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PUCL EDITORIAL

The actions of the Indian government over the last month has severely endangered journalism and press freedom. Over 46 journalists associated with web portal NewsClick were raided, their electronic devices were seized. Prabir Purkayastha and Amit Chakravarty of NewsClick were arrested and charged with UAPA. This raid carried out in the early hours of October 3, 2023, is one of the most extensive crackdowns on press freedom in the country in recent times. NewsClick was well known for its coverage of the year long farmers protest as well as the anti-CAA protest. The worrying question all journalists need to ponder is whether in the new India, UAPA can be invoked against journalists who report on dissenters? Can investigative journalism, which covers subjects which the government may not like, be equated with terrorism?

It was not just NewsClick which was in the cross hairs of a raid but also civil liberties and peoples organisations in Andhra Pradesh and Telangana including HRF, CLC – AP & Telangana, CMS, Veerasam and KMPS. What is becoming a trend in such raids is the seizure of all electronic devices including mobile phones and laptops without providing them with cloned copies or hash values. By not providing at the least a

cloned copy, the NIA is compromising a gamut of fundamental rights which a person is constitutionally guaranteed. At a time when one's devices are extensions of their lives itself, arbitrary confiscation of all devices can compromise many rights. It threatens one's right against self incrimination, right to profession, right to freedom of expression, right to live with dignity and right to privacy. The seizing of all electronic equipment as the default option by the authorities is a development with serious constitutional implications as it impacts both the right to profession and potentially the right to a fair trial.

One way in which the integrity of the data confiscated by the authorities can be guaranteed is by providing the hash value of a device during the time of its seizure. A hash value is a unique numerical value that identifies the contents of the file. If the contents are modified in any way, the value of the hash will also reflect a change. Without providing a hash value, one cannot guarantee the integrity of the data after a device is confiscated. If data is inserted, or if the device is tampered with, it would be difficult to prove the same without a hash value recorded during seizure. This can

potentially impact the right to a fair trial guaranteed under Article 21.

There is a pending petition in the Supreme Court filed by Ram Ramaswamy (retired JNU Professor) and others seeking guidelines with regards to seizure, examination and preservation of personal digital and electronic devices and their contents. The petition focuses on the right to privacy, right against self-incrimination, protection of privileged communication, integrity of electronic material and the return of copies of seized material to the person under investigation. Going by the dictatorial and tyrannical manner in which the NIA is confiscating electronic devices, posing a serious threat to the entire regime of constitutional rights, there is an urgent need for an authoritative pronouncement by the Supreme Court.

Closely following on this assault on journalism in the form of the attack on Newclick, comes the assault on artists and writers in the form of the LG of Delhi government giving the sanction to prosecute Arundhati Roy (writer) and Sheikh Showkat Hussain (former professor of International Law at Central University of Kashmir) for remarks they made in a seminar on Kashmir, 'Azadi: The Only Way', way back in 2010. It is shocking that a mature constitutional democracy is prosecuting speech, which has no direct causal connection to violence or disorder. Arundhati Roy is being prosecuted for 'worrying the edges of the human Imagination' for writing

as if 'the only thing worth globalizing is dissent' and believing that dissent is 'India's best export'. This is a tragedy for a country which prides itself as being the 'mother of democracy'.

Human rights seems to be in a greater crisis than ever before following the Hamas attack within Israeli which resulted in Israeli casualties including civilians and the taking of hostages by Hamas. However the Hamas attack itself was preceded by a seventeen year blockade of Gaza which was itself a violation of international law. On October 24, the UN Secretary General remarked to the Security Council, "It is important to also recognize the attacks by Hamas did not happen in a vacuum. The Palestinian people have been subjected to 56 years of suffocating occupation. They have seen their land steadily devoured by settlements and plagued by violence; their economy stifled; their people displaced and their homes demolished. Their hopes for a political solution to their plight have been vanishing. But the grievances of the Palestinian people cannot justify the appalling attacks by Hamas. And those appalling attacks cannot justify the collective punishment of the Palestinian people."

It bears noting that the rules of war are not a reciprocal arrangement between nation states, but rather a common obligation towards humanity. A crime by Hamas does not justify a war without limits, which is what Israel is now waging. The fact that Israel had no

compunctions about attacking civilians and the very basis of civilian life by cutting of water and electricity renders this a form of all out war without adhering to the limits mandated by international humanitarian law. The crime which is being visited on the people of Gaza could well amount to a 'crime against humanity' or even genocide. Genocide in known as the 'crime of crimes' and Israel's blockade of Gaza, the indiscriminate and heavy bombing, the targeting of civilians, the denial of water, the ethnic cleansing from Northern Gaza all together seem to indicate an intention to destroy the right to exist of the Palestinians of Gaza. This could amount to genocide as genocide is a crime which aims at the deliberate and intentional infliction of 'conditions of life calculated to bring about the 'physical destruction in whole or in part' of a 'group'. In fact the first prosecutor of the International Criminal Court, Luis Mareno Ocampo has tweeted that a 'full blockade of Gaza could be considered a crime against humanity and a genocide. It could be investigated by the International Criminal Court.'

This international issue has also had domestic ramifications as the Indian government has declared that it stands with Israel, thereby ignoring the crimes being committed on the Palestinian people. Protestors in different parts of the country right from Delhi, Bengaluru, Mumbai and Uttar Pradesh have been detained for raising the issue of the crimes being committed by Israel. This amounts to an unconstitutional

infringement of the right to freedom of speech and expression and the right to dissent.

It is troubling that when the Prime Minister was quick to express his one sided support for Israel while ignoring Palestinian suffering, there is still a painful silence on Manipur. It bears repeating that, Manipur which is a state of the Indian union, the constitutional machinery has totally broken down and there is a de facto ethnic segregation between the hill and the valley, the Kuki and the Meitei population.

The Supreme Court, which is seized of the matter is striving to tackle the humanitarian dimensions of the crisis by giving multiple directions based on reports submitted by the expert committee in Manipur. The Expert Committee was set up by the Supreme Court to oversee humanitarian aspects in Manipur. However as we enter the sixth month of the crisis in Manipur, the impunity enjoyed by the perpetrators is having serious consequences. Babloo Loitongbam who is a human rights defender from Manipur who had called for the resignation of the Chief

Minister, had his household attacked for speaking his mind. The attack only shows that the Biren Singh Government has failed to fulfil the basic constitutional responsibility of a government, to protect the lives and liberties of all citizens. The PUCL has filed a complaint to the NHRC in this regard urging the NHRC to intervene and ensure protection to Babloo Loitongbam and his family members.

WAR CRIMES BY HAMAS DON'T ALLOW ISRAEL TO DISREGARD THE LAWS OF WAR

MICHAEL SFARD

At what point in time do you start an article about the catastrophe unfolding now in the Gaza Strip? With the horrendous war crimes committed by Hamas on Saturday, Oct. 7, when its men carried out a mass slaughter of Israeli civilians, killing hundreds, kidnapping women, children and the elderly, and violating every human moral code? When they seized control of Israeli villages on the Gaza border for hours and went door-to-door, murdering their inhabitants, and massacred partygoers at a music festival?

Or should we start almost 16 years ago when Israel imposed a brutal blockade of Gaza, unprecedented in the modern era, with the backing of the entire Western world, over an area that is home to more than two million people—more than

half of them children? Sixteen years in which Israel left Gazans deliberately on the brink of suffocation?

Perhaps we should begin in 1967, when Gaza was conquered by Israel in the Six-Day War and put under a state of permanent occupation by a country that also operates an apartheid regime? Or should we go back to 1948, to the Nakba, to the enormous ethnic cleansing of Palestinians carried out by the newly born Jewish state?

