

Editorial: Universal Declaration of Human Rights at 75 years: An ode to the rights of humankind!  
Relevance of human rights in the midst of killing fields of unaccountable states

## UNIVERSAL DECLARATION OF HUMAN RIGHTS AT 75 YEARS: AN ODE TO THE RIGHTS OF HUMANKIND!

### RELEVANCE OF HUMAN RIGHTS IN THE MIDST OF KILLING FIELDS OF UNACCOUNTABLE STATES

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*"The worst. Ever. And I don't say that lightly... 68% of the people killed in Gaza are women and children. They stopped counting the number of children killed. Nobody goes to school. Nobody knows what their future is. Hospitals have become places of war. No, I don't think I have seen anything like this before. It's complete and utter carnage."*

- Martin Griffith, UN Under-Secretary General for Humanitarian Affairs and Emergency Relief

The chilling words of Martin Griffith, one of the world's most experienced conflict mediators of innumerable wars, about the killing fields in Gaza, with over 14,500 Gazans killed including over 5000 children, should make the world community take a pause. In a manner never before seen, the entire world has been witness to one of the most brutal, relentless and murderous bombardment of Palestinian civilians by Israeli Defence Forces following the 7th October killing of 1200 Israelis by Hamas. The tacit support and complicity of the US, UK and many European countries stands out. They continue supply of sophisticated arms, ammunition, missiles and intelligence sharing

to Israel. The moral support, justifying the Israeli action as the 'right to self defence' and blocking international action to pressure Israel to agree to a ceasefire, highlights the perilous nature of the grandstanding of the global western powers.

Throughout the last 45 days of the war on Gaza by the Israelis, and the fawning support extended by the major western powers, the only meaningful and hope generating actions came from the UN Secretary General, Antonio Guterres, who reminded the world that while the killing of innocent Israeli civilians by Hamas on 7th October has to be unequivocally condemned, the sudden incident did not happen in a 'vacuum'. Despite the vitriolic attack by Israeli leaders and their western allies, the Heads of various UN agencies and the Special Rapporteurs refused to be bullied into silence by the Western countries, repeatedly drawing attention to the unparalleled and unprecedented humanitarian catastrophe that the war on Gaza had become and repeatedly demanding that a humanitarian ceasefire be

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announced between the various groups to the conflict. They have also drawn attention to the fact that, at stake was also the plight of Israeli hostages. UN officials have repeatedly called attention to the fact that the plight of the Gazan residents represents a crisis of humanity, with the peril of seriously impairing and destroying faith in the UN order.

The efforts of the UN have not gone in vain; the growing revulsion across the world, has finally forced the reluctant Israelis as also their main supporter, the US, and Hamas, through the agency of Qatar as mediator, to agree to a ceasefire, in whatever name it is called, so that humanitarian aid can be reached to the millions of suffering Gazans. The truce package, though not officially announced as on date, would hopefully include release of hostages as also innocent Palestinians – women, children and youth - imprisoned by Israel.

It is in this historical context that yet another historical event for citizens of the globe will dawn. On 10th December, 2023, we will mark the 75th Anniversary of the adoption of the Universal Declaration of Human Rights (UDHR) on 10th December, 1948.

The 75th anniversary of the UDHR provides an occasion to reflect upon human rights and its futures. The UDHR is itself a revolutionary document because of the values it articulates. By revolutionary, we mean that the UDHR mandates a change in the way human beings relate to each other, in the direction of treating each other as human beings who are equal in dignity and rights.

The core of what the UDHR means can be captured in Article 1 of the UDHR which mandates that, '*All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.*'

Why this is revolutionary is because it mandates that there are no lesser rights based on gender, nationality, religion or caste or any other marker. It calls upon us to fundamentally transform the way we relate to each other and cultivate a way of relating to each other, based on respecting the equal dignity of all persons. The UDHR apart from being addressed to nation states speaks to each of us. It is a call for each of us to practice an 'ethic of the self' based on the ideals of freedom, equality and dignity.

