. Sitaram Yechury of CPI(M), Mr. D. Raja of CPI, Ms. Kanimozhi of DMK, Ms. Supriya

Sule of NCP all spoke in one voice condemning the arrest of Fr. Stan under UAPA by the NIA and also unambiguously announced their demand for a total repeal of UAPA law. Mr. Shashi Tharoor of the Congress also sent a solidarity message and other prominent people spoke in the event.

The meeting had a major impact in breaking the environment of fear and silence that had overtaken many people due to the arbitrary arrest under UAPA thereby ensuring long years without jail. Over the subsequent months, the #FreeFr Stan Campaign and #RepealUAPACampaign gained momentum and strength with about 150+ organisations joining the campaign.

##### **Virtual Meetings with Victims and Family Members of UAPA Arrestees**

Over the next few months a series of virtual meetings were organised by PUCL National highlighting different facets of the abuse by the Central Government of UAPA. In January, 2021, a series of 3 meetings were held on consecutive days in which victims of UAPA cases, media persons, rights activists and lawyers from 11 states where UAPA had been used, spoke. Each of these sessions was also shown live on PUCL Facebook page. This attracted several thousand viewers for each of these programmes and played a major factor in helping strengthen the campaign demanding repeal of UAPA.

##### **2. Study of UAPA cases: First Report on NIA and NCRB statistics on abuse of UAPA.**

One of the key issues identified as part of the #RepealUAPA Campaign was the importance of undertaking a comprehensive study of UAPA cases so that the Campaign could concretely support the demand to repeal laws like UAPA with concrete data.

With this in mind, a comprehensive study was undertaken using NIA Website data and NCRB Crimes data on UAPA cases. The Report

which consumed tremendous time and effort was released on 1<sup>st</sup> October, 2022 and has since been used by many persons and groups to demand repeal of such a draconian law.

The second part of the study using data collected from trial lawyers actually handling cases from every state has begun now. Reports, as and when ready will be published. The plan is to lobby parliamentarians and political parties to raise questions in Parliament to expose the abuse of the law and also to mobilise public opinion against the law.

### **3. Campaign to oppose amendments to IPC, Criminal Procedure Code and Indian Evidence Act**

In September, 2020 the MHA, Government of India announced that they had set up an Expert Committee under the Chairmanship of Prof. Ranbir Singh, Director of National Law University, Delhi to comprehensively study the IPC, Cr.PC and Indian Evidence Act with a view to proposing changes in it. Prior to the announcement of the Committee, the Union Home Minister had also delivered a speech in a meeting of DGPs and others indicating the view that it was human rights laws which were a hurdle to the police in fully implementing the laws against alleged 'terrorists'. This clearly indicated the thrust of the changes the present government was seeking to bring in.

PUCL national unit, especially some of the active members like Mihir Desai, Kavita Srivastava, V. Suresh, Arvind Narrain and other PUCL members campaigned with former Judges of the SC and High Courts, lawyers, jurists, media people, activists and others and created a collective effort to submit detailed rejoinders to the proposed changes. While this was a joint effort of many people, the background work was initiated by PUCL members. Eventually

detailed responses were submitted to a number of questions identified by the Gol.

It requires pointing out that the final report which was presented by the Committee and also the Government's response has still on date been made public. But in a significant manner the Home Minister has announced that they propose to place before Parliament in the Winter session, the proposed changes to criminal laws. If the type of approach exhibited by the Gol is anything to go by, the proposed changes will seriously affect the objectivity in the current Criminal Justice System replacing it with a very state centric legal regime in which securing civil liberties and fair procedure and rights will be seriously affected.

### **4. Release of Book "Why is the state scared of Sudha Bharadwaj?"**

On 24<sup>th</sup> January, 2021 a full length book containing a compilation of interviews with Sudha Bharadwaj, and articles about the dangers of UAPA was published and released virtually by national PUCL. The virtual meeting to discuss the book was attended by a few thousand people and contributed in a very important way to creating citizen consciousness about the dangers of such a draconian law like UAPA.

### **5. Campaign against Electronic Surveillance and Planting of Evidence**

National Office bearers played a key role in initiating a Campaign to educate people about the dangers of electronic snooping, eavesdropping and danger of planting of evidence, alongwith experts in the field. In the backdrop of the Arsenal Report which studied the cloned hard disk of Rona Wilson and others to demonstrate that the hard disk had been clandestinely infiltrated and plated with evidence on which basis he and other accused had been arrested, the campaign also talked of the importance of all individuals and groups raising issues of transparency and accountability of

being careful that their electronic systems were not compromised. A series of discussions were also organised bringing together IT Experts, lawyers, public policy analysts and others.

### **6. Advocacy and legal support to students and youth falsely implicated in Delhi mass violence of February, 2020.**

During the first phase of the Covid lockdown period, some of the National Office bearers extended human rights advocacy support and legal advice to many young people, academics, film makers, activists and others interrogated by the Delhi police in connection with the violence that occurred in Delhi during February, 2020. The PUCL team coordinated with the members of the 'Constitutional Conduct Group' (CCG), a group of retired officers belonging to the IAS, IPS, IFS and other central services, to liaise with the Commissioner of Police and other senior police officials to ensure that human rights violations did not take place. It is important to note that the mass interrogations of scores of people was accompanied with the threat of implicating them under 'conspiracy' charges thereby creating a pall of fear and intimidation. It is in this deeply sinister scenario of abuse of power by the state, that the PUCL team was part of a larger citizen-led effort to provide legal, emotional and other diverse types of support including writing letters to authorities, conducting press conferences and other advocacy support activities.

### **7. PUCL Intervention in false UAPA case filed in Tripura against Delhi Lawyers, Journalists and Social Media influencers**

PUCL played a major role in coordinating the legal campaign in support of lawyers, journalists and social media influencers who had received notices from the Tripura police to appear before them to answer charges in a UAPA case, as also to legally respond to notices



referred to them by Twitter asking why details of their accounts should not be handed over to the police who were requisitioning them. The campaign resulted in widespread media coverage of the brazen attempt made by the Tripura police to falsely prosecute them under UAPA charges. Eventually the matter was taken to the SC which directed stay of individual interrogation of the aggrieved persons.

