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MANIPUR, NUH AND THE CRIMINAL LAW AMENDMENTS: TERROR OUTSIDE THE LAW AND THE INJUSTICES OF THE LAW

Even as we write this editorial, the Manipur crisis, which is one of the most serious crises affecting the Indian state enters its fourth month. For over four months, the Central Government has criminally stood by and watched even as the division between the hill regions of Manipur and the valley regions of Manipur has hardened immeasurably. Even as the valley regions of Manipur were ethnically cleansed of Kukis, with Kukis suffering rape, murder and destruction of places of worship and the hill regions were emptied of Meiteis, the state stood by as a mute if not complicit spectator.

The administration under Biren Singh has failed in the most elementary duty of a state which is to preserve law and order and protect the lives of all persons who inhabit its territory. The Central government has abysmally failed to fulfil its constitutionally mandated responsibility under Article 355 of the Constitution to ensure that 'governance of every state is carried on in accordance with the provisions of this Constitution.' On the contrary, the Home Minister has given a clean chit to the underperforming state administration led by Biren

Singh. All those with faith in the constitution are clear that the state government should be dismissed forthwith and should make way for a government which has the trust of all the communities in Manipur. The process of restoring trust, which needs to happen is still a long way off and the absolute sine qua non is the dismissal of the (at best) spectacularly incompetent and at worst (a criminally culpable) state administration.

The BJP administration apart from allowing Manipur to burn, has to take responsibility for the tragedy in Nuh as it is the ruling party. It has become a provocative practice for Hindutva groups to insist on holding processions which go through minority areas. The provocation comes in the nature of slogans, provocative whatsapp forwards by people such as Monu Manesar who is a murder accused, calls for murder as well the display of arms. It was this provocation which resulted in a cycle of violence and counter violence finally culminating in the state taking upon itself the task of arbitrarily punishing only the Muslim community as a whole for the violence. The punishment took the form of

illegally bulldozing the homes and shops of Muslims alone followed by the arrest of Muslim youth. As Gautam Bhatia argues the demolitions of Muslim homes and establishments is outside the frame of rule of law, violates the constitutional principle of the right of all persons to livelihood and is a form of arbitrary collective punishment which has no constitutional sanction.

The state's response of bulldozing only the homes of Muslims elicited a sharp response from the Punjab and Haryana High Court labelling it a 'form of ethnic cleansing'. This practice of employing the bulldozer in Uttar Pradesh, Madhya Pradesh, Delhi and Haryana degrades Indian democracy. When the state begins to act outside the rule of law, then the state itself becomes an instrumentality of terror. What is terrorism if not the employment of means of violence outside the rule of law meant in particular to induce fear in the minority community? Unless this unconscionable practice of the state deploying the bulldozer is stamped out, the Indian state will metastasize itself from a constitutional state owing allegiance to the rule of law to a rogue state.

The Central Government is operating outside the rule of law both directly and indirectly. The support to the Bajrang Dal, Vishwa Hindu Parishad and other allied organisations to threaten, intimidate and provoke as in Nuh has the tacit support of the state administration. With illegal demolitions the state crosses a line and itself becomes a

purveyor of illegality, nay terror itself. The hubris of disregarding the Constitution is hinted at in the order of the Punjab and Haryana High Court order staying demolitions, which quoted Lord Acton's timeless insight that "Power tends to corrupt, and absolute power corrupts absolutely."

The Central Government even as it degrades the rule of law and besmirches the Constitution through its silence and evasions (as in Manipur) and arbitrary executive action (as in Nuh), is also attempting to weaken the legal framework. In a move which is of deep concern, the Central Government this parliament session introduced three bills to replace the Indian Penal Code, Criminal Procedure Code and Indian Evidence Act. The Bharatiya Nyaya Sanhita to replace the Indian Penal Code; the Bharatiya Nagarik Suraksha Sanhita to replace the Code of Criminal Procedure and the Bharatiya Sakshya Bill is to replace the Indian Evidence Act.

The Bills are a performative gesture in the direction of the so called agenda of 'decolonization' ignoring the express mandate of the constitution. Article 348 of the constitution mandates that 'authoritative texts of all Bills to be introduced in parliament... shall be in the English language'. 'Decolonization' in the Government's understanding seems to be synonymous with the imposition of Hindi! Even the Government's argument that they are ridding us of colonial laws has no basis in fact as

studies of the changes indicate that over 80% of the old codes are retained. However the changes are likely to have serious implications for the future of human rights. The Hindi replacement of the Indian Penal Code has replaced sedition with a provision which criminalise whoever 'excites or attempts to excite, secession or armed rebellion or subversive activities, encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India.' In its essence Section 150 of the BNS remains a speech offence, criminalizing speech which should rightly be protected speech under Article 19(1)(a). In fact the ambit of criminalisation has become broader with the offence becoming vaguer with serious implications for the right to expression and association. The PUCL will study these changes, host discussions and strive to facilitate a greater public understanding of these three bills.

The other law passed by parliament with serious implications for human rights is the Digital Personal Data Protection Act, 2023 which again empowers the state at the cost of the individuals right to privacy in violation of Supreme Court decisions. The right to privacy of the individual as pertains to his or her online information is now subject to the whims of the government. As per Section 17(2), the Central Government can exempt by notification any 'instrumentality of the state' in the interests of 'sovereignty and integrity of India' and other grounds in Article 19(2) of the

Constitution from the obligation to safeguard the right to privacy of the individual. Thus the individuals right to online privacy can be violated by the Central Government through a mere notification, without conforming to the standards laid down for limiting the right to online privacy in *Puttaswamy v Union of India*.

On 13th September we will mark "Political Prisoners' Day" in India. This day marks the martyrdom of Yatindra Nath Das, a comrade of Bhagat Singh, after a long hunger strike in jail. The significance of remembering 'prisoners of conscience' today is even more relevant in the context of the regime's prolonged war against writers, artists, thinkers, activists and lawyers. Many of the BK-16 have marked over 5 years in jail, with 9 of them still in jail. With respect to the anti-CAA protestors, of the 18 people arrested under FIR 59 of 2020 in which the UAPA was invoked, 13 are still in jail with the bail applications still pending either before the High Court of the Supreme Court. Its imperative that these prisoners and many others like them in Kashmir, Chattisgarh, Jharkhand, the North East of India and other parts of the country as well who are in jail for being dissenters be released

at the earliest as in a democracy dissent is a right ! Seema Azad's piece evocatively traces the historic importance of prisoners day right down to the contemporary moment.

This issue also carries a poignant note by the Kashmirwalla staff, which states that, 'we woke up to another deadly blow of finding access to our website and social media accounts blocked.' Kashmirwalla was one of the independent online sources of information on Kashmir which has been subjected to unremitting persecution by the state. Its founder Fahad Shah was arrested in 2022 and still remains incarcerated. Its trainee reporter Sajad Gul is also in prison. As the authors of the letter put it, 'The Kashmir Walla has strived to remain an independent, credible, and courageous voice of the region in the face of unimaginable pressure from the authorities while we watched our being ripped apart, bit by bit...the Kashmir Walla's story is the tale of the rise and fall of press freedom in the region'. These arrests as well as the shut down of any on-line distribution of news marks a low in the Government's clamping down on the freedom of expression in Kashmir.

It is violative of the constitutional right of the freedom of speech and expression and has to be condemned in no uncertain terms.

Finally, we note a sliver of hope in this otherwise dark time in the Supreme Court decision which released Vernon Gonsalves and Arun Ferriera on bail. Senior Advocate Mihir Desai makes a case for the significance of the judgment in *Vernon Gonsalves v State of Maharashtra* as diluting the rigours of the denial of bail under the UAPA. He notes that the Supreme Court held that the 'mere possession of certain literature through which violent acts and methods of overthrowing democratically elected government may be propagated would not on its own attract the provisions of the UAPA.' Significantly the Supreme Court has held that the holding of opinions by itself is not a criminal offence of terrorism under the UAPA,,thereby underlining the significance of dissent in a democracy.