Reflecting upon the 75th anniversary of the UDHR, it's interesting to note that Indians had an imprint on the document. Of seminal importance is the contribution of Hansa Mehta who was not only part of the Drafting Committee of the UDHR but also a member of the Constituent Assembly. In fact she was one of the 15 women in the Constituent Assembly and one of the 'founding mothers' of the Indian Constitution. Hansa Mehta was the one who proposed that the word men in the UDHR be replaced by the more inclusive word human beings. Her proposal was accepted and if today the UDHR is inclusive of gender, we owe a debt of gratitude to Hansa Mehta.

Another important contribution to the drafting of the UDHR was by

Mohammad Habib, a delegate from India. Article 18 of the UDHR which guaranteed the 'right to freedom of thought, conscience and religion' included the 'freedom to change his religion or belief'. This liberty to change one's religion in the UDHR was opposed by Saudi Arabia, as in Saudi Arabia's viewpoint, there was no need to mention the right to 'change one's religion'. However the proposed amendment to drop this sub-clause was vigorously opposed by the Indian delegate, Mohammed Habib who said that 'the Indian constitution included "the right to convert or be converted; that applied to the 40 million Moslems of India as well as to all others. The adoption of the Saudi amendment would be "a tragedy;" he said. Eventually the Saudi amendment was defeated and today the UDHR guarantees the right to 'change one's religion'.

Going beyond the shores of India, the UDHR is important as it is the first international recognition that human beings have rights. States cannot do what they want with their citizens because states are sovereign within their territories. One cannot any more argue that just as a farmer is entitled to kill his chickens, states can do what they want their citizens!

The UDHR laid the foundation for the emergence of human rights organisations and human rights activism worldwide. Both Amnesty International and Human Rights Watch emerged as defenders and protectors of the concept and values enshrined in the UDHR. The

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UDHR gave global civil society a language in which a critique of state actions could be mounted. The fact that states had signed on to the UDHR made it possible for civil society to press states to be accountable to the values they had agreed to be bound by.

On the 75th anniversary of the UDHR, there is a deep frustration with the fact that rights are there on paper but violated in reality. We see the hypocrisy of human rights, with the western powers (rightly) supporting Ukraine in defending itself against the aggressor Russia, but refusing to condemn Israel for its violations of human rights and humanitarian law.

However, taking the example of Israel's long ranging assault on the rights of Palestinians, it's important to note that human rights continues to function as an important language through which we can demand accountability. The decades of work by the United Nations through its Special Rapporteurs,

Commissions of Inquiry as well as the agencies like WHO and UNICEF, as well as Palestinian and Israeli human rights organisations have produced authoritative, credible documentation of the rights violations committed by Israel. If today we criticise Israel's conduct the criticism draws heavily from human rights language, concepts and documentation. In particular the work of Palestinian human rights organisations such as AL-Haq, Palestinian Centre for Human Rights and Al Mezan Center for Human Rights has been nothing short of courageous and exemplary. Embodying Article 1 of the UDHR's invocation of the 'spirit of brotherhood' we have Israeli human rights organisations such as B'Tselem which document and advocate against Israeli apartheid policies.

Human rights is still the language through which we can uncover and expose the injustices perpetrated by the powerful. It is a tool which can be used by the

powerless against the powerful.

The UDHR is a foundational document which represents a crystallisation of the values of freedom, equality and dignity - values which were sought to be destroyed by the Nazi regime. The UDHR universalizes the horrific experience of Nazi persecution into an understanding that persecution of any human being is wrong. The UDHR is thus a significant contribution to the 'moral storehouse of mankind'.

Rights emerge from grassroots struggle and become a part of the moral memory of mankind. It is our job as a human rights organisation to protect and defend these values enshrined in the UDHR which are even more imperilled today. It is for these reasons that we mark the 75th anniversary of the UDHR as part of a global human rights movement through this special issue.

*(November 23, 2023)*

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## MESSAGES MARKING 75TH ANNIVERSARY OF INTERNATIONAL HUMAN RIGHTS DAY

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**AAKAR PATEL**

December 10, 1948 is, and certainly should be, as important a date as August 15, 1947 and January 26, 1950.