**D: Press Statements**

During the period 2019 – 2022, PUCL National has issued a total of 59 statements. The breakup of statements is as follows:

Year	2019	2020	2021	2022
No. of Statements	15	14	21	9

The statements covered a wide range of issues including different issues relating to Bhima Koregaon case, on the state attempt to criminalise anyone from questioning Corona treatment and the treatment of migrant labour who were forced to walk thousands of kilometres back home due to lack of survival possibilities and hunger, on the situation of Kashmir, one year after the abrogation of Art. 370, protesting against slum demolitions in Delhi and framer's protest; statements were issues on the continuing use of sec. 66A of the IT Act which had been banned by the SC, to prosecute social

media users, against arrest of people protesting CAA, Weaponising FCRA, against electronic surveillance and the manner of treating the woman employee who complained of sexual harassment by the then sitting CJI, Ranjan Gogoi. All the statements have been published in the PUCL Bulletin and members can access the statements from the PUCL website.

**E: PUCL Litigation**

During the 2019-22 a total of 6 PILs were filed by PUCL in the Supreme Court on the following issues:

1. Challenge to abrogation of Art. 370 in r/o Kashmir. (2019)
2. Challenge to sedition law (2020)
3. Challenge to CAA (2020).
4. PIL to consider NOTA votes if more than the most successful candidate. (2020).
5. Challenge to UP Love Jihad law (2020 – the SC directed that this PIL be filed before Allahabad HC).
6. Challenge to sec. 5(2) of the Telegraph Act on issue of surveillance.

Apart from PILs filed before the SC, Maharashtra and Karnatak state units have filed a number of PILs during the corona shutdown period before the Bombay and Bangalore HCs. These cases will be presented by the respective

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**The Challenge before the PUCL: Asserting the Constitution, Protecting Human Rights, Deepening Democracy Creating an Action Plan**

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

General Secretaries of the state units.

There is a need to document details about litigation filed by different state units. This task though identified earlier, could however not be completed.

Thanks to the efforts of Mr. Sanjay Parikh, National Vice President, a compilation of judgments of the SC in PILs filed by PUCL was published a few years back. It is now important to publish a compilation of orders of different HCs in PILs filed by PUCL state units.

**F: JP Memorial Lectures**

The *JP Memorial Lecture* scheduled for 2020 had to be cancelled due to the Covid lockdown and could not be held due to the prolonged uncertainty over return to normalcy. Wiser from the experience, the subsequent JP Memorial Lectures in 2021 and 2022 were held virtually!

The 40<sup>th</sup> JP Memorial Lecture was delivered on 23<sup>rd</sup> March, 2021 by Anuradha Bhasin, Editor, Kashmir Times, on the topic, “Media Democracy and Democratic Institutions: Challenges of our Times”.

The 41<sup>st</sup> JP Memorial Lecture was delivered by a senior human rights lawyer from Israel, Michael Sfar, on “Human Rights Lawyering in an Illiberal Environment: Can the law of the abuser protect” on 23<sup>rd</sup> March, 2022.

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.
- V. Suresh National General Secretary, PUCL**  
Delhi (03.11.2022) □

**The following are the newly elected office bearers of PUCL National Unit for the new term, 2022 – 2024, elected in the National Council Meeting on 6<sup>th</sup> November, 2022**

**President: Ms. Kavita Srivastava** (Rajasthan)

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

**Treasurer cum National Office Secretary:** To be confirmed by Delhi unit.

**Vice-Presidents (6) (All names in alphabetic order):** (1) **Binayak Sen** (West Bengal); (2) **Farman Naqvi** (Uttar Pradesh); (3) **Mihir Desai** (Maharashtra); (4) **ND Pancholi** (Delhi); (5) **R.Murali** (Tamil Nadu); (6) **Surendra Kumar** (Bihar).

**Secretaries (9) (All names in alphabetic order):** (1) **Ashok Bharti** (Delhi); (2) **Bhanwar Meghwanshi** (Rajasthan); (3); **Fr. David Solomon** (Jharkhand); (4) **Rohit Prajapati** (Gujarat); (5) **Ms.Seema Azad** (UP); (6) **Shahid Kamal** (Bihar); (7) **Ms. Sudha Bharadwaj** (Chattisgarh); (8) **S.Balamurugan** (Tamil Nadu); (9) **Y.J.Rajendra** (Karnataka).

**Organising Secretaries (7) (All names in alphabetic order):** (1) **Arvind Avinash** (Jharkhand); (2) **Arvind Narrain** (Karnataka); (3) **Kailash Meena** (Rajasthan); (4) **Ms. Lara Jesani** (Maharashtra); (5) **Mujahid Nafees** (Gujarat); (6) **Sarfaraz** (Bihar); (7) **Sr. Sewti** (Chattisgarh). □

## Letter from Prabhakar Sinha, former President, PUCL

Read out in the National Council meeting, Delhi on 04<sup>th</sup> November, 2022

Dear Jain Saheb, Dr. Suresh and Friends of the National Council, I have been looking forward to meeting you all but am prevented by my elder brother's (Sachchidanand Sinha, 95) illness. He has been staying with me in my care for quite some time and cannot be left in the care of house-helpers without me. But for the compelling circumstances, I would have been with you and shared my concerns. Since I am unable to be with you, please allow me to place some of them for your consideration.

The human rights movement and human rights activists have been under unprecedented attack ever since the present government came to power. The previous governments, too, were hostile and repressive, but their agenda was not the annihilation of human rights movement, as is that of the present government. The difference is due to the difference in their ideologies. While the former believed in democracy and human rights, but failed to live up to their belief, the latter (the BJP) believes neither in democracy nor in human rights. Thus, they cannot be shamed or demoralised for their ruthless brutal and illegal attack on human rights and their champions because these are mandated by their ideology. The war they have launched cannot be effectively fought in the courts. The arena has to be the court of the people.