The struggle continues!

13TH SEPTEMBER - POLITICAL PRISONERS' DAY: PRISONERS OF POLITICAL PROTESTS IN INDIA

SEEMA AZAD

(Originally written in Hindi and available on the PUCL Website)

13th September is "Political Prisoners' Day."

When democracy is endangered in any country, for political, social or human rights activists going to jail becomes a part of their work.

That is what is happening in India today. The number of "anti-nationals" in jails is growing day by day.

From Kashmir to Kanyakumari and from Punjab, Rajasthan to north - eastern states, all the jails, the number of people is increasing for protesting against their governments. These political prisoners are deprived of books and health.

From the time of independence struggle, political prisoners had to fight against disorder in jails. Later, human rights organizations also raised the issue at the international level.

During the period of the independence struggle Bhagat Singh and his comrades fought for providing better conditions to Indian prisoners and revolutionaries. Political prisoners have been continuing the tradition even today. From the basic needs like the quality of food, water, electricity, bed, medicines, treatment to political facilities like books, notebooks, correspondence, table-chair etc, political prisoners have to fight for.

Books, a notebook and a pen are necessary items for political prisoners as these are their best companions. From past to present and in India as well as the world, best literature as well as cinema has emerged from jail writings. However, the jail administration tries to keep political prisoners away from these very items. The present government is wary of books and of the pen especially.

To underline the importance of political prisoners, 13th September is observed as "Political Prisoners' Day" in India. The day marks the martyrdom of Yatindra Nath Das, a comrade of Bhagat

Singh, after a long hunger strike in jail. Bhagat Singh and comrades had started a hunger strike demanding the status of political prisoners and against the discrimination against the Indian prisoners. Instead of accepting their demands, the British government began feeding milk forcefully through a tube. Due to this, milk used to go into the lungs. Yatindra Nath Das died on 13th September, 1929, on the 83rd day of the strike. After his martyrdom, the British jail administration accepted most of their demands. Tragically of course, Yatindra Nath Das was not alive to witness the success of their struggle. Later, the practice of observing "Political Prisoners' Day" on his martyrdom day began. Today, the marking of prisoners day is even more significant. Bhagat Singh and his comrades were treated as political prisoners till the trial was complete and the status was withdrawn only after they were sentenced. However our government treats undertrial political prisoners as criminals. Leave alone, the question of books and medical treatment, they have to approach courts for basics such as table - chair, bed and even a mosquito net ! Father Sten Swamy died in jail for the want of treatment. For a simple demand of providing him a sipper, the court was approached and the court did not provide the relief. Father Sten Swamy's death has once again underlined the mistreatment of political prisoners in jails.

Who are political prisoners anyway?

From the time of British, there

are two kinds of political prisoners. Bhagat Singh's kind, against whom IPC section 121 (waging war against the government) is applied. The section is used against the people who just don't want to change the government but want to change the system based on exploitation.

The other kind was against someone like Gandhi, against whom 124A which means sedition was applied. It covers anti-government activities including writing, insulting national symbols or exciting disaffection against the government. (according to new changes in law, the sedition act has been repealed but it's all the provisions have been included in section 150 of Bharatiya Nyay Sanhita making them more draconian).

People like Gandhi, against whom section 124A was applied, were treated as political prisoners by the British government. However, likes of Bhagat Singh, against whom, the section 121 was applied, were treated as "terrorists" and not as political prisoners. The tradition continues till today. Presently, a "terrorist" and a "revolutionary" are put in the same category. These are separated by "violence and non-violence" factor not only in our country but on international level.

In 1961, according to Amnesty International's definition those people who were put behind bars due to their political, religious, ethnic, gender, linguistic, place of origin, colour or faith and not because of use or support of violence were

political prisoners.

In fact, by including "use or support of violence" in this definition ended the possibility of treating many persons as political prisoners. Because, anyone who is ideologically against the system, would like to change it using any possible method. On national as well international level because of including "violence/ non-violence" distinction in defining of political prisoners, in reality no one is termed as a political prisoner. Even if one is miles away from violent means, the government could use allegation of "provoking violence against the government" and deny the status of political prisoner. The government alleges "conspiracy of overthrowing the government" even on Gandhians who believe in non-violence.

The demand of providing the status of political prisoners to people associated with revolutionary parties was raised in 2012 after Kolkata High Court gave verdict of giving the status of political prisoners to six persons who were in jail on the allegations of association with Maoists (Chhatradhar Mahto, leader of Lalgarh revolution was one of them).

The Court passed this Order under "Paschim Bengal Correctional Services Act passed by the left government in West Bengal in 1992. The Act came into force in 2000. While, the human rights organizations were happy, the ruling class became upset. Both the Mamta Banerjee government as well as the UPA

government joined hands immediately on this issue.

The union home Ministry ordered the West Bengal government to challenge this verdict in Supreme Court. Mamta Banerjee complied with these orders of the central government and the verdict could not be applied.

Today, the situation has become more undemocratic. The number of people protesting the government has also increased. The categories of protestors have also expanded.

1. Adivasis, farmers, workers, students or intellectuals protesting economic policies.
2. Religious minorities.
3. People or Dalits opposing caste system
4. Women opposing Manuvadi practices
5. People fighting for rights of self determination

That's why people opposing economic policies, adivasis opposing the sale of natural resources including Jal, Zameen, Jungle and intellectuals are put behind bars.

Muslims and people standing with them opposing fascist impositions like CAA, NRC, Hindutva's unconstitutional plans, laws are being sent to jails.

People, who associate the history of Bhima Koregaon with the self respect of Dalits, people opposing the caste system are being imprisoned. Women who refuse to obey Manuvadi laws, break the cage,

are being jailed.

In Kashmir, Nagaland and Manipur, people fighting for the rights of self determination, are not heard and being put in jails.

The government does not treat any of the above as political prisoners but terms them "anti-nationals, terrorists". Even with respect to those people, who remain away from armed revolutions, the government creates narratives of their involvement in violence or provoking violence. Laws like UAPA help the government in this. The government has banned many organizations and parties under these laws. Political opponents are being termed members/associates of these banned organizations and labeled as terrorists. Thus, the number of political prisoners is increasing.

Jails are the test of the democracy of any country. The number of under trials casts a shadow of doubt about the nature of the democracy.

An even more precise test is the number of political prisoners. In India, the democracy fails on this count. To hide this fact from international view, governments deny the status of political prisoners to anyone and everyone. Therefore, the issue of political prisoners is important not only for the people going to jails but for the health of democracy as well. This should be the main issue and the demand for Human Rights in any democratic country.

WHY THE SC JUDGMENT GRANTING BAIL TO VERNON GONSALVES, ARUN FERREIRA IS SO SIGNIFICANT

MIHIR DESAI

(Originally published in TheWire.in)

The restrictive bail provisions of the Unlawful Activities (Prevention) Act have been widely used to deny personal liberty to activists, students, journalists and others.

At least in the past, the Supreme Court has not been very helpful. Similar provisions in other draconian laws have been held to be Constitutional. Besides, in cases such as Zahoor Ahmed Watali, the Supreme Court (in a judgment authored by Justice A.M. Khanwilkar) gave an interpretation to the bail provisions which made it virtually impossible to get bail by holding that at the time of bail, only the prosecution version has to be looked into and that too without testing the veracity of the same. As if this was not enough, recently the Supreme Court in Arup Bhuyan's reference judgment (authored by Justice M.R. Shah) overturned earlier decisions and held that in respect of an association declared unlawful under UAPA, mere passive membership was enough to make it an offence and no active membership was required to be shown by the prosecution. The situation is made worse by UAPA allowing at the bail stage the use of statements of redacted witnesses.