Human Rights Day is the only day that is celebrated globally, no matter what nation one belongs to and no matter what faith one is born into. It marks the adoption of landmark document that is universal and eternal.

The Universal Declaration of

Human Rights is a document that acts like a global road map for freedom and equality – protecting the rights of every individual, everywhere. It was the first time countries agreed on the freedoms and rights that deserve universal protection in order for every individual to live their lives freely, equally and in dignity.

The UDHR was adopted by the newly established United Nations on 10 December 1948, in response to the “barbarous acts which... outraged the conscience of mankind” during the Second

World War. Its adoption recognized human rights to be the foundation for freedom, justice and peace.

Work on the UDHR began in 1946, with a drafting committee composed of representatives of a wide variety of countries, including the USA, Lebanon and China. The drafting committee was later enlarged to include representatives of Australia, Chile, France, the Soviet Union and the United Kingdom, allowing the document to benefit from

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contributions of states from all regions, and their diverse religious, political and cultural contexts. The UDHR was then discussed by all members of the UN Commission on Human Rights and finally adopted by the General Assembly in 1948.

India was represented in the stages of drafting by Hansa Mehta, Minoo Masani and Lakshmi Menon, who made a series of substantive contributions to the numerous articles that made up the UDHR.

As the scholar and activist Miloon Kothari has noted, changes India influenced included:

1. Women's rights (India insisted on the word 'men' be replaced with 'human beings');
2. Non-discrimination (India added the words 'colour' and 'political opinion' as criteria for non-discrimination);
3. Freedom of movement (India added the article calling for freedom of movement within a country);
4. The right to work (India added the principle of 'just and favourable conditions of work');
5. Secularism, multiculturalism, cosmopolitanism, indivisibility and the universality of all human rights.

The Declaration outlines 30 rights and freedoms that belong to all of us and that nobody can take away from us. The rights that were included continue to form the basis for international human rights law. Today, the Declaration remains a living

document. It is the most translated document in the world.

The UDHR is a milestone document. For the first time, the world had a globally agreed document that marked out all humans as being free and equal, regardless of sex, colour, creed, religion or other characteristics.

The 30 rights and freedoms set out in the UDHR include the right to be free from torture, the right to freedom of expression, the right to education and the right to seek asylum. It includes civil and political rights, such as the rights to life, liberty and privacy. It also includes economic, social and cultural rights, such as the rights to social security, health and adequate housing.

The UDHR is, as its title suggests, universal – meaning it applies to all people, in all countries around the world. Although it is not legally binding, the protection of the rights and freedoms set out in the Declaration has been incorporated into many national constitutions and domestic legal frameworks.

The Declaration has also provided the foundation from which a wealth of other legally binding human rights treaties have been developed, and has become a clear benchmark for the universal human rights standards that must be promoted and protected in all countries.

The UDHR continues to serve as a foundation for national and international laws and standards. For organizations like Amnesty who are committed to protecting

and fighting for human rights, it acts as a guiding inspiration for our mission and vision.

Let us end with an excerpt from a newspaper article from three years ago. This was at the beginning of the most successful mass mobilisation seen in the recent era. Those who had gathered were peasants and agriculturalists and protesting for their rights, but they stood for all dissenters, no matter how vilified and no matter how much abuse would be directed their way in standing for them.

At Delhi's Tikri border on December 11 2020, posters of several activists who have been arrested across the country over the past few years were put up during the farmers' protest.

Posters of activists Sudha Bharadwaj, Arun Ferreira, Vernon Gonsalves, poet-activist Varavara Rao, Pinjra Tod members Natasha Narwal and Devangana Kalita and JNU student Sharjeel Imam and former student Umar Khalid, among others, were held up by protesting farmers to mark 'Human Rights Day'. All have been booked under the Unlawful Activities (Prevention) Act (UAPA) in different cases.

While the biggest protest site at present is at the Singhu border, farmers also have been sitting at the Tikri border for two weeks now. The farmers have maintained since the beginning of their protest that political issues, other than those related to farmers' welfare, will not be raised from the protest stage.