Choosing the starting point of the review is a political choice. It suggests, for some, the division of responsibility and blame. Whenever we choose to start, as I write this article the Israeli army is dropping bombs on an unimaginable scale on one of the most densely populated places in the world. It

has destroyed entire areas where hundreds of thousands of Palestinian civilians live. Israeli commanders have ordered more than a million residents of Gaza to leave their homes in the northern part of the strip and move south, presumably in anticipation of an imminent Israeli ground offensive.

At the same time, the Israeli minister of defense, Yoav Galant, declared that, "We are imposing a complete siege on Gaza City. There is no electricity. No food. No water. No fuel. Everything is closed." That statement might be understood as an order for the starvation of Gaza City.

Forced transfer combined with the deprivation of the essential means for survival may lead—in fact, is already leading—to a humanitarian disaster in Gaza

on a scale we cannot imagine. It is also impossible to ignore the fact that in the current Israeli government, there are elements who do not hide their fantasy of continuing what began in 1948: forcibly expelling the Palestinian population. The thought that the refugees of the northern Gaza Strip—some of them serial refugees from 1948—will be pushed over the border into Egypt's Sinai Peninsula, without any real guarantees of their return, understandably triggers in them the memory of that expulsion.

After all, Bezalel Smotrich, the Israeli minister of finance who was also given sweeping powers over the West Bank, is the one who said in a Knesset debate two years ago to Palestinian members of parliament: "You are here by mistake because Ben-Gurion did not finish the job in 1948 and did not throw you out." This is the same Smotrich who says there is "no such thing" as the Palestinian people and promotes a political plan for Israeli apartheid in the entire area between the Mediterranean Sea and the Jordan River, premised on complete annexation of the West Bank. Under his plan, Palestinians in the West Bank who are unwilling to give up their own national aspirations and the struggle for Palestinian independence would be deported; those Palestinians in the West Bank who are willing to remain under the rule of the Jewish state would be granted limited resident status but without any political rights, including citizenship or the right to vote.

Then there is Itamar Ben-Gvir, Israel's minister of national security, who is in charge, among other things, of the Israeli police. He is notoriously a student of Rabbi Meir Kahane, the founder of the racist Kach movement, which was declared a terrorist organization in both Israel and the United States. Ben-Gvir has also previously spoken out in favor of deporting "disloyal" Arabs, including members of the Knesset.

Smotrich and Ben-Gvir are certainly not the only ones in power in Israel now with these views. The fear that the profound shock and outrage in Israeli society over Hamas's massacre will be exploited for ethnic cleansing in Gaza should not be waved off.

If there is anything that the history of humanity, scarred by atrocities, should teach us, it is that no crime can justify another. Nor can any crime mitigate the severity of another. This is what international law, and first and foremost the international laws of war, are trying to enforce. But the last few days prove that we have learned nothing. Activists and intellectuals on both sides stick to their tribal tents—some emphasizing the crimes of Israel and disgracefully dwarfing the crimes of Hamas, others denouncing the Palestinians and completely ignoring the inhuman context of the iron boot with which Israel has tread on the necks of Palestinians for 75 years.

Worst of all is that the international community does not insist on adhering to its own rules. Western powers,

especially the United States as Israel's closest ally, have a central responsibility for what is happening—for their unreserved support of the never-ending blockade on the Gaza Strip, for allowing Israel to colonize and dispossess the West Bank with absolutely no accountability, for their silence in the face of the methods of war that Israel has adopted repeatedly in Gaza, again and again disregarding the prohibitions and limitations on warfare in civilian territory.

In one of the many judgments of the Israeli Supreme Court on the legality of demolishing the homes of Palestinian families of terrorist suspects—a blatant practice of collective punishment that is absolutely forbidden in international law—the late judge Mishael Cheshin wrote a sentence that is one of the most depressing statements I have ever read in any legal judgment: "Even as the trumpets of war sound, the rule of the law shall make its voice heard, but let us admit a truth: in such places, its sound is like that of the piccolo, clear and pure, but drowned out in the din."

If there is no law, or if the law is seen as a mere recommendation, everything is permitted—everything.

When we crawl out of the deep pit we are in, we will find ourselves again facing the truth written on the wall in bold letters—the same truth that has always been written on the wall and that everyone, it seems, is trying hard to ignore. There is no solution to the conflict in Israel-Palestine that is not based on respecting everyone's human rights; on ending the

occupation; ending apartheid; ending the blockade; realizing the right to self-determination of the Palestinian people; and upholding the provisions of international law, by all.

MEMORANDUM DEMANDING FOR THE RIGHT TO PROTEST IN BENGALURU

HORATADA HAKKIGAAGI JANANDOLANA (PEOPLE'S MOVEMENT FOR THE
RIGHT TO PROTEST)

Bengaluru has seen the right to protest being stifled, thanks to decisions made during the previous administration. We are a coalition of progressive and democratic groups and individuals who have come together to demand that the right to protest be returned to us. This fundamental right has been hollowed by the Bangalore City Police through the Licensing and Regulation of Protests, Demonstrations and Protest Marches (Bengaluru City) Order, 2021 that was brought in January, 2022.

For over a year, the police have restricted protests in any place other than Freedom Park, and have refused permissions for processions. This has caused enormous hardship to all those seeking to exercise their constitutional rights and is against the very spirit of plural and diverse Karnataka where all citizens can make their concerns heard and felt.

In 2022, the High Court was hearing a suo-moto PIL which sought restrictions on protests. Even before the judgement was passed, the Police Commissioner of Bangalore issued an undemocratic new order governing protests. This Licensing and Regulation of Protests, Demonstrations and Protest Marches (Bengaluru City) Order, 2021 (hereinafter the "2021 Order"), designated

Freedom Park as the only place for protests in the city — a violation of Constitutional rights. After the issuance of this 2021 order, the High Court closed the petition. Thus, what stands between Bangaloreans and the right to protest is this brazen, unconstitutional order passed by the former Police Commissioner.

Through this order, the Police have been curtailing this fundamental right to protest by prohibiting protests, demonstrations, dharnas or protest marches in Bengaluru city without obtaining the license under this order. This marks a complete change from what was previously being followed; And through Clause 4.1 of the Order, all protests in the city are relegated to Freedom Park. It bears repeating that the capital city of Karnataka, to which people from all over the state come to make their voices heard - has today only one site of protest- Freedom Park !

This restrictive order has been strictly implemented by the police resulting in many cases being filed against several marginalised communities for engaging in their constitutional right to protest. This includes workers for the traditional May Day rally, farmers protesting land acquisition in Devanahalli, Dalit activists seeking internal

reservation, Powrakarmikas protesting for their rights, and residents of Malleswaram for organising a walk on the Sankey flyover issue, LGBTQI community members who wanted to organize the traditional pride march etc.

This order empties the right to protest of its very content as protests often have a meaning specific to a certain area. Farmers of Devanahalli protested the land acquisition of their lands, in Devanahalli. They had a case slapped against them since they didn't protest in Freedom Park! The same became true of Malleswaram's residents. If people are not permitted to protest at the place where the protest is relevant, the purpose of the protest is completely lost. Why should people be forced to travel to Freedom Park for a protest?

It bears repeating that protests are a part of the constitutional right to the freedom of expression. When protests are restricted to Freedom Park, and condemned to invisibility, it is a violation of the expressive and communicative aspect which is the very heart of the right. In a democracy protests are a form of dialogue between affected citizens and other concerned citizens as well as a way for affected citizens to ensure that their voice is heard by the government.