I have been drawing attention to this crucial aspect of our struggle from time to time. If I remember correctly, I had written two articles on the subject, which were published in the PUCL Bulletin. Both were written after 2014. One was '**Mobilising Popular Support for Human Rights**' and the other was '**Take Human Rights to the Masses**'. In fact, Bihar PUCL had launched a programme also in

pursuit of this goal, but it could not be continued for lack of enthusiasm. However, it must be accepted that there is no alternative to attracting the common man to our mission, which is of vital interest to every person. It is also indispensable for them because it is they who suffer maximum violation of their rights.

The question is how to do it. To begin with we must give due importance to violations from which the common man suffers, especially, the police atrocity from which the common man suffers in his day to day life. The police can abuse and beat anyone they like with full impunity. It is difficult to forget the sight of the police beating the migrant labourers trudging home thousands of miles away to ward off hunger when Covid-19 was raging all over the country. The cases of this atrocity are common in the common man's life. There are other forms of atrocities to which we are a common witness. The Aims and Objects of the PUCL constitution include some of them. We may take the following as examples:

- 2(l): To oppose police excesses and use of third degree method
  - 2(j): To work for the reform of the judicial system so as to remove inordinate delays, reduce heavy expenses, and eliminate inequities
  - 2(k): To bring about prison reform.
- The list is only suggestive and not exhaustive.

I would suggest that there is a session on how to take Human Rights to the masses, which is followed by a Committee to suggest what and how it should be done. Each state unit should be tasked and guided to pursue the goal of taking human rights to the masses.

It must be accepted that human rights and human rights defenders

cannot be defended without the support of the common man.

I would like to close with a reference to our silence over the attack on the independence of the judiciary. It is a common experience that organisations which compromise their core values grow weaker and ineffective. Therefore, if any such weakness appears, it should be shared for taking steps to prevent further weakening. I would share with you the following:

Art. 2(g) of our constitution reads as follows: The aims and objects of the organisation will be :

### **To secure the rule of law and independence of the judiciary.**

The present government has been persistently working to punish independent judges who delivered judgments against it or important persons belonging to the ruling party ever in the past. However, the PUCL remained silent. Our silence is both unconstitutional and suicidal.

Of many cases of punishment, I would just mention the victimisation of Justice A. Kureshi, who had ordered the remand of Amit Shah to the CBI custody and Justice K. M. Joseph of Uttarakhand High Court, who had quashed the imposition of President's rule on the state . Justice Kureshi was not elevated to the SC under the pressure of the government and Justice Joseph's appointment was notified much later than the others recommended along with him. This made him junior to the others without any reason.

My purpose is not to find fault with the organisation or our colleagues, but to draw attention to a lapse, which is inconsistent with the organisation's constitution and may hurt us dearly.

With regards,

**Prabhakar Sinha**, Muzaffarpur, 3 November, 2022 □

## PUCL Statement on Upholding of EWS by SC Strikes at Basic Structure of Constitution

The PUCL is concerned that the decision of the Supreme Court in '*Janhit Abhiyan v Union of India*' upholding the constitutionality of reservations for 'Economically Weaker Sections' (EWS) does grave injustice to the vision of the Constitution makers who incorporated Art. 14, 15, 16 and 17 in the Constitution as a legal protection to counter historically entrenched and institutionalised social and cultural discrimination. These Articles, also referred to as the '**Equality Code**', were unique as the Constitution framers provided for the fundamental rights of socially and educationally backward classes, including SCs and STs, through 'reservations' or 'affirmative action' as a means of achieving 'social justice', a task which remains unfinished, even today, 75 years after independence.

By upholding the Constitutionality of the 103<sup>rd</sup> Constitutional Amendment, the majority ruling of Justices Dinesh Maheshwari, Bela Trivedi and JB Pardiwala have struck a blow to the 'basic structure of the constitution', disturbing a delicate constitutional balance evolved by the SC over the last many decades by holding that 'social justice' and 'social criterion' are key to fundamental right to equity. In effect, the majority ruling which holds that '*economic justice has acquired equal focus alongside the principle of social justice*' has watered down the notion of 'social justice' as a rights-based protection provided to tackle entrenched caste discrimination and hostilities. The majority have also signaled in a way that the EWS could be '*a first step in the process of doing away with caste-based reservation*'.

Pared down to its essence the majority is asserting that 'Economically Weaker Sections' (EWS) are a grouping which faces discrimination, much like the

category of SC/ST and OBC's. It is a fact that even among forward castes and other non-reserved communities there are poor people and there must be legislative and policy measures undertaken in accordance with the Directive Principles to alleviate their poverty.

**However, reservation is a constitutionally inappropriate response and reservations cannot be seen as a scheme for poverty alleviation.**

In this, it is disappointing that all five judges, including the minority judgment authored by Justice Ravindra Bhat and CJI UU Lalit, deem reservation on economic basis constitutional. The court in its decision has given the go by to the precedent in '*Indira Sawhney*' (1992) in which it was rightly held that economic criterion alone cannot be the basis to determine backwardness. The court has also given up on the rule that the maximum of reservation should be 50% which was laid down in Indira Sawhney case by holding that the EWS quota will not affect this calculation.

What is more damaging to the basic structure of constitutional protections so assiduously put together by Dr. BR Ambedkar and other social reformers, is the exclusion of SC/STs and OBCs from the EWS reservation. The exclusion of SC/ST and OBC from benefiting from the EWS quota is particularly invidious as SC/ST and OBC form a disproportionately high proportion of the EWS in Indian society. The minority opinion of Justices Ravindra Bhat and U.U. Lalit in fact notes that among the 'entire population of ST's, 48% are the poorest; among the entire population of Scheduled Castes 38% are the poorest and amongst the OBC's no less than 33% are the poorest'.

In effect, this exclusion of poor SC/ST and OBC's from benefiting

from the EWS quota, implicitly sets up EWS as a category of reservation meant only for the forward castes. The minority is scathing in its observation that, 'there is nothing to suggest, how, keeping out those who qualify for the benefit of this economic-criteria reservation, but belong to this large segment constituting 82% of the country's population (SC, ST and OBC together), will advance the object of economically weaker sections of society.'