Of course, in certain cases the

the Supreme Court side stepped Watali by releasing persons on bail after long period of incarceration in UAPA cases, reiterating that the fundamental right to a speedy trial was being violated, or granting statutory bail (as was done in Sudha Bharadwaj's case) or medical bail (as in the case of Varavara Rao). The high court granted merit bail to Anand Teltumbde and this was upheld by the Supreme Court, but this was through a simpliciter rejection of the state's appeal which jurisprudentially does not lead to it being treated as a Supreme Court precedent.

It is in this context that the July 28 bail judgment of the Supreme Court in Vernon Gonsalves and Arun Ferreira's case needs to be seen. Undoubtedly for the two of them, who have been in jail for nearly five years, it has immense significance. But what should not be lost sight of is that the judgment also has substantial implications not just for the others still in jail in the Elgar Parishad case but also for the bail jurisprudence in UAPA cases.

Gonsalves and Ferreira, like many others in the Elgar Parishad case, had been primarily arrested on the basis of documents allegedly found on the computers of co-accused. Of course it needs to be emphasised that the quality of this evidence itself is

seriously in doubt after the Arsenal Consulting reports, which find these documents to be planted. Additionally, some witness statements (pre-trial, of course) of redacted witnesses sought to implicate them as members of a banned outfit. Next, Ferreira as a lawyer was also implicated as a member of the Indian Association of Peoples Lawyers (IAPL), which according to the prosecution was a frontal organisation for the Maoists. Finally, incendiary literature was recovered from them, which according to the prosecution showed them to be active members of a banned organisation. Gonsalves was also earlier convicted in a UAPA case. All these grounds were held against Gosalves and Ferreira by the high court while denying them bail.

To begin with, the Supreme Court very significantly holds that mere possession of certain literature through which violent acts and methods of overthrowing democratically elected government may be propagated would not on its own attract the provisions of Section 15(1)(b) of the UAPA, which is the primary section dealing with terrorist acts. This is significant because it brings out the difference between believing in a particular ideology and actually acting it out. What the Supreme Court is saying, though not in so many words, is that UAPA is not a thought control law but a law to control certain actions.

The court then goes on to hold that none of the material against these accused, whether the electronic recovery from the co-accused, material recovered from the accused themselves or the witness statements, attributed any direct violent act against them. This is significant because the courts have time and again rejected bail applications of arrestees even when there is no direct allegation of any violent act. The court is categorical that in the absence of such direct involvement in violent acts, persons cannot be denied bail by implicating them in terrorist acts.

Next comes the issue of raising funds. UAPA deals with two kinds of terrorist funding: Section 17 deals with raising funds for terrorist acts (where the punishment can be up to life) and Section 40 deals with raising funds for terrorist organisations (where the punishment can be up to 14 years). Certain statement of accounts recovered from a co-accused's computer were relied upon. The court held that by itself, this was no evidence that actual money was transmitted. In the absence of some evidence about actual receipt of funds, such statements of account cannot be relied upon to deny bail.

Concerning the letters recovered from co-accuseds' computers which name Gonsalves and Ferreira and their involvement in the activities of the banned outfit, the court came to a significant conclusion that since these letters were recovered not from the accused, they have "weak

probative value or quality". In fact subsequently the court goes on to hold: "(i)n the case of the Appellants, contents of the letters through which the Appellants are sought to be implicated are in the nature of hearsay evidence, recovered from coaccused." This should be of great assistance to many of the other accused in the Elgar Parishad case, not only for bail but also in trial, as such evidence (which is the primary evidence against them) is held to be hearsay.

Another important issue concerned membership of a banned organisation. Between the time when the Anand Teltumbde judgment was delivered by the high court and the present one, a three-judge bench had overturned the decade-old judgment in the Arup Bhuyan case which had held that mere membership of an unlawful organisation was not enough to implicate a person; the person has to be an active member of the organisation for being guilty. The reference judgment which overturned the earlier judgment held that even passive membership was enough for it to be an offence.

Fortunately, that judgment only dealt with Section 16 of the UAPA (which deals with unlawful organisations and not with terrorist organisations). Section 20, with which Teltumbde as well as Gonsalves and Ferreira were charged, deals with membership of a terrorist organisation. The Supreme Court could have easily been tempted to apply the same logic and could have held that even

passive membership of a terrorist organisation was enough to commit the offence under Section 20. In Teltumbde's case, the Bombay high court had held that mere membership would not be enough to implicate a person unless it was coupled with a terrorist act. The Supreme Court upheld this interpretation, which will have a far-reaching consequence for all those charged with membership of a terrorist organisation without any active involvement in a terrorist act.

Similarly, association with a terrorist organisation, which is wider than formal membership, is also made an offence under Section 38. Again here, the Supreme Court holds that mere association with a terrorist organisation is not enough but the association has to be with the intention to further the organisation's terrorist activities. The court holds, "There must be evidence of there being intention to be involved in a terrorist act."

The court also observed that there was no "reliable evidence to link IAPL with CPI (Maoist)". This again is crucial. The ban under the UAPA is of CPI (Maoist), along with "all its formations and frontal organisations". Frontal organisations are not listed, nor is there any government notification banning them. The chargesheet claimed that IAPL was a frontal organisation and Ferreira was a member. This organisation has hundreds of lawyers as members, all of whom would be criminalised if IAPL is treated as a frontal organisation.

UPDATES IN THE DELHI RIOTS CASES IN FIR-59

NATASHA NARWAL

In February 2020, Delhi witnessed targeted violence against Muslims, in which 53 lives were lost and several mosques, shops and homes belonging to Muslims were burnt and looted. Videos capturing the violence and testimonies of witnesses clearly indicate that an organised pogrom was led and executed by Hindutva organisations, while the police allowed for destruction of property and violence against Muslims.

Despite instances of recorded hate speech and threatening messages from BJP leaders on social media, no action has been taken against them. Instead, activists, students and peaceful protestors who opposed the CAA, have been falsely charged under the draconian UAPA and have been jailed since 2020.

FIR 59 of 2020 invoked the UAPA and other sections of the IPC, falsely accusing 18 people of conspiring to foment communal violence in Delhi and destabilising the state. This fabricated case has been built on flimsy and vague evidence, and has targeted people solely for leading, organising and participating in peaceful protests against the CAA. Any evidence which showed their work of coordinating, organising or attending peaceful protests against the CAA, has been manipulated and presented as conspiracies, terrorist activities and anti-national activities.

The use of the UAPA has allowed the state to incarcerate

them under false charges for almost three years. As the list below indicates, most of the accused are young activists and leaders, who have been involved in campaigns and programmes for justice and peace. This abuse of power by the Delhi police and the state has deprived them of their fundamental rights, and impaired crucial work in the fight for human rights. This case has also had a visibly chilling effect on people's right to protest in Delhi.

This FIR (59/2020) as well as hundreds of other FIRs also have another alarming quality in common. 16 out of the 18 accused in FIR 59 are Muslims, two of whom had no connection to activism or the protests against the CAA. What should be deeply worrying for a constitutional democracy is that the preponderance of Muslims indicates a religious bias in the actions of the police.

After almost three long years, bail hearings of the accused who are still incarcerated have been concluded in the High Court. A consolidated order on all the bail applications is now expected as the matter is posted for orders.

Below are some details of the individuals arrested, and the latest updates in each of their bail applications and proceedings:

1. **Umar Khalid** (Age 36) is a research scholar at Jawaharlal Nehru University, and is a former leader of the Democratic Students' Union

in JNU. He worked actively with various groups on issues of justice for victims of mob lynchings and hate crimes, and was an important voice in the movement against the Citizenship Amendment Act. He was arrested on September 13, 2020, and has spent the last 3 years in jail. His bail proceedings are ongoing in the Supreme Court, although with delays, multiple adjournments and recusal of judges. It is scheduled to be listed in the first week of September.