It is such protests which have made India the world's largest democracy. The protests after the 2012 Delhi gang-rape saw a strengthening of anti-rape laws; protests by garment workers resulted in new PF rules being scrapped; Anganwadi and ASHA workers have got pay raises only after protests; the farmers' protests led to the withdrawal of the farm laws. Bangalore owes much of its magnificent green cover only because of ordinary people protesting the arbitrary felling of trees. The Modi government's plan to introduce NRC-CAA was also stopped only because of the wide protests.

By relegating all protests to Freedom Park, we eliminate possibilities for these key public conversations. This is not just a cost borne by Bangaloreans; this rule similarly harms Karnataka's residents from the far flung corners of the state who come to the capital city to make their voices heard. By being relegated to a corner of the city where no one can see, the meaning of the protest itself gets devalued. The restricting of protests to Freedom Park impoverishes the very meaning of democracy and renders it hollow.

Our freedom was made possible by protests, and our Constitution, aware of its importance in a democracy, enshrined protections against anti-democratic impositions. The 2021 Order is in blatant violation of the fundamental right to freedom of speech and expression under Article 19(1) (a), and the right to peaceful assembly under Article 19(1) (c) of the Constitution. The

Supreme Court has consistently recognized the right to protest as an essential feature of our democratic fabric under those Constitutional provisions.

The 2021 order was brought in with the specific intent to stifle protest and to silence the voice of those who were suffering under the previous BJP dispensation. This includes farmers, the working class, women, Dalits and other marginalized and vulnerable communities. In the most recent elections, the people have raised their voices against such stifling and anti-people policies.

As a new government accountable to the people of Karnataka and their decision to reject an anti-democratic government, it is your responsibility, we believe, to protect the democratic values upon which our nation was built. We trust that you will recognise the significant role of protests in our rich history. We can foster a more inclusive and democratic society where the aspirations of the people are respected and their voices are heard only by protecting the right to protest.

Therefore, we demand that you immediately withdraw the Licensing and Regulation of Protests, Demonstrations and Protest Marches (Bengaluru City) Order, 2021 and ensure the protection of the fundamental right to protest. We also demand that you immediately withdraw all cases filed against persons who have exercised this fundamental right to protest, including workers, farmers, Dalits, women and other marginalized communities.

The coalition 'Haraatada Hakkigagi Janandolana' or People's Movement for the Right to Protest submitted this memorandum to the Chief Minister as well as the Commissioner of Police, Karnataka among other officials. After receiving no response from any authority, they organised a protest rally on October 2, 2023 to demand that the Police withdraw the Order.

Around 300 people gathered to begin the rally from Gandhi statue (Maurya Circle) to Ambedkar statue (in Vidhan Soudha). Around 150 people were forced into buses and detained for four hours by Bangalore police. The coalition continues to work towards creating awareness and advocacy with government officials to ensure that this restrictive Order is revoked at the earliest.

Many groups of the coalition are also asserting through public demonstrations for various issues that the restrictions placed on the right to protest are unreasonable. The coalition also recognises that such restrictions are a part of a larger nation-wide pattern of restricting the right to association and right to assembly, especially through prohibiting gatherings and protests in major cities.

Over the last month, Bangalore police has detained activists twice for assembling to express solidarity with Palestinians and protest against the genocide being carried out by the Israeli government.

LETTER TO CHIEF JUSTICE OF INDIA FROM MEDIA PROFESSIONALS

To, D.Y. Chandrachud
Chief Justice of India
Supreme Court of India

October 4, 2023

Dear Chief Justice
Chandrachud,

We write this letter as a voluntary and free coalition of organisations that represent the free press and who are committed to upholding the values of freedom of speech and expression enshrined in our Constitution.

This letter is an earnest plea to the sentinel on the qui vive, weather-beaten as that phrase may have become—an appeal from one institution that is essential for the exercise of freedom and democracy in India, to one that is Supreme and is sworn to protect the Constitution that enshrines those freedoms.

We write this letter conscious of the fact that it is addressed not just to the Chief Justice of India but to an incumbent who has said, within the court and outside, that the “press has a duty to speak truth to power and present citizens with hard facts enabling them to make choices that propel democracy in the right direction” and that India’s freedoms will be safe as long as journalists can play this role “without being chilled by a threat of reprisal”.

The fact is that today, a large section of journalists in India finds itself working under the

threat of reprisal. And it is imperative that the Judiciary confronts Power with a fundamental Truth—that there is a Constitution to which we are all answerable.

On October 3, 2023, the Special Cell of the Delhi Police raided the homes of 46 journalists, editors, writers, and professionals seemingly connected in one way or another to the online news portal, NewsClick. The raids led to the arrest of two persons under various sections of the Unlawful Activities (Prevention) Act, and the seizure of mobile phones and computers without ensuring the integrity of their data—a basic protocol that is essential to due process. The invocation of UAPA is especially chilling. Journalism cannot be prosecuted as ‘terrorism’. Enough instances in history abound to tell us where that eventually goes.

During your time at the Supreme Court, you have seen how on numerous occasions, the country’s investigating agencies have been misused and weaponised against the Press. Sedition and terrorism cases have been filed against editors and reporters, and multiple, sequential and/or frivolous FIRs have been used as an instrument of harassment against journalists.

The purpose of addressing this letter to you is not to bypass or circumvent the process and procedure established by law. But when journalists are

summoned and their devices seized in the name of investigation, there is an inherent malice in the process that must be checked.

Just as the police are obliged by the Constitution to state the grounds of arrest, it must equally be a precondition to questioning. In its absence, as we have seen in the NewsClick case, vague assertions about the investigation of some unspecified offence have become the grounds for questioning journalists about their coverage of, inter alia, the farmers’ movement, the government’s handling of the Covid pandemic and the protest against the Citizenship (Amendment) Act.

We do not say that journalists are above the law. We are not and do not wish to be. However, intimidation of the media affects the democratic fabric of society. And subjecting journalists to a concentrated criminal process because the government disapproves of their coverage of national and international affairs is an attempt to chill the press by threat of reprisal—the very ingredient you identified as a threat to freedom.

Wide powers of investigation are given to the state on the assumption of bonafides on the part of its agencies. Equally, a wide immunity against coercion must be read into the constitutional provisions of free speech, and methods must be devised against police

overreach—especially given the repeated misuse of these powers. Far too much is at stake to test every case at the end of a trial which can last years.

Journalists arrested under UAPA can end up spending months, if not years, behind bars before they are even granted bail. We already have the case of Siddique Kappan before us; he was incarcerated for two years and four months before finally securing bail. The tragic death of Father Stan Swamy in custody is a reminder of how indifferent the authorities seem to have become towards human life under the guise of combating 'terrorism'.

Our fear is that state actions against the media have been taken beyond measure, and should they be allowed to continue in the direction they are headed, it may be too late for corrective or remedial steps. It is, therefore, our collective view that the Higher Judiciary must now intervene to put an end to the increasingly repressive use of investigating agencies against the media.

Specifically, we would be obliged if the courts would consider:

1. The framing of norms to discourage the seizure of journalists' phones and laptops on a whim, as has been the case. The Supreme Court is seized of this issue in a writ petition filed by noted academics—Ram Ramaswamy & Ors. v. Union of India, W.P. (CrI) No. 138/2021 – and has not been satisfied by the affidavits filed by the Union of

India in these proceedings. While the wheels of justice have been turning, the State has continued to act with impunity. The seizure of devices compromises our professional work. As the Supreme Court itself has observed (in the Pegasus matter), the protection of sources is an "important and necessary corollary" of freedom of media. But laptops and phones are no longer just official tools used to conduct official business. They have fundamentally become an extension of one's self. These devices are integrated into our entire lives and have vital personal information contained in them—from communication to photographs to conversations with family and friends. There is no reason or justification that investigating agencies should have access to such material.

2. Evolving guidelines for the interrogation of journalists and for seizures from them, to ensure that these are not undertaken as fishing expeditions with no bearing to an actual offence.