It is to be noted that by excluding SC/ST and OBC's from the EWS category, the share of SC/ST and OBC's is reduced from 50% of general category seats/posts to 40%. This is an egregious form of discrimination practiced by the state against the most deprived sections, unfortunately legitimized by the court now.

The 103<sup>rd</sup> Constitutional amendment's benefits are limited to non-reserved castes, by implication forward castes, whose income falls within Rs. 8 lakhs limit (the limit being prescribed by government notification), an arbitrary and unrealistically high ceiling, which will further discriminate and exclude more deserving candidates who are actually very poor.

The minority judgment in its analysis of non-discrimination gives voice to the anguish felt and experienced by many Dalit, Adivasi and human rights groups with respect to the reasoning of the majority. The minority strikes down the amendment *in-toto* on the basis that, "*Our Constitution does not speak the language of exclusion*" while pointing out that for "*for the first time, the constituent power has been invoked to practice exclusion of victims of social injustice, who are also amongst the poorest in this country*".

For the minority, the exclusion of SC/ST and OBC's from the EWS

category is violative of the 'Equality Code' in the Indian Constitution. The 'Equality Code' (Articles 14, 15, 16, and 17), is not "a bland statement of equality before law and equal protection of law", but also contains "specific injunctions against state from discriminating on proscribed grounds" such as caste. It specifically references Article 17 as "an unequivocal injunction, against untouchability, of any form' which enjoins the state to forbear caste discrimination, overtly, or through classification, and looms large as a

*part of the equality code and indeed the entire framework of the Constitution."*

The exclusion violates the basic structure of the Indian Constitution. For the minority, 'exclusion, with all its negative connotation – is not a constitutional principle and finds no place in our constitutional ethos' and to allow for 'exclusion of people based on their backwardness,' is to destroy 'the constitutional ethos of fraternity, non-discrimination, and non-exclusion.'

This aspect of the minority judgment is rooted in a correct

understanding of constitutional principles and therefore to be welcomed. As Justice Khanna put it in his dissent in ADM Jabalpur, "**A dissent in a court of last resort...is an appeal to the brooding spirit of the law, to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed**".

We hope that day arrives soon.

**Dr. V. Suresh**, National General Secretary, PUCL □

PUCL Statement on 02.11.2022:

## **PUCL Condemns Delhi Police Raids on the Wire's Editors & Seizure of Electronic Devices**

The PUCL strongly condemns the raids on the residences and office of senior editors of the news portal, **The Wire**, in New Delhi and Mumbai on 31<sup>st</sup> October and 1<sup>st</sup> November, 2022 and manhandling of the lawyer, Mr. Shadan Farasat and other staff members of the Wire. The raids followed a First Information Report (FIR) registered in New Delhi on the basis of a complaint filed by the Bharatiya Janata Party (BJP) National Information and Technology department in-charge, Amit Malviya. The allegations pertained to cheating, forgery, defamation and criminal conspiracy.

**It is significant to point out that on 23<sup>rd</sup> October, 2022 itself, The Wire formally retracted the story (which is the basis of the complaint by Amit Malviya) after an internal review revealed discrepancies. The retraction was carried as a prominent article in the Wire with the title, "The Wire Retracts Its Meta Stories". The Wire very clearly, openly and unambiguously explained the reason for the retraction saying, "Given the discrepancies that have come to our attention via our review so far, The Wire will also conduct a thorough review of previous**

**reporting done by the technical team involved in our Meta coverage"**.

What is shocking is that despite the unambiguous retraction and the public candour accompanying the retraction, the Delhi police have used the complaint filed by Mr. Malviya as an opportunity to register a more sinister FIR involving cheating, forgery and criminal conspiracy as a cover to target The Wire and its staff.

On the basis of these trumped up charges, the Delhi Police Crime Branch arbitrarily conducted search and seizure operations at the homes of The Wire's founding editors, Siddharth Varadarajan, M K Venu and Sidharth Bhatia as well as the deputy editor, Jahnavi Sen and product-cum-business head, Mithun Kidambi, relying on notice under Section 91 of the Criminal Procedure Code, 1973. The raid at the house of the latter was conducted past midnight at around 2 a.m. on 1<sup>st</sup> November, 2022.

Even if, for argument's sake, the police wanted to pursue the complaint by conducting an enquiry, all they needed to do was call the Wire's Editors for an enquiry along with the necessary evidence of their articles. The fact that the Delhi police decided to

dramatically raid the residence of Siddharth Varadarajan, MK Venu and others shows that their intention was not to pursue an enquiry but to conduct a witch hunt by making a spectacle of the search. What makes the police's actions suspect is that they conducted the search and seizure despite knowing fully about the public retraction of the stories which formed the basis of the criminal complaint, what makes the police action suspect. The intention was clearly to browbeat the Wire's Editors and to scare other media persons of their fates if they dared to challenge the ruling interests.

According to a report published by 'Newslaundry', sixteen devices were seized from the office of The Wire. Two phones, a tablet and a laptop from Varadarajan, a phone and a laptop each from Venu, Bhatia, Sen and Kidambi, and two hard disks from the accounts department's computers were among the devices seized. A reporter's phone and the computer he worked on at the Wire's office were also taken away in Delhi. In addition to these devices, the Delhi police also asked the four editors and Kidambi to remove passcodes from their phones and laptops, and to provide passwords to their

official and personal email accounts. Three staffers were asked for passwords to their official email accounts while another staff member was told to give passwords to both official and personal email accounts.

It should also be noted that the Crime Branch did not follow the requisite procedure as it took away devices from the news portal's New Delhi office and from the homes of those raided without providing any hash value, i.e., the numeric value that uniquely identifies data lodged in an electronic device at any given point in time. There are legitimate concerns that absence of a hash value leaves the door open to planting material on the digital devices.