2. **Khalid Saifi** (Age 42) is an activist working with the United Against Hate, a campaign which began in 2017 to intervene in and document cases of lynchings, hate crimes and caste-based harassment. While he was discharged by a Delhi Court in a stone pelting case, he continues to remain in jail because of the UAPA charges. He was arrested on March 21, 2020, soon after which he endured brutal custodial torture, which had severely injured him.

3. **Ishrat Jahan** (Age 38) is a practising advocate and former Congress councillor, who was the first to be arrested for allegedly provoking crowds in northeastern Delhi. She got bail on March 21, 2020 but was rearrested the same day in FIR 59 under UAPA. She was granted bail by a sessions court on March 14, 2022.

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4. **Meeran Haider** (Age 32) is a student activist from Jamia Millia Islamia, who was an active member of the youth wing of the Aam Aadmi Party and was later elected as the President of the Rashtriya Janata Dal's Youth Wing in Delhi. He was arrested on April 1, 2020. His bail application was filed in the Delhi High Court, and is still pending for orders.
 5. **Tahir Hussain** (Age 42) is a former Aam Aadmi Party councillor, who has been granted bail in five other cases related to the Delhi pogrom. He was arrested on April 6, 2020 and continues to remain in prison under UAPA charges.
 6. **Gulfisha Fatima** (Age 31) is a student activist, who was actively involved in the women led protest in Seelampur in Northeast Delhi, against the CAA. She is well known for her efforts to raise awareness among local women about the Citizenship Amendment Act and constitutional principles of secularism and justice. She was arrested on April 9, 2020 and her bail application has been pending in the High Court for orders.
 7. **Safoora Zargar** (Age 30) is a student activist leader from Jamia Millia Islamia, who was pursuing her M.Phil in Sociology. She was arrested on April 13, 2020 and was granted bail on June 23, 2020 on humanitarian grounds, as she was six-months pregnant by then. Throughout her arrest and after her release, Safoora faced continuous online vilification with misogynist and Islamophobic comments based on lies and fake news.
 8. **Shifa Ur-Rehman** (Age 46) is the President of Alumni Association of Jamia Millia Islamia University and was an activist involved in the protests against the CAA. He was arrested on April 26, 2023 and his bail application is still pending in the High Court.
 9. **Asif Iqbal Tanha** (Age 28) is an Indian student activist, a former student of Jamia Millia Islamia and a member of Students Islamic Organisation of India. He was arrested on May 19, 2020 and was granted bail on June 15, 2021 by the Delhi High Court.
 10. **Shadab Ahmed** (Age 29) is a graduate in Bachelors in Computer Applications, and worked in a managerial role in a factory in Delhi. He has been falsely accused of being one of the main 'conspirators' of the Delhi riots of 2020. The only role Shadab had played in reality, was that he attended and participated in protests against the Citizenship Amendment Act. He was arrested on May 20, 2020 and his bail application is still pending in the Supreme Court for orders.
 11. **Natasha Narwal** (Age 33) is a research scholar from JNU, and a gender rights activist who co-founded the Pinjra Tod movement. She was arrested on May 30, 2020 and was granted bail by the Delhi High Court on June 15, 2021.
 12. **Devangana Kalita** (Age 34) was an M.Phil student from Jawaharlal Nehru University, and a student activist. She was arrested on June 3, 2020 and was granted bail on June 15, 2021 by the Delhi High Court.
 13. **Tasleem Ahmad** (Age 36) had no history in public activism, and worked as an education consultant. He merely participated in a protest against the CAA, and was arrested on June 24, 2020, accused of instigating violence in the Delhi pogrom. His bail application is still pending for orders, while he completes more than three years of incarceration based on false charges.
 14. **Saleem Khan** (Age 50) was neither a protestor, nor an activist. He was a businessman who ran a garment export unit, who was at his office in the same locality where the pogrom had begun. He has been framed under several charges including criminal conspiracy, culpable homicide and under UAPA and sections of the Arms Act too. He was arrested on March 13, 2020 and his bail application is still pending in the High Court.
 15. **Saleem Mallik** is an activist, who is also accused of criminal conspiracy and instigating violence in the Delhi pogrom. He was arrested on June 25, 2020 and was denied bail in October 2022 by Karkardooma Court, Delhi, on the basis that he attended 'conspiratorial meetings' to plan the violence that took place in Northeast Delhi.
 16. **Athar Khan** (Age 27) worked in a telecom company in Delhi, and was active in participating in the
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protests against the Citizenship Amendment Act. He was drawn to the movement against the CAA, especially after the violent incidents in Jamia Millia Islamia, and helped coordinate police permissions and documentation in the protest sites. He was arrested on July 2, 2020 and his bail application is pending in the High Court.

17. Faizan Khan was a mobile salesman, who was falsely accused of selling a SIM card accepting a fake ID, and joined the conspiracy to instigate violence in the Delhi Pogrom. He was neither a protestor, nor an activist. Yet, he was arrested on June 29, 2020, charged with UAPA and spent three months in jail before he was granted bail on October 23, 2020.

18. Sharjeel Imam (Age 35) is a student activist from Bihar, and was actively involved in the anti-CAA protests in Delhi. He was detained on January 28, 2020, after being accused of inciting violence through speeches. On August 25, 2020, he was charged with new offences and added to FIR59, and continues to remain in prison, with his bail application pending for orders in the High Court.

MESSAGES FROM FRIENDS AND FAMILY OF THE BK-16

NATIONAL CAMPAIGN TO DEFEND DEMOCRACY

The National Campaign to Defend Democracy, of which PUCL is a member, organized two events in June and July to mark 5 years of Bhima Koregaon arrests. On 5th July, 2023, the National Campaign to Defend Democracy hosted a commemoration event to remember Father Stan who passed away two years ago on 5th July, 2021. The commemoration was attended by over 500 people with human rights activists, family members, politicians, UN officials, artists and lawyers speaking at the event.

These events invited family members of all the arrested people and solidarity messages from several people. Some of the shared messages are here:

Mary Lawlor, *United Nations Special Rapporteur on the situation of human rights defenders*

Dear friends, I wanted to send you a short message today to mark the second anniversary of

Father Stan's tragic and preventable death in Judicial custody, on the 5th of July, 2021. As I've said before, Father Stan's death is a stain on India's human rights record, and will continue to be, until those responsible for his treatment are brought to account. I also find it deeply distressing that the human rights defenders in the BK Case continue to be persecuted under the Draconian UAPA, but have not yet been brought to trial. A full five years after the event they've been accused of, took place. This is simply unacceptable. Once again, I urge the Indian government to withdraw the UAPA, carry out a full and transparent investigation into the circumstances surrounding Father Stan's death, and release those Human Rights defenders who are imprisoned because of their peaceful and legitimate work on behalf of others. Thank you.

Mihir Desai, *Senior Advocate*

As far as Father Stan is concerned, I remember that two years back, at 2:30PM, when the Judge took up our matter during the COVID time. It was a virtual hearing, where the Judge said "Can we take it in the tomorrow morning, first thing in the morning?" So I had to tell him, that the Dean of the Hospital where he was admitted was there, and he would like to tell you something. And the Dean then said, "I'm sorry to inform you, but Father Stan has just passed away one hour back." There was a stunned silence and everybody was shaken up by what had just happened. But this would never had happened if, as Father Joe also mentioned, that if he had not been arrested; yes, he partly died because of the prison conditions, but he would never have ended up in the prison if the state had carried out proper work, as it is supposed to carry out, and not arrested Stan; there was no case against Stan, and as you heard Stan say that there was certain material found on his

computer which he didn't even know existed, and this is true of the entire batch of people who have been arrested. Either something has been found on a computer or found on somebody else's computer.