3. Finding ways to ensure the accountability of State agencies and individual officers who are found overstepping the law or willfully misleading courts with vague and open-ended investigations against journalists for their journalistic work.

We, the undersigned, write this letter to your lordship after considerable thought and contemplation.

There have been many instances over the past few years when assaults on the free press by the State have required judicial intervention,

and we continue to pursue such cases. But the developments over the past 24 hours have left us no option but to appeal to your good conscience to take cognisance and intervene before it is too late and an autocratic police state becomes the norm.

As journalists and news professionals, we are always ready and willing to cooperate with any bona fide investigation. However, ad hoc, sweeping seizures and interrogations surely cannot be considered acceptable in any democratic country, let alone one that has begun advertising itself as the 'mother of democracy'.

Sincerely,

Digipub News India Foundation, Indian Women's Press Corps, Press Club of India, New Delhi, Foundation for Media Professionals, Network of Women in Media, India, Chandigarh Press Club, National Alliance of Journalists, Delhi Union of Journalists, Kerala Union of Working Journalists, Brihanmumbai Union of Journalists, Free Speech Collective, Mumbai, Mumbai Press Club, Arunachal Pradesh Union of Working Journalists, Press Association, Guwahati Press Club, Indian Journalists' Union.

CONDEMN POLICE RAIDS ON JOURNALISTS AND MEDIA HOUSES: STOP CRIMINALISING JOURNALISTS AND INTIMIDATING THE MEDIA!

PUCL PRESS STATEMENT

The PUCL strongly condemns the raid on houses and offices of journalists, commentators and activists connected with Newsclick and other media professionals. It is shocking that the police is investigating a case under draconian terror sections 13,16, 17, 18 and 22C of the UAPA and sec. 153 (A) (hate speech) and 120 (B) (conspiracy) of IPC against media professionals. The raids have happened in more than 30 locations in Delhi, Mumbai and Hyderabad today.

Amongst the houses and offices which were raided by the Delhi Police were the Editor of Newsclick, Prabir Purkayastha, the former Managing Editor of NDTV, Aunindyo Chakravorty, senior journalist and researcher, Paranjay Guha Thakurta, and senior journalists including Urmilesh, Abhisar Sharma, Bhasha Singh, Subodh Verma, Anuradha Raman, Aditi Nigam, Pranjali, Sumedha Pal and Mukund Jha and some others. Besides, the police searched and seized the devices of satirist and stand-up comedian Sanjay Rajoura, historian Sohail Hashmi, author Gita Hariharan, Raghunandan of Delhi Science Forum and Kiran Chandra of Free Software Movement of India. The Delhi police also raided the office and residence of Teesta Setalvad and Javed Anand of Sabrang India in Mumbai. Not stopping at this, the police also raided

the house of Sitaram Yechury, General Secretary of the CPI (M) party and confiscated a device of a guest staying with him!

The attack on the Newsclick portal and all the independent journalists and organisations they support, is part of a larger witch hunt that has been ongoing against Newsclick, a registered company and media portal, since February 2021. The news portal has stood out for its impeccable news reporting which the present dispensation has found it difficult to swallow. Despite cases against Newsclick and Prabir Purkayastha by the ED, IT and CBI, the editor and journalists have not stepped back and have continued fulfilling their professional responsibilities fearlessly.

This raid comes at a time when all the cases against Newsclick and Prabir Purkayastha, have been listed next week before the Delhi High Court, which has passed an order that no coercive action should be taken against him. In order to influence public opinion and the court, these raids have been carried out.

It is also shocking that these raids on the media house and these journalists of integrity is being carried out under the draconian provisions of the UAPA relating to unlawful activity, questioning the

sovereignty and integrity of India and the even more dangerous provisions relating to terrorism. It bears repetition that those who are raided are journalists and media professionals, who are involved in the business of publishing material which, the state may strongly disagree with. However to label what is an exercise of a constitutional right under Article 19(1)(a) as a terror related offence or an unlawful activity which challenges the sovereignty and integrity of India is to distort and stretch the meaning of terrorism to criminalize all forms of dissent. This is nothing other than an egregious abuse of state power utilized to build a fairy tale narrative that Chinese money was being used by the raided journalists and media professionals for purposes of terrorism!

What is alarming is the manner in which Delhi police seized all data in the journalists' electronic devices, in several instances, without even providing a hash value, thereby compromising the integrity of their data and violating their privacy and the identity of their sources. This is an egregious assault on the right to privacy, the right to dignity as well as the freedom of journalists to practice their profession fearlessly.

It is necessary to point out that the journalists were detained

and have been interrogated for hours by the police, in a manner clearly seeking to harass and intimidate them. The larger purpose also is to vilify and create an anti-national narrative against these independent journalists in the public mind and as reprisal for their fair and brave reporting.

India stands at 161 out of 180 nations in the world press freedom index.

Such raids and harassment of journalists under terror laws makes even more precarious the practice of journalism in India and renders even more chimerical the Government's claim that India is the 'mother of democracies' and is the world's largest democracy.

The PUCL appeals to all sections of society to come out and condemn this act of the Delhi police and MHA, be they

journalists, lawyers, activists, academics, artists, homemakers and others. The echoes of the Emergency of 1975-77 are there in today's unconstitutional raids and all of us have to stand in solidarity against those being subjected to the high handedness of a tyrannical and lawless state which in its arrogance is forgetting that it too is subject to the Constitution.

PUCL CONDEMNS NIA RAIDS ON HUMAN RIGHTS DEFENDERS AND RIGHTS ORGANISATION IN AP AND TELANGANA ON 2ND OCTOBER, 2023

PUCL PRESS STATEMENT

Dissent is a symbol of a vibrant Democracy: Don't muzzle and persecute voices of opposition!

PUCL strongly condemns and deplores the raids by NIA officials on 02nd October, 2023 at 62 locations across Andhra Pradesh and Telangana states and the arrest of one person in Sri Sathya Sai district, as being nothing but a witch hunt of human rights defenders and abuse of power by persecuting of activists, who have been consistently taking up issues of the most marginalised and downtrodden sections of AP and Telangana society, Adivasis and Dalits, in courts, in public fora and in the media.

The lie of the NIA in launching the raids in the brazenly intimidatory and openly coercive manner, is exposed by the claim of the NIA that the raids in houses and offices of functionaries of the Human Rights Forum (HRF), Civil

Liberties Committee and other organizations were in connection with the Munchingput conspiracy case of 23rd November, 2020, which charged 63 persons of different human rights groups and mass organizations under the dreaded UAPA. The NIA took charge of the case on 7th March, 2021. According to NIA press release the Agency had "conducted searches on 31st March and 01st April, 2021 in 31 locations spread across eight districts of Andhra Pradesh: Visakhapatnam, Guntur, Prakasam, Srikakulam, Kurnool, Krishna, East Godavari and Kadapa and four districts of Telangana namely Ranga Reddy, Hyderabad, Medchal-Malkajiri and Medak.". The raids targetted HRF, CLC – AP & Telangana, CMS, Veerasam, KMPS and other organizations.

During the last 2.5 years, the investigations did not result in gathering any incriminatory

evidence – documents or materials – against any of the accused persons. In fact, the Special Court under UAPA Act which granted bail to the accused passed scathing comments on the nature of allegations and evidence gathered, while granting bail.

The motivated and fabricated nature of the Munchingput FIR was exposed by the allegation that VS Krishna and other members of the HRF had influenced the Vakpally rape survivors (all young Adivasi women) to falsely depose against Special Forces Policemen charged with their rape. The HRF pointed out in a statement issued in 2020 itself, that it was thanks to orders of the High Court in 2012 and the Supreme Court in 2017 that the trial was held and that therefore, "It is certainly not a crime to provide food and shelter to Adivasi women witnesses who have come from remote areas to depose in a

criminal trial mandated by the law. It is because of this solidarity and sustained rights activism that the police are now seeking to intimidate V.S. Krishna in what we believe to be a clear case of vindictiveness”.