The blanket access so taken by the Crime Branch of the information on the devices seized also raises serious privacy concerns and is violative of Article 20(3) and Article 21 of the Indian Constitution. Concerns have been raised time and again on the arbitrary exercise

of the powers of search and seizure by the law enforcement authorities of digital devices, especially since the existing legal provisions are highly insufficient and fail to provide any procedural safeguards for the same. The Supreme Court has recently issued notice in petitions filed before it by academics and journalist bodies for guidelines on seizure of digital devices and the matters are currently pending. Forcing an accused to reveal the password of his or her electronic devices runs afoul of the right against self incrimination. A Special CBI Court in Delhi has come to this conclusion based on an interpretation of the scope of the Supreme Court judgment in *'Selvi v. State of Karnataka'*.

The PUCL strongly condemns this targeting of The Wire and the arbitrary raids as well as the search and seizure operations carried out by the Crime Branch as nothing but another brazen attempt to intimidate and silence independent media from performing its

professional role. It should be pointed out that the current ruling dispensation has been targeting the Wire, and especially founder - editors, Siddharth Varadarajan and MK Venu, because the Wire has been at the forefront of investigative journalism which has repeatedly spoken the truth to power and sought to keep the executive accountable.

It is this important work done by The Wire which is the real reason for the raids. We in the PUCL stand with The Wire and condemn what is a blatant attempt to snuff out independent media voices. The PUCL demands that the Delhi police cease this persecution in the guise of a prosecution, drop all charges and return the seized electronic devices seized during the raids back to the people from whom they were seized.

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

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<sup>1</sup><https://thewire.in/media/the-wire-retracts-meta-stories> □

## Reports of State Units presented to the National Council between 4<sup>th</sup> to 6<sup>th</sup> November, 2022:

### Report of PUCL Bihar

Friends!

PUCL Bihar welcomes all of you to the NC Bihar meeting. This NC Meet is being held after 2 years and 9 months. After a long gap, we all have gathered once again with a new energy and hope that this continuity will be maintain now. The good thing is that inactivity during Corona has reduced to a great extent and it will not be wrong to say that we are back at work with renewed enthusiasm and commitment.

During last three years we have lost many of our valuable companions. Last year in the month of August 2021, we lost the then State President Smt. (Prof.) Daisy Narayan, causing irreparable loss to the organization. In the month of May 2022 this year, the organization has also suffered a

great loss due to the sudden death of Sachchidanand Prasad, secretary of Samastipur district unit and senior vice president of the state unit. On behalf of the organization, we pay our heartfelt tributes to all those comrades.

**Human Rights Crisis and PUCL:** Human rights violations are not new in our society. This is a bitter truth of our society, but the despair increases when it starts to feel that instead of going forward, we are going backward, that is, incidents of human rights violations have increased more than before. In such a situation, the need for an organization like PUCL increases more than before. The weakening of an organization like PUCL in this situation will be harmful for the entire society and for the Human rights in the country. We are fully

aware of our limitations and resources, but even with our limited resources, it is necessary to ponder how we can leave maximum impact in the society and how our organization can be more effective in the current socio-political realm.

Today every weak section of the society is being oppressed and atrocities continue in some form or the other. Incidents of atrocities and violence against Dalits, tribals, minorities, extremely backward, women and other economically and socially marginalized people have increased in the past. While on one hand the state machinery is using all legal and illegal means and tactics to suppress every voice of protest, it is to be noted that most of the victims of oppression, atrocities and exploitation are vulnerable, downtrodden and marginalized

communities of the society. In a way, the state has opened a front against the oppressed classes and sections. The sad thing is that the people in the government who oppose the things while out of power, they do the same thing after coming to power. The injustice being done to the tribal community of Chhattisgarh is a recent example of this.

Attacks on Dalits are now a daily occurrence. The atrocities and incidents of violence and sometimes even killing of Dalits for petty matters, such as having a moustache, riding a horse in a procession, etc., reflect the distorted state of mind of an influential section of the society. There is no visible reduction in the incidents of atrocities and cruelty against women even it increased during the covid-19 lockdown. It is a matter of great shame that half of the country's population is constantly living in the shadow of fear. The sense of insecurity is hindering the progress of half of our population in many ways. On the other hand, the atrocities, arrests and even custodial deaths of people, especially from the most vulnerable and downtrodden communities in Bihar in the name of liquor prohibition are not hidden from anyone. Repression, atrocities and torture by the police have taken the form of an epidemic in the society, from which due no class and section of the society is safe. The law-and-order situation looks completely weak and shabby. In such a situation, it is our duty to raise our voice to protect the human rights of all people, especially the rights of the deprived sections.

The situation of child labour also attracts our attention. Breaking the government's own policy of free and compulsory education for children in the age group of 6 to 14 years, lakhs and crores of children are forced by the system to work to

survive on the sacrifice of their childhood and the government remains a mute spectator. These child laborers are also the victims of sexual abuse and mental harassment at the workplace. Despite the government's big announcements and claim, education and health facilities are being drastically being cut down and both these important sectors are being handed over to private business and they are being made pastures of loot. The poor condition of health services has come to the fore during the Covid-19 pandemic. Due to anti-people laws like the Citizenship Amendment Act (CAA) and the National Register of Citizens (NRC), the common people of India, especially those from the minority community, have suffered a lot. Apart from this, the government has already made many such repressive laws, such as - Unlawful Activities Prevention Act (UAPA), National Security Act (NSA), Armed Forces Special Powers Act (AFSPA), sedition law (124A), etc. People have to suffer the terrible consequences of these anti-people law. This has clearly exposed the fascist dictatorial character of the present central government. It seems that the governments are turning away from their responsibilities and becoming exploitative and oppressive in character. The government is using the temple-mosque conflict and Hindu-Muslim issue as its shield to bypass and divert the attention of the common people from the basic issues like inflation, unemployment, education, health and corruption.

Efforts are being made to destroy the Ganga Jamuni Tehzeeb and composite culture which the country had adopted after going through a historical process of thousands of years. The communal and chauvinistic forces have seen the dream of strengthening the

unity of the country by suffering from the mentality of Hindu-Hindi chauvinism, its ill-effects are visible everywhere. India has a liberal culture where all kinds of ideas have a place to flourish, the parties doing hate politics have left no stone unturned to end this beauty.