The prosecution, the investigating agency knew very well that these were fabricated. They knew very well that documents were fabricated. We said that the material that was found on his computer, we are entitled to our own copy, so we sent the material to a very reputed forensic laboratory which gave us a finding recently a few months back, that each one of them was a fabricated document. Each one of the documents on which the state was relying in order to prosecute him was a fabricated document.

So there are two things which we are doing: One is a case has already been filed to hold a judicial enquiry into the cause of his death, the cause where its not just necessarily about whether he died of COVID or not died of COVID, but circumstances which led to his death. Second, we want him to be declared innocent. Of course the trial will not go against him because he is no more with us, but that's not enough for us, we want him to be declared innocent. We want him to be declared 'Not Guilty,' not just he is dropped from the trial.

The enquiry has started, just a month and a half back. We'll know what is happening in that very soon. The second case which we were to file today on his anniversary but it is slightly delayed; we'll file it in a week or

ten days' time, we'll file it on the basis on the report that these documents were fabricated, we want full investigation into that, how the reports came to be fabricated, how they were granted entry in this computer, who did it, how the prosecution knew about it, and still carried on with the case, the prosecution, and with the arrest. So separate cases are being filed on that basis because we do not want this to be forgotten or forgiven. We want complete justice for Stan!

The second aspect, quickly, as to the status of the other cases, of course the trial will take its own time to start, we don't know when it will start. There are discharge applications pending after which there will be a charge framed and then the evidence will start, so it is anybody's guess as to when it will start. As far as the bail applications are concerned, two bail applications have been heard by the SC around four months back and reserved for judgment.

Other cases are pending on different stages. I am extremely hopeful right now that within the next six months to a year, most of the people should be out on bail, I am hopeful it will happen, and there are various other kinds of interventions that have been filed, including about statutory bail, electronic devices; different kind of applications have been filed which are pending to be heard. That's the present status of the cases.

Tushar Kanti, Shoma Sen's husband

I won't speak about anything because I have repeatedly said so much about the arrest and the pain we are going through. But now I will read out Shoma's note on the completion of the five years of her incarceration.

"As we enter the 6th year, the predominant emotion over the last five years is, that of waiting. From waiting for default bail on the seventh month of our imprisonment, most of us still remain waiting. In jail, we sit there waiting for court dates, waiting for Mulakaat, waiting for the newspaper, waiting for the bail, and waiting for the Jail God called memo. In jail, our sense of time itself gets warped. When a lawyer tells a prisoner that she will get bail in one or two days, it may actually mean one or two years. 24 hours of clock time could mean 24 months of judicial time. So what keeps us going through these five years, apart from our own thoughts, beliefs, and ideals and each others company, was the courage and suffering of ordinary people with frugal means struggling who had been confined within these stone walls for an even longer period. That gave us patience. it was also the immense support we received from the national and international level, from the smallest to the biggest, to the massive farmers' movement, that we found overwhelming. The continuous efforts of our devoted, efficient legal team and having brilliant legal luminaries appearing for us gave us tremendous hope. Family and friends coming from distant places to meet us in court, standing in long queues in the hot sun or pouring rain for fifteen minutes' conversation

with a glass panel separating us. The family is going through all the troubles and disappointments, have also been very endearing. In this warped sense of time, everything that I left behind in June 2018 floats before my eyes like a vivid presence. But I know that by the time I come out, if I do at all, the world will be a very different place. While AI is penetrating all walks of life, we write with pens and paper. Stick postal stamps on envelopes. We live in the Stone Age without knives, scissors or needles. We read about the Russian Ukraine war waiting for newspapers. We read about Climate change, and disasters, People's agitation in France. India gearing up for elections, but still, we, of the Bhima Koregaon case, keep waiting. Hopefully, waiting. Thank you. From my heart, I remember Stan Swamy who has given us so much courage and strength even in his death, he has shown us an illuminating path, and I really believe that that path will one day illuminate the entire country and the world."

Sagar Gonsalves, *Vernon Gonsalves' son*

Before I begin, I want to thank PUCL and its heartening to see everyone here despite this being a long meeting.

(Sagar read out Vernon Gonsalves' article, published on Scroll titled Caged birds and prison songs: In chorus, Stan Swamy and the Bhima Koregaon accused kept hope alive)

I think this [piece by Vernon] was very evocative, and I took

great optimism from their positive thinking. It's easy to give up hope, it's a very desolate and hopeless situation sometimes; and I take strength in the fact that they choose to sing songs of hope and optimism even in the most oppressive and repressive situations, and that is something that all of us could learn a lot from.

Another thing I want to talk about, is how this piece describes Father Stan; when we entered prison, he was very optimistic and his spirit was very strong. He didn't die overnight, it took ten whole months for that spirit of his to break, and it broke in front of their eyes. We must continue to fight to increase accountability at every level. First of all, that he was even brought into prison, even after it, he had hopes in the judicial system but each rejection that came in broke him. When he came in, he had this indomitable spirit but it ultimately was the system that broke his spirit and led to his death. Even though he was so frail, he still had the optimism to sing these songs. He gave courage to others. But then, the NIA refused to grant him bail, the courts weren't supporting him. The system broke Father Stan, and it's on us now, to demand accountability. It's been two years and still there's no sense of accountability for him. He spent all his life fighting for the justice of others, and I think we should ensure that Justice happens in his name. And also, to remember everyone else who is still inside and in a very precarious situation, and we have to ensure that another

Father Stan doesn't take place, and we don't have to commemorate such grim anniversaries in the future. Thank you.

Jenny Rowena (*Hany Babu's Wife*)

I remember this day (July 5) 2 years ago. At that time Babu was in the hospital and I was also with him. He had contracted a very serious eye infection, which the jail authorities neglected - just like they did with Father Stan Swamy. So, it became really serious and he had to be in the hospital for 3 months.

When I was with him, we got the news that Father Stan passed away. Babu burst out crying. He had said he wanted to introduce me to Father Stan. He had become friends with him, and used to keep saying - You will never see such an upright person; You will never see such a clear person.

I remember when the newspapers called me for a quote, I was unable to say anything. This tragedy took place all because of this false case slapped on the intellectuals of the country, who have raised their voice on public issues. They have all been active just like Father Stan Swamy. The main reason is the existence of the UAPA. So, I request all of you present here to raise your voice against UAPA. That is what is making this incarceration possible and putting away people for so many years. So many of these individuals have been jailed in the Bhima Koregaon case for 5 years. My husband has been in

jail for 3 years. As Sagar was saying, we should not repeat this. We do not want to see another Stan Swamy lost. Many of these people are ailing, and there are no facilities. There are no emergency facilities, and there are no guards to even take them to the hospital. This is criminal negligence, as Rona and others have been writing. No one has been punished for Father Stan's death. Who is responsible for it? Who will be punished?

Innocent people, people who have stood for public causes and people who have worked for the public good - they are the ones who are being needlessly punished like this. So we have to raise our voices against this kind of injustice, not just because they are suffering, but because it is a huge loss for society, that so many brilliant minds have been locked away. While they are trying to lead full lives in jail, reading, writing and singing, they are being

punished and kept away from all of us.

We need to raise our voice very seriously against UAPA, which is a draconian and inhuman law. We should raise this issue in international platforms also, and ensure that our friends and other political prisoners who are growing in number, are released. Thank you.

DEMOLITIONS AS STATE-SANCTIONED COLLECTIVE PUNISHMENT

GAUTAM BHATIA

(Originally published in The Hindu)

Abandoning the rule of law for 'bulldozer justice' is the first step towards an authoritarian society where ensuring a person's safety, life and liberty will be at the whims and fancies of state officials

The aftermath of the recent violence in Nuh, Haryana, saw what is now a familiar pattern: immediately after the violence, the local administration, backed by the state, demolished a number of homes in localities or neighbourhoods. These were the homes and neighbourhoods, a few political officials claimed, to which the accused rioters belonged.