It is in this same obviously false and fabricated UAPA case that the NIA along with the AP and Telangana state police have conducted simultaneous raids in over 60 places. The timing and manner of conducting the raids is suspect and supports the suspicion that the raids have been stage managed by the NIA to intimidate, threaten and silence rights defenders, grass roots activists, media persons and concerned citizens from seeking accountability, criticising or questioning the Government and the political executive.

Moreover, in what is becoming a trend in such instances of raid by the police and criminalisation of human rights defenders, the NIA has seized the electronic devices including mobile phones of human rights activists and other functionaries, without providing them with cloned copies or hash values, thereby compromising the integrity of the data in the devices, violating the seizure procedure and breaching their right to privacy.

These raids are nothing other than an attempt to intimidate and silence human rights activists who are exercising their constitutional right to speech, association and assembly. Silencing human rights and civil liberties activists will impoverish Indian democracy as dissent is the very essence of a constitutional democracy. The raids now in AP & Telangana are in continuation of raids and arrests in the name of controlling Maoist groups in various states: in the month of May, 2023 in Jharkhand, August, 2023 in Bihar, in early September, 2023 in UP.

All these raids have to be seen in the context of the run up to the 2024 elections where all dissent needs to be silenced and human rights voices suppressed. It is important to point out here that the state elections of Telangana are also scheduled to be held in December, 2023.

It needs to be pointed out that the NIA by not concluding investigation but keeping the investigation open for many years, is in effect, placing a deathman’s noose over those implicated in the case. The ever present possibility of arrest by the NIA not only robs the peace of mind of the activists and their families, but also takes away

their dignity and democratic rights. This is against the tenets of constitutional democracy and the right to life with dignity.

At this juncture the observations of Justice Chandrachud in his dissenting opinion in the case of ‘Romila Thapar v Union of India’ becomes relevant:

“Individuals who assert causes which may be unpopular to the echelons of power are yet entitled to the freedoms which are guaranteed by the Constitution. Dissent is a symbol of a vibrant democracy. Voices in opposition cannot be muzzled by persecuting those who take up unpopular causes”.

PUCL demands that all those who have been arrested should be released forthwith and the cases against them dropped. PUCL also demands that all the electronic gadgets including mobile phones, laptops, portable hard disks, saving devices and other documents be released to the people from whom they have been seized.

PUCL also demands that the UAPA FIR in the Munchingput case also be closed and similar witch hunts on human rights activists and defenders be stopped immediately.

WITHDRAW THE PROSECUTION AGAINST ARUNDHATI ROY & SHOWKAT ALI

PUCL PRESS STATEMENT

Dissent is the beating heart of a democracy

The PUCL condemns the decision of the Delhi Lieutenant

- Governor Vinay Kumar Saxena to grant Delhi Police sanction to prosecute writer Arundhati Roy and Sheikh Showkat Hussain, (former

Professor of International Law at Central University of Kashmir), in a 2010 case for offences under sections 153A, 153B and 505 of the Indian

It is baffling that a 2010 related case is now on the front burner, with sanction being granted by the L-G, almost thirteen years after the alleged incident. The case itself pertains to speech which allegedly fell within the IPC provisions relating to 'promoting enmity between different groups,(Section 153-A), 'imputations or assertions prejudicial to national integration' (Section 153-B) as well as statement conducing to mischief (Section 505). According to the LG, though her speech fell within the understanding of sedition (Sec 124-A), sanction to prosecute for sedition was not given as 'the Supreme Court on May 5, 2022, in another case has directed that all pending trials, appeals and proceedings with respect to the charge framed under Section 124A (Sedition) of IPC shall be kept in abeyance and thereafter the three-Judge Bench headed by CJI had referred the matter to Constitution Bench on September 12, 2023'.

A mature constitutional democracy ought not to prosecute speech, which by itself has no direct causal connection to violence or disorder. It is shameful that an FIR was even registered for speech which by all accounts did not incite or provoke any form of violence.

It does great disservice to the Modi government's belief that India is the 'mother of democracy', when the 'mother' prosecutes one of her most illustrious children. Arundhati Roy is one of India's most eminent writers who has used her writing to amplify the

concerns of those whose voices are ignored or muted. In her writing be it on the Indian nuclear tests, the dams on the Narmada or of the US war on Iraq she has sought to remind Indians and indeed the inhabitants of the world of the human costs of nuclear technology, development and war.

Her voice matters in contemporary India because her essays though crafted in a highly individual, poetic and literary voice, 'rose from the heart of a crowd'. She characterised her own writing as not 'neutral commentary', but rather as 'just another stream that flowed into the quick, immense rushing currents that I was writing about.' By writing about issues which the powerful would rather forget, she forged her 'contribution to our collective refusal to obediently fade away'. As a writer she has been unafraid to tackle difficult and controversial issues. In a constitutional democracy, such voices even if they shock or disturb the government ought to have free play, because dissent is the beating heart of a democracy.

Mahatma Gandhi spoke about the importance of dissent most powerfully during his prosecution for sedition in colonial times:

"Section 124-A under which I am happily charged is perhaps the prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen. Affection cannot be manufactured or regulated by law. If one has no affection for a person or system, one should be free to

give the fullest expression to his disaffection, so long as he does not contemplate, promote or incite violence..."

'Speech' in Gandhi's words, should have the 'fullest expression', with the only limit point being the promotion of violence. The jurisprudence of the Supreme Court also limits the understanding of sedition to speech which directly results in or incites violence. In Balwant Singh v. State of Punjab in 1995, the Supreme Court adjudicated the question as to whether shouting slogans including, "Khalistan Zindabad" in a crowd the day Indira Gandhi was assassinated amounted to sedition. The Supreme Court noted, 'We find it difficult to hold that upon the raising of such casual slogans, a couple of times without any other act whatsoever the charge of sedition can be founded.' The Supreme Court went on to chastise the policemen who filed the case, stating that, 'It does not appear to us that the police should have attached much significance to the casual slogans raised by two appellants, a couple of times and read too much into them' Indian democracy is not so fragile as to be threatened by the expression of a dissenting opinion. The LG granting sanction to prosecute is a particularly egregious and constitutionally suspect exercise of state power as is evidenced by the fact that even thirteen years post the utterance of the words those words have not resulted in any violence.

Arundhati Roy is being

prosecuted for 'worrying the edges of the human imagination' for writing as if 'the only thing worth globalizing is dissent' and believing that

dissent is 'India's best export'. This is a tragedy for a country which prides itself as being the 'mother of democracy'.

The PUCL demands that the prosecution be withdrawn with immediate effect against both Arundhati Roy and Sheikh Showkat Hussain.

PUCL MAHARASHTRA CONDEMNS THE ARREST OF TWO MUMBAI ACTIVISTS BY MANKHURD POLICE

PUCL MAHARASHTRA STATEMENT

Democracy demands that right to protest be protected, not brutalized and punished!

PUCL Maharashtra condemns the arrest of two young Mumbai activists, Ruchir and Supreeth by the Mankhurd Police last night, in connection with a protest against the Israeli government's ongoing violent attacks impacting civilians in Palestine, in line with similar protests taking place in multiple locations globally and in the country.

Ruchir has complained of being beaten by the police after being picked up from the protest site and also at the police station. When Supreeth went to the police station to secure his release, he was also arrested. Among other sections applied for violating prohibitory orders under section 144 of the Criminal Procedure Code, 1973 ("CrPC") and section 37 of the Maharashtra Police Act, it appears that they have also been charged with offences under sections 353 and 332 of the Indian Penal Code, 1860 ("IPC").