**Violence against minority community:** Injecting hatred among Hindu youth against religious minorities and violent attacks against minority communities, especially Muslims, are continuing. The systematically spread hatred in the society is now coming out in the form of violence. The sad thing is that this violence is increasing day by day. This is a matter of great concern. In the recent episode, there were various reports of humiliation and violence against Muslims from many places in the country on the occasion of Ram Navami and attempts were made to incite violence at many places. In Bihar, the Bihar unit of PUCL has investigated the violence in Qazi Muhammadpur village of Paru block of Muzaffarpur district, in which it was found that provocative songs were played afterhalting the Ram Navami procession outside the mosque in a planned manner and a miscreant hoisted saffron flag on the minaret of the mosque. On noting, it is observed that the incident of Qazi Muhammadpur was no exception. A similar pattern is seen across the country inwhich first procession is deliberately carried out (mostly) without permission through Muslim localities and mosque (as it was in Qazi Muhammadpur) then provocative, violent, indecent songs were played near Muslim localities and mosques, the incident of 'stone pelting' took place at the procession and finally someone from the procession put the saffron flag on the mosque. All incidents of violence during Ram Navami seem to revolve around

these four or five factors. These all followed by one sided police action, or it will be better to say after the incident state/police take the charge in its hand complete the unfinished work by targeting one community selectively.

**Atrocities on Dalit Adivasis:** According to the National Crime Records Bureau, 50,291 cases of atrocities against Dalits were reported in the year 2021, indicating an increase of 9.4 per cent in such cases as compared to earlier. Similarly, 8,272 cases were registered against tribals and there was an increase of 9.3% in comparison to the previous year. At the same time, according to government data, there has been a huge increase in the cases of violence against Dalits and Bihar (20,973) is on second place after Uttar Pradesh (36,367). (Source: Economic Times 1. 12. 2021)

In Bihar, oppression of Dalits in the name of liquor prohibition has become common. This atrocity is very unique with Bihar and deserve a separate mentioned, discussion and attention. Since 2016, 3.5 lakh people have been arrested in the name of prohibition, and most of them are Dalits. The police is also earning a lot of money by intimidating the people especially from the Musahar community. There are also reports that the confiscated liquor bottles have also been stolen by the police. Many Dalits also lost their lives in police harassment in the name of prohibition. Despite all this, the business of spurious liquor continues, due to which the lives of the weaker sections, especially the Dalits and the poor are being continuously jeopardise.

The number of Dalits in Bihar's jails is also increasing. Recently, there have been many incidents of death in police custody. Several investigation reports of PUCL Bihar have revealed that most of the

people who died in police custody were from Dalits or most backward classes.

**Violence against women:** Women are among the most vulnerable sections of the society. Our male dominated society still has not given equal status to women. Women have to face discrimination both inside and outside the home. According to the National Crime Records Bureau, 2020 data, violence against women has increased by 7% in the last one year. This increase is more than 100% in many districts of India. According to data from the NFHS-5 survey released this year, 30 percent of women in India have been victims of sexual or physical violence, which shows how the women are under continuous threat in India.

Who can forget the incident of Hathras in Uttar Pradesh a year ago when the local gangster raped a young woman belong to the Dalit community and then killed her and burnt her body with the help of the police. It appears from such incidents that the Indian state power and its ruling class consider women only objects of enjoyment and are still not ready to give them a dignified equal status.

**Police brutality:** Police cruelty and brutality are not hidden from anyone. We all have been victims of this at some point or the other. Hardly any person will be found in the society who has not been a victim of police brutality. No class, no section, no society, no life is safe from police repression and atrocities. The sad part is that the colonial character of the police is still intact, which has been used from time to time by the governments and the elite to their advantage and has made it the most corrupt, cruel, immoral and dangerous institution of the society. This is the reason why the governments have never thought

deeply about police reforms till date. The institution, which has been entrusted with the responsibility of the protector of the society by the constitution and law of the country, has become the biggest threat of the society today. In such a situation, thousands and millions of stories of police brutality could be found in independent India. One of such problem is - custodial death, that is, death in police custody.

Although police custodial death is not a new phenomenon, it is seen that these incidents have increased in the recent times. Every now and then one gets to see and read the news of death in police custody. Police autocracy is a big problem for a civilized society. PUCL has always been in favor of a major reform of the police force, because it is the most favourite and useful means by which governments cease and violate the human rights of the common people. Therefore, it is very important for the police to be responsible, transparent and accountable. Keeping all this in view PUCL Bihar has added police harassment to its long-term agenda and trying to take up and follow up the cases of custodial death seriously as a first step towards police reform. In this way we have investigated several incidents of custodial death in which we found that these incidents are not just one single independent incident. There are multiple layer and inter woven network of socio-political condition as well as the reflection of class and caste position are quite visible. It has been found that people coming from weaker sections of the society are more prone to such incidents.

**Our Activities:** We have done various activities in between these two meeting. Following are our activities since February 2019 till date. During this period we have investigated many incidents. Most of the reports have come, some are yet to come. During this period



other organizational work, such as membership campaign, training camp, etc., were also organized. Following are the details of some of the works:

**(a) Report of the Inquiry:**

- In November 2021, PUCL investigated the incident of kidnapping, killing and later burning the dead body of RTI activist and journalist Budhinath Jha alias Avinash a resident of Benipatti sub-divisional headquarters of Madhubani (Bihar) district.
- PUCL investigated the arrest in SSB, BOP Kanhama and 'custodial death' in SSB Camp in Gorhari of Laxman Rai (age-35 years) a resident of Kanhama village under Bela police station of Sitamarhi (Bihar) district, adjacent to Indo-Nepal border.
- PUCL Bihar did an Inquiry into the incident of setting saffron flag on the minaret of the mosque by miscreants on the day of Ram Navami in Qazi Muhammadpur of Muzaffarpur. PUCL Inquiry team visited Qazi Mohammadpur on 14th April, 2022. On the way from Patna to Qazi Mohammadpur, the investigation team saw saffron-coloured flags planted on almost every tree. This incident is not a sudden incident. This is a planned work done by some anti-social and communal elements. People of Qazi Mohammadpur say that Bajrang Dal, Hindu Putra and RSS workers had gathered in large numbers to carry out this work.
- There is a plan to set up a waste management factory in a village near Koilwar in Bhojpur district on the banks of river Son, which is likely to

cause excessive pollution and release of toxic gas that will badly affect the animals, humans in its surroundings and will cause serious problems to the environment. PUCL ,Bihar has investigated this, the report of this inquiry will be release soon in Public domain.