The demolitions in Nuh are just the latest iteration of what has come to be called "bulldozer justice". For more than a year, from Khargone in Madhya Pradesh, to Khambhat in Gujarat, to Jahangirpuri in Delhi, to Nagaon in Assam, to

many others, the demolition of homes as a form of frontier justice (as a response to political violence) has become a standard feature of administration.

A fig-leaf of legitimacy that falls away

In carrying out the demolitions, the state and its officials speak with a forked tongue. The public and official justification is that the demolitions are carried out in order to remove "illegal structures" or "encroachments". Municipal laws that authorise the removal of unauthorised structures are invoked as the legal cover for such action. This is the justification the state sticks to when it is challenged in court. However, even as it does so, politicians, and at times, even officials of the administration, go on record to say that the purpose of the demolitions is to "teach a lesson" to alleged rioters.

First, it is important to note that

the state's public justification fails on its own terms. Over the years, the courts have recognised that what we euphemistically refer to as "unauthorised structures" are often the dwelling places of economically marginalised and vulnerable people, who have been failed by the state in its obligation to provide shelter to all its citizens. Consequently, other than enforcing basic procedural requirements — such as adequate notice — courts have also insisted that before demolitions are carried out, the administration must conduct a survey to check whether the residents are eligible for rehabilitation schemes, and if so, complete their rehabilitation (through a process of meaningful engagement) before any demolitions are done.

Rehabilitation, in turn, does not simply mean picking up people from one part of the town and dumping them in another, but ensuring that there is no

substantial disruption to their (already) precarious lives.

The basic purpose is to ensure that the state does not simply make its own citizens homeless, and with no recourse. Doing so is a marker of an uncivilised society.

It is obvious that the instant demolitions that we see do not comply with these procedural or substantive requirements. Last year, it was found that notice in a demolition case was actually back-dated by the administration to give an appearance of complying; in the Nuh demolitions, there have been widespread allegations that the notice and the demolitions were carried out on the same day. The state's attempts to provide a fig-leaf of legitimacy to its demolitions, therefore, fall away at the slightest scrutiny.

A form of frontier justice

But at the end of the day, everyone knows that what is happening is not a dispute over municipal law, zoning regulations, and "unauthorised" structures. It is clear that what is happening is state-sanctioned collective punishment, which is predominantly targeted against specific communities. Instead of engaging the machinery of law enforcement and justice — which is what states bound by the rule of law do — the state prefers to mete out a form of frontier justice, enforcing order through violence, and itself becoming the law-breaker.

This is evident from the fact that, as pointed out above,

politicians, administrators, and even on occasion the police have stated that the true purpose of demolitions is to target the homes of alleged rioters. It is evident from the timing of the demolitions, coming instantly after cases of violence. It is evident from the fact that the reality of our urban design is such that zoning regulations are dead letters: as people have repeatedly pointed out, a good part of Delhi's most affluent neighbourhoods has been built in violation of zoning regulations. Somehow, however, it is not these colonies that face the bulldozer, but the vulnerable and the marginalised. And it is evident from the fact that the demolitions have happened predominantly in Muslim neighbourhoods, in the aftermath of communal violence.

This has, admittedly, not always been the case: in Uttar Pradesh, demolitions have been carried out against the properties of various "gangsters", and in last year's Jahangirpuri violence, a Hindu man's shop was demolished for no perceivable reason. However, it has been repeatedly noticed — and Nuh is the most recent example — that when the bulldozers run, it is primarily in Muslim neighbourhoods. This pattern has now become impossible to ignore: just a few days ago, when issuing a stay order on the Nuh demolitions, the High Court of Punjab and Haryana observed that what was going on had the appearance of ethnic cleansing. Ethnic cleansing is not a phrase that should ever be used lightly, and

the tragedy is that in this case, its use was undoubtedly apposite.

Bulldozer justice might satisfy the anger of people who have been caught up in riots, and who are accustomed to seeing the criminal justice system grind on for years without result. Indeed, whether it is extra-judicial killings or home demolitions, this is indeed the justification that is trotted out: that the courts are too slow, too prone to giving bail, and too indulgent in handing out acquittals. Therefore, in order to assuage public anger, the state must take it upon itself to deliver "justice" outside the bounds of law.

It should be obvious that this is dangerous and destructive logic. Bulldozer justice is a form of collective punishment, where punishment is not only meted out before guilt is proven, but along with the supposedly guilty individual, their innocent family members are also punished. No amount of populist satisfaction can justify such an action.

Furthermore, punishment without guilt — punishment at the discretion of the state — violates the rule of law. The rule of law is all that stands between a marauding state and the basic safety of individuals. Abandoning the rule of law for frontier justice is the first step towards an authoritarian society where one's safety, physical possessions, and even life and liberty, will be at the whims and fancies of state officials.

The silence of the judiciary

In this context, it falls to the courts to enforce the rule of law and the Constitution. Unfortunately, for more than a year, the courts have been silent; even the Supreme Court

of India has, when faced with this situation, purported to accept the state's justification of going after "unauthorised structures." In doing so, the courts have, to use the words of George Orwell, chosen to "reject the evidence of their eyes and ears."

The High Court of Punjab and Haryana's order marks the first time that the judiciary has taken active notice of this pattern of lawless bulldozer "justice". One hopes that it is the beginning of the judiciary reinforcing basic constitutional principles and values against state impunity.

PUCL DEMANDS REGARDING THE MANIPUR CRISIS

The PUCL conducted a virtual Public Dialogue on Saturday, 29th July, 2023 inviting women leaders and others from the various communities in Manipur including both Kukis and Meiteis to speak about the incidents occurring in Manipur over the last 3 months. This followed several discussions with Doctors, Social Workers, Counsellors and others who had visited Manipur to provide various services to the affected people.

We are sharing a list of demands which emerged on the basis of the discussions with various stake holders in the Manipur issue.

Accountability

1. PUCL strongly condemns the use of sexual violence as an instrument of control, terror and/or ethnic cleansing and gives a call to all groups in the conflict that has engulfed Manipur to immediately stop attacks on women and children.
2. The PUCL demands that there must be an immediate stop to all forms of violence and gives a call to all groups to immediately ceasefire and stop attacks and inflicting violence on the lives, livelihoods and properties of different communities and adopt

peaceful measures to reconcile differences.

3. The PUCL demands that both the state and central government must fulfil their constitutional responsibility to ensure that perpetrators involved in the murder, torture, beatings, sexual violence, violence against women and children must be arrested by following due process of law.

4. The PUCL also points out that the Hon'ble Supreme Court has in the Tehseen Poonawala case (2018) pointed out that it is the fundamental duty and responsibility of the State to immediately stop and curb dissemination of hate speech which contain irresponsible and explosive messages on various (social) media platforms which have the tendency to incite mob violence and killings and demands that FIRs and other appropriate legal proceedings be launched against all those who are indulging in hate speech in Manipur.

5. The State and Central government must both be held accountable for their absolute failure in preventing the breakdown of constitutional machinery in the state of Manipur.

6. State and central govt must apply the law with respect to accountability, relief and

rehabilitation in a non-discriminatory manner and take concrete action to counter the impression that till today the state administration is biased and discriminatory towards one community.

7. All false cases filed by the state which seek to challenge the narrative of the state and protect the constitutional right to seek information under article 19 (a) must be withdrawn.

Appeal to the Hon'ble Supreme Court

8. The PUCL appeals to the Supreme Court to appoint a **Supreme Court monitored – Special Investigation Team (SIT)** drawn with police officials of proven integrity from outside the state, to investigate all the significant criminal cases registered in the wake of the ethnic violence. The names must include those suggested by civil society and fresh FIR's must be lodged wherever necessary. At least three major alleged incidents need to be investigated. The SIT should necessarily investigate:

- 3rd May incident in Churachandpur
- Sexual violence incidents reported across the state
- Khamen Lok massacre

9. The PUCL also appeals to the **Supreme Court to appoint**

a Women's Committee made up of respected women's jurists, academics, activists and others, whose names should include suggestions by civil society, to visit Manipur and give an independent report directly to the SC.