They were produced before the holiday court being the Dadar Shindewadi BMC court today when the visible police beatings were reported and complaint in that respect was filed by Adv Shahbuddin representing the

accused activists and accompanied by Adv Pritha. The Magistrate inspected the wounds in chamber, recorded the statement of Ruchir in court and ordered for medical to be conducted today itself and for the medical report to be made available on Monday. The application for police custody made by the police was rejected by the Magistrate and both the activists have been remanded to judicial custody and matter is placed before the regular court on Monday. While the lawyers made requests for copies of the FIR and remand application, the same have not been provided by the police as yet. Accordingly, even the exact nature of allegations are not known.

Even before these arrests, the police had detained 4 activists under section 151 CrPC, who were subsequently released. Section 151 CrPC which provides for preventive detention can only be invoked if there is threat of a cognisable offence being committed. However the police illegally detained the activists in connection with protests that had been announced and to prevent them from attending the protests and not from committing any cognisable offence.

Sections 332 and 353 IPC

which pertain to obstruction and assault on police officers have been made draconian since the 2017 Maharashtra state amendment, by making the offences cognisable, non bailable, sessions triable and punishable upto 3-5 years. It is observed that these offences are being rampantly misapplied and misused against civilian protestors, journalists and activists in the course of exercising their fundamental rights and performing their fundamental duties, and also creating hurdles in their legitimate work and democratic expression. Similarly, section 151 CrPC is also being misused to punish the simpliciter act of applying for protest permission or planning to organise or attend a protest, which from no angle is a crime let alone a cognisable offence. Meanwhile, the city has witnessed a continuous application of prohibitory orders under Section 144 CrPC and/or Section 37 MPA on the one hand, and the rampant denial of protest permissions by the police to civil society activists and civilian groups on the other, rendering the legitimate right to protest ineffectual and facilitating the criminalization and curbing of peaceful and democratic protests.

The Maharashtra state government must take

immediate steps to roll back the amendments made to sections 353 and 332 IPC and issue strict instructions (and appropriate guidelines) to the police stations to ensure that the said sections as also section 151 CrPC are not misapplied and misused against peaceful protestors and civilians. PUCL Maharashtra believes that the continued abuse of these provisions would only lead to silencing of democratic voices and those demanding justice and

accountability. Strict measures also must be taken to end custodial violence and police atrocities, including by holding those in command accountable. The right to protest is a fundamental right of citizens and in the words of the Supreme Court, is the “safety valve of democracy”. It needs to be protected determinedly in the interest of our nation which is built on the fulcrum of that very right.

PUCL Maharashtra also notes,

with distress, that there appears to be a concerted attempt to silence peaceful protests against war and violence. The activists arrested for protesting should be released immediately and the police violence ought to be investigated and erring officials punished to restore the confidence of citizens in the rule of law and in the law enforcement agencies.

Mihir Desai, President
Lara Jesani, General Secretary
PUCL Maharashtra

COMPLAINT TO NHRC DEMANDING IMMEDIATE ARREST OF THE MEMBERS OF ARAMBAI TENGGOL, WHO ATTACKED THE HOUSE OF HUMAN RIGHTS DEFENDER, BABLOO LOITONGBAM

PEOPLE'S UNION FOR CIVIL LIBERTIES

To:
Justice Arun Mishra,
Chairman, NHRC, India

Subject:

1. Immediate arrest of the members of Arambai Tenggol, who attacked the house of Human Rights Defender, Babloo Loitongbam and of Meitei Leepun who have imposed an illegal ban on him from appearing in public platforms.

2. Protection of the life and liberty of Babloo Loitongbam and his family members and providing police security to them at their house in Imphal West district.

Dear Sir,

We are shocked that on 5th October, 2023, the house of senior human rights activist Babloo Loitongbam, of Human Rights Alert, in Imphal West district, Manipur, was attacked

by members of the vigilante organisation, Arambai Tenggol, who threatened to burn his house if he did not issue an apology for his statements against the role of the Arambai Tenggol and the Meitei Leepun in inflaming the Meitei – Kuki conflict. Despite the Imphal police knowing about the incident and having visited the occurrence site, till now no FIR has been lodged. Neither has any protection been provided to Babloo and his family.

This letter is in three parts. Part one is about Babloo Loitongbam, part two about the incident of 5th October, 2023 and part three puts across the demands in this matter.

Babloo Loitongbam: A consistent voice for human and constitutional rights in the North East

Babloo Loitongbam, lives in

Imphal. His address is, Kwakeithel Thiyam Leikai, Imphal West District, PIN-795001, Manipur. He lives in a joint family with his senior citizen parents, his wife who works in the Government of Manipur, and their three daughters and his younger brother's family. They are all law-abiding citizens, highly respected in their society and with no criminal cases against them.

Babloo, has been working in the area of Human Rights for the last 30 years with the organisation called Human Rights Alert and has led the struggle for the repeal against the unaccountable Armed Forces Special Powers Act, 1958. As you are aware, a large number of false encounters were reported from the state of Manipur, carried out by the combined command of the

Army, paramilitary and the state police. From Sharmila who sat on a fifteen years fast in Imphal for the repeal of the law was a researcher in HRA, when she took this decision of sitting on a fast unto death in 2000. Similarly in the case of the killing of Manorama in 2004, and the ensuing huge protests by civil society member, HRA played a very important role to set up a series of dialogues with the Government of Manipur (GoM) and Government of India (GoI), on the concerns of the people of Manipur and women's organisation, demanding justice for Manorama and the end of AFSPA.

Babloo and his organisation, Human Rights Alert, believe in non-violent forms of working towards peace in the region. In every encounter death and other rights violations, they first petition GoI and the GoM for justice, as the case maybe. They also petition statutory bodies of the Indian state, whether NHRC, the SHRC, the NCW, and the judiciary, at all levels, including the District court, the High Court and the Supreme Court. Presently the petition number 129/ 2012 titled, 'Extra Judicial Execution Victim Families Association (EEVFAM) and Human Rights Alert Vs. the State of Manipur and Union of India', is pending before the SC and final arguments are pending. The last ten years saw the SC set up the Justice Santosh Hegde committee which gave its report in 2013, and confirmed several facts alleged in the petitions of EEVFAM and others. We are sure that when the SC finally passed order in the above petition, there will be some

specific and general directions to safeguard, protect and promote human rights of the people in the region. Apart from the above, it is important to highlight another facet of the work of Babloo Loitongbam and HRA, especially in the area of education for human rights. The work in human rights education undertaken by HRA resulted in creating educational materials and conducting human rights trainings all over India. The organisation also associated itself with the implementation of the Supreme Court orders on the Right to Food. This apart, Babloo and his team in Human Rights Alert have been working on other issues of securing 'Economic, Social and Cultural Rights'.

The Incident of October 5th, 2023

From news reports and other eyewitness accounts we have tried to put together a chronology of the attack of 5th October on the house of Babloo Loitongbam by cadres of Arambai Tengol in Imphal West. During the late afternoon hours of Thursday, 5th October, 2023, a group of about 40 to 50 members of the vigilante group Arambai Tenggol came to Babloo Loitongbam's house, in his absence. His younger brother Mr. Loitongbam Canny Singh met them.

They reportedly wanted Babloo to publicly apologise for his comments against the Arambai Tenggol and Meitei Leepun which he had supposedly made in an interview that he gave in May, 2023 when the clashes between Meitei and Kuki had just started. Since Babloo was out of station, his younger

brother spoke to him over the mobile phone as the leader of the Arambai Tenggol Mr. Korunganba Khumam, insisted on speaking with Babloo.