- The incident of vandalism, looting and molestation of women by the police on the night of November 29, 2021, after the clash between the police and the voters during the polling in Gorhari village of Parihar block of Sitamarhi was enquired. The investigation was done by Sitamarhi District unit.
- The Bihar State Unit of PUCL investigated the death of a Dalit youth in a shootout by the police on October 22, 2021 in Moriyawan village of Dhanrua block of Patna district and found that the police had deliberately opened fire without any provocation which took the life of an unarmed and innocent person.
- The Bihar State Unit investigated the incident of illegal arrest of Bindu Devi, Sarpanch of Saguni Panchayat of Parsa police station in Saran district, by the police on the night of October 24, 2021, by implicating her in a false case. Its report was also published by all the newspapers.
- The Bihar State Unit of PUCL investigated the incident of loss of vision of dozens of people during cataract operation in a private hospital in Muzaffarpur in Bihar in December 2021 by visiting

hospitals in Muzaffarpur and Patna. The report of this investigation is yet to come.

- In February 2022, a Muslim youth of Rupauli village of Musrigharari of Samastipur was beaten to death and burnt to death on the charge of eating cow's meat. This case was investigated by the Samastipur unit and prepared a brief report.
- Dozens of people died due to consumption of spurious liquor in the last few months in different districts of Bihar. Bihar State PUCL has done a detailed investigation into all the incidents and has released a detailed report which will be published soon.
- The Sitamarhi unit of PUCL investigated the death of Vishwanath Choudhary in police custody on November 8, 2021 in Mehsaul O.P. Sitamarhi. During investigation it was found that the said old man died due to the brutal beating by the police.
- (xii) In the month of July 2022 in Phulwarisharif, Patna many people were arrested by the police in the name of PFI and an atmosphere of fear was created among the entire area and community. Hindi media and electronic media contributed a lot in this. PUCL team investigated the matter seriously and found that there are many loopholes in the allegations of police and NIA and the matter is being publicized only for political gains. On the other hand, a community is being defamed by using the word 'Phulwari of terror' in the media.

**(b) Organizational Functions:**

- (i) Annual membership for the year 2022 has been renewed. The list of members has come from almost all the districts and has been sent to the national office.
- (ii) A new State Council has been constituted. All the districts have sent the list of the members of the State Council.
- (iii) PUCL District Committee has been constituted in Patna district and after that a meeting has also been held in which many important decisions have been taken to strengthen and activate the organization.

The work of formation of units of PUCL in Nalanda district and Vaishali district is in progress. Meetings have been held twice in Nalanda and membership drive is underway.

### **(c) Workshops, Seminars and Meetings**

- (i) To strengthen the organization and understanding of its members, a two day workshop was organized on 2nd and 3rd April, 2022 in Patna by PUCL Bihar state unit. In this workshop, human rights related issues were discussed in depth. This workshop was only for the members of the state unit of PUCL. More than 50 members from 10 districts of Bihar participated in this workshop. The objective of this workshop was to make the members of PUCL, Bihar aware and informed about the constitution of PUCL, its programme, its working style and its relevance in present times. Along with this, the basic philosophy of human rights along with many major contemporary issues were also discussed in this two-

day workshop, which includes communalism, secularism, jingoism, abrogation of Article 370 of the Constitution related to Jammu and Kashmir with human right perspective, Citizenship Amendment Act (CAA) and the question of National Register of Citizens (NRC).

After this workshop, it was decided that such workshops would be organized in every district. Every district was asked to organize at least one day workshop.

Thereafter the Gaya unit organized a one day workshop on 15th May, 2022.

- (ii) On January 12, 2020, a seminar on the issue of NRC and CAA was organized at Gandhi Museum in Patna in which a serious discussion was held on the draconian law made by the government.
- (iii) On September 8, 2019, a seminar on abrogation of Article 370 in Kashmir was organized at Gandhi Sangrahalaya in Patna with the theme: "Betrayal to the Constitution and the people of J&K". In this seminar, PUCL passed a resolution that the Central Government should return the statehood to Jammu and Kashmir at the earliest and establish Article 370 in its original form.
- (iv) On August 28, 2019, a seminar on the topic of mob lynching was organized at Gandhi Museum in Patna. In this seminar, a resolution was passed that this type of crime should be stopped by the government and targeting of a particular community should be stopped.

- (v) On December 10, 2021, almost all the district units of Bihar including Patna celebrated International Human Rights Day and organized public meetings or seminars.

### **Upcoming Events**

#### **Long term:**

1. There is a plan to investigate more and more cases of police repression and harassment, and to conduct in-depth study especially in cases of custodial death. Based on this report, a decision on future step will be taken after proper discussion and consultation. Work has already been started and many cases have also been investigated.
2. There are plans to work on prison reform. The organization is moving slowly in this direction.
3. Attacks on social workers have increased significantly in the past, sometimes even they are being murdered. They are being harassed in various ways. In such a situation, it is our responsibility to stand with them. PUCL Bihar unit has decided to do the best endeavor to give immediate attention to all such matters.
4. To make an effort to immediately investigate the cases of communal violence or hate crime will be a foremost priority of PUCL Bihar.
5. To make efforts to give the right to a dignified life to the manual scavengers. In this regard, our first priority is to prepare an action plan by discussing how to proceed on this issue.

#### **Short-term plan**

1. To make an effort to associate youth and sensitive persons of the society with PUCL.
2. To organize human rights training workshop in all districts by July 2022.
3. Efforts for formation of new units in other districts of Bihar, wherever possible.

**Sarfaraz**, General Secretary, PUCL Bihar ☐

## Activity Report of Gujarat PUCL

### Background:

*People's Union of Civil Liberties* (PUCL) has a long tradition of standing up for civil liberties across India. It was created in 1980 through the efforts of Jayaprakash Narayan.