10. Considering the difficult nature of the terrain and the large number of victims who still live in their thousands in IDP Camps, the PUCL requests the Supreme Court to appoint a Team of Advocate Commissioners, based on suggestion by civil society, to visit all the camps and record statements of victims.

11. The PUCL also appeals to the Supreme Court to appoint a Committee of Mental Health Experts including Trained

Counsellors, Psychiatric doctors, Trauma specialists and others to give a report on the state of mental health and remedial measures to be undertaken on an Emergency basis.

Humanitarian Relief

12. On an urgent basis, the Government of Manipur with the support of the Government of India must provide nutritious food, clothing, safe shelter with proper drinking water and sanitation to all those in need, not limited to the relief camps.

13. The State must prepare a comprehensive policy for relief and rehabilitation urgently. In providing compensations, the policy should look at the loss of

homes, loss of livelihood, loss of possessions, trauma caused, loss of lives/limbs and a separate category of survivors of sexual violence.

14. This policy must identify the needs of infants, children, lactating mothers, women who have survived sexual violence/witnessed violence, persons who have witnessed/survived violence, senior citizens, individuals with chronic health concerns, individuals in need of continuous medical treatment such as dialysis, blood pressure, arthritis.

15. Doctors, medicines and medical supplies are in short supply and the Court should direct the authorities to ensure supply of adequate medical facilities on a war footing.

STATE REPRESSION IN NUH: AN INTERIM PUCL REPORT

Introduction

On July 31, 2023, communal violence and clashes erupted between Hindus and Muslims during a yatra called Brajmandal Yatra. The yatra was no ordinary religious yatra but a yatra replete with aggressive and violent hate speech against Muslims with the processionists carrying arms. The yatra was organised by Bajrang Dal in Nuh (formerly known as Mewat) District from Nalhadeshwar Temple to Shringar Mandir in Punhana. In response to the provocations of the processionists, the Muslims responded resulting in clashes. The clashes in turn led to a violent state response specifically targeting the Muslims, resulting in five deaths in Nuh, as reported by the Haryana Police. Eight members of PUCL visited the district on August 5 and then on August

13 and 14, 2023 to speak to survivors and victims of the Muslim community, police officials, lawyers, temple authorities and government officials.

The violence that erupted on July 31, 2023 escalated and spread to the neighbouring districts of Haryana. A Muslim Imam in Gurugram was shot dead on 1 August, and several shanties, homes and small shops belonging to Muslims were demolished by the state. Hate rallies and panchayats in Gurugram, Badshahpur, Palwal, Sohna and Faridabad also played a pivotal role in inciting the violence against Muslims.

Background and Context

Nuh is the only Muslim dominated district in Haryana, with 78% of the population being Meo Muslims. The Meos

have been known to share several traditions with the Hindus, and the district has a rich history of syncretic cultures with shared festivals and livelihoods. They are cow rearers and have hence become a target of cow vigilantism as well as the stringent bovine laws. However, the yatra which triggered the violence in Nuh this year, is only a three-year old annual tradition, widely promoted by the Bajrang Dal and Vishwa Hindu Parishad, and has called for violence against Muslims. For example, in 2022, attendees of the yatra from the Bajrang Dal destroyed the dargah which was close to the route of the yatra. Unfortunately, the police registered no FIRs, and the administration only helped the community restore the dargah.

Besides the yatra, the district has also witnessed the development of groups from Hindutva organisation calling themselves 'gau rakshaks', which has made the Meos additionally vulnerable to violence and has added a threat to one of their sources of livelihood, dairy farming. Since 2017, all the lynchings that have taken place in the region of Haryana Rajasthan except one, have led to the deaths of Meo Muslims in Haryana .

This year, the Brajmandal Yatra was organised in the context of one such lynching. On February 15, 2023, 25-year old Nasir and 35-year old Junaid were brutally beaten by the Gau Rakshaks who are now the Cow Protection Task Force under the Haryana cow slaughter law. The Gau Rakshaks carry out their illegal actions under the cover of the law. While the earlier lynchings were vigilante actions, now the slaughter is under state control.

Going back to the narrative of impunity which begins with Junaid and Nasir who were put in a car and burnt alive- With respect to these killings, till date only three persons have been arrested, out of 33 who have been named in the charge sheet. The Haryana police and administration refused to cooperate with the Rajasthan police with respect to carrying out the arrests. Village after village in a few districts of Haryana, did panchayats, that they would not let the Rajasthan police enter the village. The Rajasthan police camped for months, yet failed in arresting anyone. This points to the situation of absolute impunity for cold blooded murder. The

prime accused, Monu Manesar is still under so called investigation. Monu Manesar, is an extremely popular self-proclaimed gau rakshak, who is known for his videos on social media, calling for violence against Muslims in the name of cow protection.

The fact that a murderer is still free rankled the Muslim community in Nuh. When Monu Manesar posted on July 28, 2023 that he will be participating in the yatra, and that people should join in large numbers, this led to increasingly disquiet among the community. In fact this led to a lot of outrage on social media from Meo Muslims, that a criminal would be entering their district. Another extremely popular figure, Raj Kumar alias Bittu Bajrangi posted a provoking statement on social media hours before the yatra, calling for all Hindus to join in 'solidarity'. He said, "I am Bittu Bajrangi! Here, I am giving you my location so that you won't tell me later that I didn't inform you! I am coming to my sasural (in-laws' home). In am in Pali and will leave from Dhos. Be ready with flowers to welcome me. Your brother-in-law is coming! 150 cars are coming. We are coming in huge numbers! All Sanatani brothers will join, not just Bajrang Dal. No camera will be able to capture it!" The statements by Bittu Bajrangi were laced with sexual innuendo and were meant to provoke the Meo Muslims.

Both these figures played an important role setting the tone for the yatra which aimed at mobilizing Hindus in the name of Hindu pride which was

synonymous with the call for violence against Muslims. PUCL found that their videos, speeches in the yatra and their aggressive anti Muslim messaging instigated the consequent violence.

PUCL met with the Superintendent of Police, Narendra Bijaraniya, who had recently been posted, members of the Meo community, whose homes were demolished and who were affected, members of the Hindu community, lawyers, government authorities and temple authorities.

Provocative actions by the yatris, counter violence and inadequate police deployment

Through testimonies of eye-witnesses and temple authorities, PUCL found that the first instance of conflict began in Kheda, which was on the route of the yatra. Bystanders shared with PUCL that several participants of the yatra were carrying swords and tridents, with continuous hate speech and provocative comments about the Meo Muslims. Bittu Bajrangi and Monu Manesar both were sharing several such videos and messages on social media from the rally. An eye witness shared that young members of the Meo community lined up in large numbers near Kheda, Mevli mod and on the old Delhi Alwar road.

As PUCL continues to investigate the chain of events that led to violence and rioting, news reports and interviews with locals revealed that Hindu mobs were armed with swords, tridents and guns. Temple authorities shared with PUCL

that around 2500 to 3000 attendees of the yatra and devotees returned from the yatra to the temple where they were absolutely safe. They indicated that Meos began to pelt stones, which led to more violence.

Videos that circulated on social media and news reports show that mobs from the rally were carrying automatic rifles and terrorising Muslim localities. About a hundred vehicles were burnt in the melee and several police vehicles, a school bus and some shops were torched by mobs. The violence spilled into neighbouring districts too, in Gurugram, Palwal, Faridabad and others. In Gurugram, a mosque was vandalised and a 22-year old Muslim cleric shot dead.

According to news reports and testimonies shared by lawyers, the police deployment was inadequate. Only around 100 policemen were deployed. The SP was on leave and the DySP was in another district.