Over the phone Mr. Khumam, told Babloo Loitongbam that he should publicly apologise for the interview he had given to a news-portal for stating that their organisation had started the clashes and that they operate like the RSS.

Babloo Loitongbam tried to communicate gently that since both are working for the society, mistakes can be inherent in anyone's work, and suggested that they meet in person on his return to Manipur Mr. Khumam, lost his temper and shouted and abused Babloo over the phone that he had no right to talk about their organisation's mistake!

All efforts to calm him down did not work and a little later Mr. Khumam and his team let out their fury and started vandalizing Babloo's house. They also reportedly pulled out their guns and threatened his family members. One of the neighbours Mr. Laishram Johnson who tried to reason with them was also beaten. They threw chairs and tables and smashed the doors and windows of the house and also smashed the car of his father which was parked in their courtyard.

Aggressively they demanded from Babloo's brother and daughter who was also in the house, to give them access to the CCTV hard disk, which they took away when they left.

Since Babloo's wife was also at work and Babloo was unavailable, they were very worried for the safety of their parents and children. The threats and intimidation were real.

The Arambai Tenggol cadres gave a deadline to Babloo, through his brother, that if a public apology on video is not received by them by 8.00 pm the same day, 5th October, they would come back and this time seriously threatened to burn down his house. Later over the phone, they persisted with Babloo's brother whether he had received the apology on video and whether it had been uploaded on his Facebook page for public viewing. For the sake of reducing tension, and offsetting the persistent threats, Babloo was left with no option but to apologise on video which was sent to them and reportedly, the situation calmed down a bit thereafter.

We learn that Babloo thereafter informed the matter to the Manipur Security Advisor, Mr. Kuldeep Singh, through WhatsApp, who in turn is said to have asked the DGP, Manipur, to enquire into the matter. Earlier, on the same day, the Meitei Leepun held a press conference and issued a ban order against Babloo and former Dy SP, policewoman Brinda Thounaojam, from making any public appearances on TV or otherwise, until the ethnic tension was over. (The details about the threats, intimidation and violation of the rights of Ms. Brinda Thounaojam will be sent later).

It may be known that this was

not the first attack on Babloo's house, Earlier on 12 May 2023 there was a strong rumour that Arambai Tenggol was going to burn down his house for the same interview. And next morning the Meitei Leepun people came to his house and threatened his family members. That day too Babloo was not home.

On Babloo's return to Manipur, he joined several public meetings and spoke on the ongoing conflict. It is important to point out at this juncture that Babloo Loitongbam was awarded a human right award, the Ng Mohendro Memorial Award, on Irabot day, 30 September 2023 where many Arambai Tenggol volunteers were also present. But no body raised any issue publicly that day.

It is important, given these circumstances, to launch a probe as to why and on whose instigation the attack and ransacking of Babloo's house on 5th October, 2023 took place. It bears repeating that Manipur is witnessing a situation of the total breakdown of the rule of law and the attacks - with impunity - against Babloo Loitongbam's house is a telling evidence of the same. It's imperative that the state government take action against the vigilante groups and send out a clear message that actions such as the forcible entry into the house of a citizen, intimidation of family members and destruction and vandalization of property will not be tolerated in India which is a society governed by the rule of law and the Constitution of India.

The PUCL views the attack on Babloo Loitongbam with due seriousness. It is shocking that the Biren Singh Government has failed to respond and fulfil the basic constitutional responsibility of any government, to protect the lives and liberties of all citizens. Even though the facts reveal the commission of serious crimes on 05th October, 2023 in Babloo's house, when unruly elements of vigilante groups, Arambai Tenggol and Meitei Lipun took law into their own hands, threatened Babloo's family members with guns, ransacked and damaged their car and other household belongings, the police have failed to promptly register an FIR, investigate the crime and arrest the perpetrators.

We would like to point out that five days have passed and no FIR has been lodged nor has any form of investigation undertaken into the incident that occurred on 05th October, 2023 in Babloo Loitongbam's house. The threat, to Babloo's life as also the personal safety of his wife and daughters, and of his aged parents, brother and his family still looms large.

The complete apathy, indifference, inaction and silence of the Manipur State Police strongly supports the view that nothing can be expected of the state police and government by way of safeguarding the life, liberty and property of Babloo and his entire family.

It is under these dire circumstances that the PUCL urges the NHRC to intervene in this incident immediately and

ensure on priority basis, the following:

1. Ensure that, the DGP and the SP (Imphal West) suo motu get a FIR registered in the jurisdictional police station against all the persons involved with the vandalism, intimidation, threatening with pointed guns, coercively extracting an apology from Babloo and beating up the neighbour and other such acts what happened on 5th October, 2023 at Babloo's house, in Imphal West district
2. Arrest the members of Arambai Tenggol, including the leader, who vandalised his home and intimidated the family members and the members of Meitei Leepun who illegally called for a ban against Babloo and another.
3. Security should be provided to Babloo Loitongbam and all his family members as the vigilante groups have issued open threats. They may attack any of the family members again at any time and without warning.
4. NHRC must urgently seek a report from the State Home department, the DGP and SP - Imphal West District, regarding the incident that day.

5. Since Babloo Loitongbam is a human rights defender, and human rights defenders are the eyes and ears of the NHRC, it is incumbent upon the NHRC to urgently conduct its own inquiry in Manipur thereby communicating its seriousness in ensuring the security of Babloo Loitongbam and his family members

6. Write to the Biren Singh Government to protect the freedom of speech and expression of Babloo Loitongbam and all others who may have an opinion at variance with the opinion of other elements in society, especially in today's polarised environment.

7. We would also request the NHRC to formally take notice of similar vigilante threats to the life and safety of former police officer, Dy SP, Ms. Brinda Thounaojam.

We feel the NHRC must immediately register a case and do the needful so that a strong message goes to the Biren Singh Government and the vigilante groups, that they have to be accountable for their violations of law and commission of offences,

including human rights offences.

The NHRC must immediately register a case and take action so that a strong message goes to the Biren Singh Government and the vigilante groups, that they have to be accountable to the Constitution and the rule of law. The NHRC must also ensure that the life, liberty and personal safety of Babloo Loitongbam and his family members are fully protected. We would request that this complaint be registered by you as a part of the focal point section of the NHRC.

With regards,
Kavita Srivastava, President
V. Suresh, General Secretary
People's Union for Civil Liberties
(October 10, 2023)

SECRETARY-GENERAL'S REMARKS TO THE SECURITY COUNCIL - ON THE MIDDLE EAST [OCTOBER 24, 2023]

Mr. President, with your permission, I will make a small introduction and then ask my colleagues to brief the Security Council on the situation on the ground.

Excellencies,

The situation in the Middle East is growing more dire by the hour. The war in Gaza is raging and risks spiralling throughout

the region. Divisions are splintering societies. Tensions threaten to boil over. At a crucial moment like this, it is vital to be clear on principles -- starting with the fundamental principle of respecting and protecting civilians.

I have condemned unequivocally the horrifying and

unprecedented 7 October acts of terror by Hamas in Israel.

Nothing can justify the deliberate killing, injuring and kidnapping of civilians – or the launching of rockets against civilian targets.

All hostages must be treated humanely and released immediately and without conditions. I respectfully note

the presence among us of members of their families.

Excellencies,

It is important to also recognize the attacks by Hamas did not happen in a vacuum.

The Palestinian people have been subjected to 56 years of suffocating occupation.

They have seen their land steadily devoured by settlements and plagued by violence; their economy stifled; their people displaced and their homes demolished. Their hopes for a political solution to their plight have been vanishing.

But the grievances of the Palestinian people cannot justify the appalling attacks by Hamas. And those appalling attacks cannot justify the collective punishment of the Palestinian people.