The primary functions of PUCL are

1. To increase consciousness about and commitment to human rights and civil liberties among all sections of our people

2. To provide a platform for all groups including political parties to come together for furthering the cause of human rights

3. To energise and creatively use existing institutions like the courts and the press, so that they may become more sensitive to the human rights situation in India; and
4. To intervene directly in cases where gross violations of human rights take place.

Gujarat chapter of PUCL was dormant for a while, after demise of Shri Gautam Thakar and in January 2022, an online meeting was held between many Gujarat civil society members and PUCL National Council members on how we could reactivate Gujarat PUCL.

Thereafter a meeting was held in March, at Ahmedabad to bring people together to work out future strategy. A Coordination Committee of 21 persons was formed in the meeting initiate activities again, create a membership list for Gujarat and coordinate matters till a State Council can be elected.

The Coordination Committee has been meeting as well as discussing matters online.

Some of the activities done since then are reported hereby:

- Our first effort was to recreate, rather collate the membership list of Gujarat PUCL since the records of paid members was not traceable at one place. Thus we started reaching civil

liberty activists to understand the type of membership. Some new members came in, while some renewed their membership. The list of members (upto July 30, 2022) was sent to National Council.

- The next organizational issue was to get access to the bank account of PUCL. As the one of the signatory (Gautambhai Thakar) passed away, and KYC was not done after that, also no transactions were done for past many years, the account became inactive. It was challenging to reactivate it; we have decided to open new bank account, which is equally challenging as bank is insisting upon the "registration documents of PUCL" as trust or society. Co-ordination committee is trying to resolve this issue. It was also decided that if there are any financial loss due to change of account, it will be compensated by voluntary contributions.
- Our first "Fact finding exercise" was about industrial accidents. Gujarat, being one of the industrially growing state, also giving relaxation to industries on labour laws, number of accidents at worksites and factories has increased. Most of the time, victim worker is either "migrant worker" engaged casually by contractors. The issue is suppressed either by giving petty amount to the family of the deceased and state hardly take any actions against the culprits. In terms of activities, a fact finding mission involving Jagdish Patel, Ashim Roy and others to investigate industrial accidents. Thus it is very sensitive and burning issue but PUCL Gujarat could not come out with the report, as there

was not much co-operation from industries.

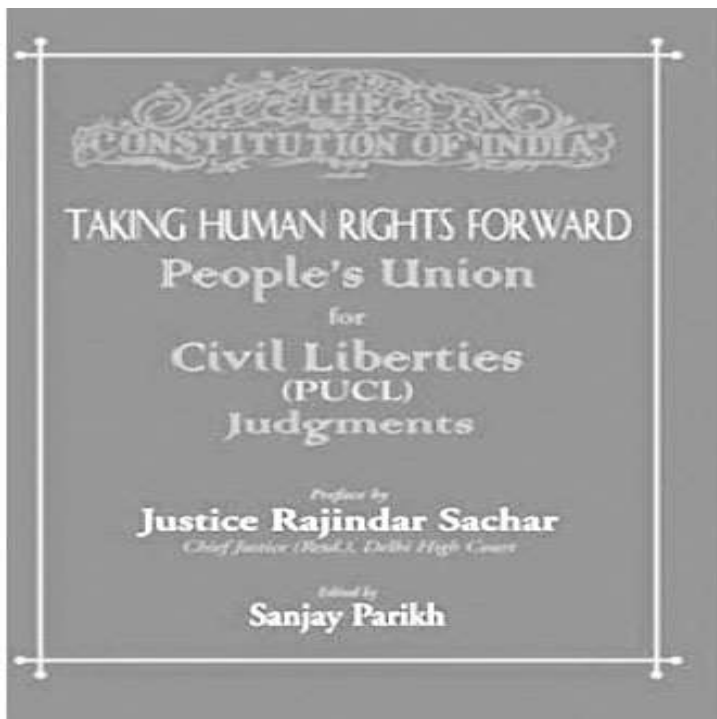
- Last year in Khambhat region there was communal violence during "Ram Navami and Hanuman Jayanti procession. After that, administration conducted demolition of homes by bulldozers to further suppress the voice of the minority. A team of PUCL visited the place, however was not allowed to work and local member who was assisting the team had to face trouble.
- PUCL sent number of letters have been sent to government functionaries condemning action or inaction by state level authorities with regards to violations of civil liberties. This has included arrest of a journalist for publishing an article highlighting police collusion in the shipment of drugs to Gujarat, WhatsApp messages asking intercity buses to Surat not to stop at restaurants owned by Muslims, the arrest of Teesta Setalvad, RB Sreekumar and Sanjiv Bhatt, public flogging by police of youths suspected of stone pelting on a garba in Kheda.
- PUCL also issued statement on the murder of RTI Activist in Kutch district, who was exposing illegal sand mining by filing complaints and seeking information under RTI regarding the actions taken by administration.
- A list of persons from different districts who would identify with the goals of PUCL and could participate in PUCL has been created. We have reached out to some of them to attend state level meeting held in October. Other activities that are proposed in coming days are:
- Election of State Council by January 2023.

- Translating the PUCL Constitution to Gujarati, and preparing a shorter booklet in Gujarati. (will be completed soon)
- There have been a number of FIRs/arrests against free speech activists, human rights defenders, ordinary citizens, etc. There are others who have

been victims of prejudice, hate speech and attacks. PUCL could find competent lawyers who could train the lawyers practicing in the sessions courts in different districts. They could then more effectively defend and support the victims of these actions. □

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

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**Editor** : V. Suresh

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**Assistance** : Babita Garg

#### Printed and Published by:

**V. Suresh**, General Secretary, PUCL,  
on behalf of **People's Union for Civil  
Liberties**; **Printed at**: Royal Offset,  
489, Patparganj Indl. Area, Delhi-92;

**Published at**: 332, Ground Floor,  
Patpar Ganj, Opp. Anand Lok Apptt.,  
Mayur Vihar-I, Delhi 110091;

**Editor**: V. Suresh.