Arbitrary Arrests, police violence and the targeting of juveniles

Out of 61 FIRs that have been registered, most of the arrests (over 70 persons) have happened in the first 5 FIRs invoking IPC Sections 148, 149, 147, 186, 342, 332, 353, 307, 302, 379B, 120-B, 427, 435, various sections of Arms Act and PDP. Out of the total 280 people arrested, less than 5 are Hindu. Only one person from the Bajrang Dal, Bittu Bajrang has been booked under IPC Sections 148/149/ 332, 353, 186, 396, 395, and Sections 25,

54, 59 of the Arms Act. He has been protected by the police and has not been booked for inciting violence and has applied for bail.

As is evident with the arrests and the testimonies of several affected people in villages, the police has acted in an extremely partisan manner, targeting the Meo community alone. Muslims shared with the PUCL team that they continue to live in deep fear of arrests and torture, because of the number of Muslim young minors and innocent people have been arrested without any due process or informing family members. As the team members also witnessed, police has flagrantly violated regulations protecting minors, and have overcrowded prisons in Nuh with innocent young Muslim men.

The PUCL was shocked to find that in village after village, men had fled and women were forced to flee out fear of the police leaving villages with only women. Women were forced to cope with the legal, psychological and social consequences of the violent destruction of their lives alone.

PUCL also found that the police carried out raids and illegally detained several minors. Several members of the Meo community from villages told the PUCL team that young boys were picked up arbitrarily. The team themselves witnessed in Roz ka Mew police station that a big crowd of young boys were stuffed into a police lock up, being bitten by mosquitoes because of the rain. The PUCL team spoke to many Muslim

families in Morad baas, Tapkan, Aterna, Imampur, Mevli, Palla and other villages, wherein family members broke down and shared stories of their young children being arrested, tortured and humiliated. They shared with PUCL that the police has not only brutally beaten many of them, but provided no information to the families despite being in police custody. The families had no opportunity to speak to the detained for almost 12-13 days. The family visits began only after 18 days. Due to the imposition of Section 144, they were unable to access the courts or the jails for two weeks.

The PUCL team also observed that the jails were overcrowded with the majority of those newly lodged being Meo Muslims.

Demolitions by the state

A total of 1208 structures including houses, buildings, shops, shanties and nagar nigam allotted kiosks were demolished in Nuh in 11 towns and hamlets in 37 sites covering an area of 75 acres. The government carried out these demolitions in a blatantly illegal manner, without any notices or without adhering to any legal procedures. Almost all such destroyed property belonged to Meo Muslims, especially daily wage workers and dairy farmers. The largest number of demolitions happened in Nuh city, apart from there demolitions also happened in Tauru, Ferozepur Jhirka, Nagina and Punhana apart from the demolitions that happened in Sohana, Faridabad, Gurugram, and Palwal in the vicinity of Nuh. The exact numbers city wise will come

through affidavits filed in the Punjab and Haryana High court. While Nuh town had the largest number of demolitions of Pucca buildings, with more than 20 big buildings and several commercial shops, and shanties including one basti of more than 150 shantys of the rohingya Muslims all with UNHCR identifications, including kiosks allotted by the Municipal corporation and 40 roadside shops. In Tauru about 40 homes and shops were demolished, including Assamese Muslims who were on government land. It was glaring that the other encroachers on Government land were not removed simply because they Hindus. In Nagina 20 BPL houses made through Government awaas schemes were demolished. In Ferozpur Jhirka about 90 homes were demolished.

As of 7th of August, the demolition drive has been halted by a judicial order by the Haryana and Punjab High court, stating that, "the law and order problem is being used as a ruse to bring down buildings without following the procedure established by law. The issue also arises whether the buildings belonging to a particular community are being brought down under the guise of law and order problem and an exercise of ethnic cleansing is being conducted by the State."

The High Court went on to observe that:

We are of the considered opinion that the Constitution of India protects the citizens of this country and no demolitions as such can be

done without following the procedure prescribed in law. Accordingly, we issue directions to the State of Haryana to furnish an affidavit as to how many buildings have been demolished in last two weeks, both in Nuh and Gurugram and whether any notice was issued before demolition. If any such demolition is to be carried out today, it should be stopped if the procedure is not followed as per law.

The High Court also pointed to the hubris of the state authorities in carrying out demolitions by recording that 'The news item also says that the Home Minister himself has said that bulldozer are part of illaj (treatment) since the Government is probing communal violence. The said news items are appending alongwith the file for ready reference.' In this context the Court observed that, 'Lord Acton has stated "power tends to corrupt and absolute power corrupts absolutely".'

Conclusions and Findings

Meo Muslims continue to cope with an environment of hate in Nuh. With almost daily rallies and panchayats calling for economic boycott of Muslims and violence against Muslims, the cycle of violence and counter-violence have left the lives and homes of Meos completely destroyed. Through demolitions and arbitrary arrests only of the Muslims, the state acted outside the rule of law and showed their contempt for the Constituion and their support to the narrative of hate and violence propagated by the

Bajrang Dal, Vishwa Hindu Parishad and other Hindutva organisations. Though due to the Supreme Court interventions FIRs have been registered with respect to the hate speech, no arrests have been made. This leads to the situation of continuing impunity which began with the killing of Junaid and Nasir.

What continues to provide hope that humanity is still alive is that for the first time the kisan panchayats and the khaps, rejected the hate violence and stood in solidarity with peace and humanity. They also sent a firm message to the Bajrang Dal and State Government and police that farming communities will not be divided on communal lines and the peace of Haryana could not be disturbed by hindutva elements.

While PUCL continues to investigate and document their findings, the team also concluded that the legal awareness among the Meos is extremely minimal. As people are struggling to locate their arrested family members, file for bail or fight for basic rights of prisoners, PUCL met the Chief Defense Counsel in the Legal Services Authority, who informed the team that legal aid was being provided for free for all arrested individuals. PUCL also decided to start legal clinics led by young lawyers to organise any required legal support for the communities.

PUCL is in the process of investigating the violence further, and publishing a detailed report in the near future. The two visits to the district were essential to

understand the following harsh realities –

1. The clashes between Hindus and Muslims were provoked by continuous hate speech against Muslims by Monu Manesar, Bittu Bajrangi and the organisers of the Yatra.
2. The state through the actions they have taken have wholly blamed the Muslim community, and have acted outside the law, by using the bulldozer to destroy more 1,200 homes, shops and structures predominantly belonging to Muslims.
3. Out of the 280 people arrested by the police, less than 5 people are Hindus, which shows the biased nature and arbitrary nature of the arrests.
4. PUCL found through testimonies of Meos that the police has also arbitrarily detained and locked up several minors without following any due process of law, or complying with regulations that protect minors in the criminal justice system.
5. Criminal and Departmental action to be taken against police and state administration for failure to fulfil their duty and to adhere to the constitutional prescription of non discrimination on grounds of religion.
6. The State government has failed to ensure the protection of life and its police and administrative actions show discrimination on grounds of religion which

goes against the constitutional obligation under Article 15(1) to not discriminate on grounds of religion.

Website Updates this Month

1. Report by PUCL Pune on a Public Meeting organised - 'Manipur : Bitter Reality' organised on August 6, 2023. *(Over 300 persons attended the public meeting on Manipur. Speakers included political analyst Dr. Suhas Palshikar, senior journalist and author Rupa Chinai and the President of the Kuki Students' Organisation (KSO), Pune Seitinlen Sithlou.)*
2. Statement by PUCL Maharashtra on the multiple murders by RPF constable, Chetan Singh of his Superior Officer and 3 Muslim passengers while on duty onboard the Jaipur-Mumbai Central Express (July 31, 2023)
3. Statement by The Kashmir Walla staff - Independent news outlet The Kashmir Walla's website, social media blocked by government
4. Full transcripts of events organised by the National Campaign to Defend Democracy that marked 5 years of arrests of Bhima Koregaon accused and commemoration of Father Stan's second death anniversary

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