Excellencies,

Even war has rules.

We must demand that all parties uphold and respect their obligations under international humanitarian law; take constant care in the conduct of military operations to spare civilians; and respect and protect hospitals and respect the inviolability of UN facilities which today are sheltering more than 600,000 Palestinians.

The relentless bombardment of Gaza by Israeli forces, the level of civilian casualties, and the wholesale destruction of neighborhoods continue to mount and are deeply alarming. I mourn and honour the dozens of UN colleagues working for UNRWA – sadly, at least 35 and counting – killed in the bombardment of Gaza over the last two weeks.

I owe to their families my condemnation of these and many other similar killings.

The protection of civilians is paramount in any armed conflict.

Protecting civilians can never mean using them as human shields.

Protecting civilians does not mean ordering more than one million people to evacuate to the south, where there is no shelter, no food, no water, no medicine and no fuel, and then continuing to bomb the south itself.

I am deeply concerned about the clear violations of international humanitarian law that we are witnessing in Gaza. Let me be clear: No party to an armed conflict is above international humanitarian law.

Excellencies,

Thankfully, some humanitarian relief is finally getting into Gaza. But it is a drop of aid in an ocean of need.

In addition, our UN fuel supplies in Gaza will run out in a matter of days. That would be another disaster.

Without fuel, aid cannot be delivered, hospitals will not have power, and drinking water cannot be purified or even pumped.

The people of Gaza need continuous aid delivery at a level that corresponds to the enormous needs. That aid must be delivered without restrictions.

I salute our UN colleagues and humanitarian partners in Gaza working under hazardous conditions and risking their lives to provide aid to those in need. They are an inspiration.

To ease epic suffering, make the delivery of aid easier and safer, and facilitate the release of hostages, I reiterate my appeal for an immediate

humanitarian ceasefire.

Excellencies,

Even in this moment of grave and immediate danger, we cannot lose sight of the only realistic foundation for a true peace and stability: a two-State solution.

Israelis must see their legitimate needs for security materialized, and Palestinians must see their legitimate aspirations for an independent State realized, in line with United Nations resolutions, international law and previous agreements.

Finally, we must be clear on the principle of upholding human dignity.

Polarization & dehumanization are being fueled by a tsunami of disinformation.

We must stand up to the forces of antisemitism, anti-Muslim bigotry and all forms of hate.

Mr. President,
Excellencies,

Today is United Nations Day, marking 78 years since the UN Charter entered into force.

That Charter reflects our shared commitment to advance peace, sustainable development and human rights.

On this UN Day, at this critical hour, I appeal to all to pull back from the brink before the violence claims even more lives and spreads even farther.

Thank you very much.

MARRIAGE EQUALITY JUDGMENT NOT ON CONSTITUTIONAL MORALITY: "DISAPPOINTING, BUT THE FIGHT WILL GO ON"

PUCL PRESS STATEMENT

Consensus by five judges: Right to Marry not a fundamental right per se: a departure from international law

The PUCL expresses its deep disappointment with respect to the verdict of the Supreme Court in 'Supriyo v Union of India' denying the right to marry to the LGBTQI community. While there were four opinions among the five judges, it is unfortunate that the bench was unanimous in declaring that there is no fundamental right to marriage. This is disturbing as the foundation of the claim for equal right to marriage is based on an understanding that the right to marry is a fundamental right. The Supreme Court seems to have ignored that the founding document of international human law, the Universal Declaration of Human Rights recognizes the right to marry and found a family. While the Supreme Court has on numerous occasions read provisions of international human rights law including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) into Article 21, its surprising that it balked when it came to the question of marriage equality.

Consensus that the Special Marriage Act cannot be interpreted in a gender-neutral manner.

It is also disappointing that the Court unanimously rejected the

petitioner's plea to interpret the Special Marriage Act in a gender-neutral manner so as to include the right of same sex couples to marry. The Court cited the fear of tampering with this legislation because it was connected to a 'spider-web' of laws the complexity of which required a legislative intervention rather than a judicial fiat.

The majority opinion of Justices Ravindra Bhatt, Hima Kohli and PS Narasimha clearly stating that this was a legislative domain into which they would not intrude as it was the responsibility and domain of the state which 'can undertake wide scale public consultation, consensus building' and then enact a law that reflects the 'will of the people'.

Consensus on Heterosexual transgender marriages

All five judges agreed with the proposition that a 'transgender man has the right to marry a cisgender woman under the laws governing marriage in the country, including personal laws. Similarly, a transgender woman has the right to marry a cisgender man. A transgender man and a transgender woman can also marry. Intersex persons who identify as a man or a woman and seek to enter into a heterosexual marriage would also have a right to marry. Any other interpretation of the laws governing marriage would be contrary to Section 3

of the Transgender Persons Act and Article 15 of the Constitution'.

While this is to be welcomed, it has to be noted that the transgender community occupies a spectrum and not everyone transitions from one gender to another with many choosing to identify as non-binary and others choosing to express their gender without necessarily going in for a transition. Nonetheless, this is a step forward and will be of great assistance to a section of the transgender community in the time going ahead.

The minority judgement shows the way forward.

Minority opinion: The right to 'intimate association' a part of the 'right to association' in Article 19(1) (c), Article 21 and Article 25.

If there is a sign of hope it was in the minority opinions of Justice Chandrachud and Justice Kaul when they read the right to 'intimate association' into the 'right to association' in Article 19(1) (c) as well as into Articles 21 and 25. They laid down that that the state was duty bound to grant rights to those in such intimate associations including labour law benefits, insurance benefits and other such ancillaries of a union or an intimate association.

Minority opinion: No prohibition to unmarried couples from adopting children

Further the two justices made the case that CARA guidelines which prohibited unmarried couples from adopting must be read down and the right of unmarried couples to adopt should be recognized.

Directives by the Minority judgement : No discrimination and police harassment because of gender identity or sexual orientation'

It is also disappointing that the minority judgment's laying down of numerous directives did not persuade the majority. The minority directed, inter alia, that the 'Union Government, State Governments, and Governments of Union Territories' to 'ensure that the queer community is not discriminated against because of their gender identity or sexual orientation'. They also directed, inter alia, the police machinery to ensure that 'There shall be no harassment of queer couples by summoning them to the police station or visiting their places of residence solely to interrogate them about their gender identity or sexual orientation'.

Judgement creates no new rights , but not homophobic or stigmatising towards the LGBTQIE+ community

Even as we rue the passing of this missed opportunity to take forward the rights of the LGBTQI community, we are heartened by how much the ground has shifted from the open homophobia of yesteryears. This judgment unlike the re-criminalisation judgment in 2013 is at pains to avoid describing the community in stigmatizing terms. Even the judges

who denied the right to intimate association go to great lengths to clarify, that the rights recognized under 'Nalsa v Union of India' (2014) and 'Navtej Singh Johar v Union of India' (2018) in here in LGBTQI persons.

Fight back important to assert Constitutional Morality over social morality

Undoubtedly the community will take forward the battle for marriage equality using legislative and parliamentary fora, streets as well as the courts. This fight back is important as this judgment is a setback to the wider human rights movement as well. There is a setback to the liberalization of social mores as well as a return to a more patriarchal social morality. The judgment is an implicit victory for conservative forces which privilege social morality over constitutional morality.

The justice of this cause, rooted as it is in the deepest constitutional morality, can't be denied. Nobody expressed the hope of a new dawn better than a black American gay poet, Langston Hughes in his poem, 'A dream deferred'

*What happens to a dream deferred?
Does it dry up
Like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?
Maybe it just sags
like a heavy load.
Or does it explode?*

We are confident that the dream of marriage equality will be realised soon.

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