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Joginder Singh Ugrahan (75), president, Bharatiya Kisan Union (Ekta Ugrahan), explained why his group was protesting for those who are incarcerated. "This was done to celebrate Human Rights Day. These are prisoners who fought for the underclasses and their rights. We are also fighting for your rights, which the government is trying to take away from us," he said.

This is the true spirit of Human Rights Day, and the most noble way in which it can be celebrated and marked: By standing up for the rights of others.

*Aakar Patel is a writer and journalist whose most recent work is a work of fiction, 'After Messiah'. He is also a member of PUCL-Karnataka.*

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## KUSAL PERERA

This year the International Human Rights Day comes amidst a human carnage being carried out in Palestinian lands occupied by the Israeli forces, endorsed, and supported by Western powers, who are also decision makers in global politics. They want the world to accept Israel's unconditional right to defend itself against Hamas organisation despite civilians including children being carpet bombed in thousands. For such carnage they opted against any resolution for a ceasefire in Gaza.

As a campaigner for HR and democracy in the only nation State in South Asia that had gone through an unwanted protracted 25 year long war New Delhi is also directly

responsible for training and funding armed Tamil youth groups including the LTTE, I remain very much concerned in how the Modi government responds to genocidal onslaughts of Israel against Palestinian people. How the mainstream Indian media that was not so concerned about the North-East Indian rampages a few months ago, now have embedded journalists with the Israeli armed forces, giving large cover to Israeli mass murders as "war against Islamist terrorists". I remain concerned in how mass murder including children in Gaza by Israeli forces is interpreted as war against Islamist terrorism and linked to havoc created in Mumbai in 2008 called the 26/11 terror attack.

From Colombo I watch with critical concern the position adopted by the Modi government in abstaining on the UN Resolution for an Israeli ceasefire on Gaza that in effect is an "aye" by India for continued massacre of children and Palestinian civilians. Concerned too the media is on an anti "Islam terrorism" campaign that could strengthen violent Hindutva presence. Majoritarian racism do have spillovers across geographical boundaries in this region.

New Delhi justifying this Israeli massacre is also about Modi government's new alliance with Israel on military hardware trade. Corrupt as they are, governments use the newly conceptualised theme on "National Security" for weapons and ammunition trade and governments in South Asia are no different. Post 9/11, with President Bush promoting war

against "global terrorism" focused on armed Islamist terror groups, the concept of "national security" is being promoted with all governments continuously strengthening their military strength.

National security has no clear definition and is not about "People". During the past two decades, it has been about exploiting hi-tech for intelligence gathering and modernising security forces. In short "national security" is about curbing democracy. About restricting Fundamental Rights. About strengthening the State as a modern oppressive agency with military presence and with heavy cost on tax payers. It is accepted with much certainty, security and military intelligence agencies in neighbouring countries exchange information, even without governments' knowledge and consent. That says how militarisation of society takes place with regional collaborations to strengthen security forces and create space for "Deep State" encroachment on the political establishment.

Militarisation of societies with "national security" venerated and projected as a major national necessity is yet not given serious attention even within civil society campaigns for human rights and democracy. Thus, there is no questioning as to why military budgets keep increasing when democratising of the State and social life could reduce conflicts within and across borders. There is no questioning, why the Indian defence budget has ballooned from USD 5.4 billion in 1980 to USD 10.4 in 1990

and USD 72.9 billion in 2020. No questioning why the Pakistani defence expenses despite its “mili-bus economy” with sketchy accounts was still raised by 15.5 percent for the year 2023-24 over the previous year. [“Milibus” is a term coined by noted Pakistani journalist Ayesha Siddiqi to refer to “military business” or the way by which the Pakistani military leadership has used military capital to invest in many business and industrial projects controlled by them for the personal benefit of the military fraternity thereby becoming influential players both economically and politically.] In Sri Lanka, defence expenses totalling USD 280 million that took care of the war in 2009 has been increased to USD 1.5 billion in 2023 with no conflicts, no insurgency and with no external threats in sight.

This is so in all SAARC member countries, and this should be publicly questioned. Questioning of defence budgets, I believe should be within a People’s Campaign for regional democracy that would lay down conditions to divert a decent percentage of defence budgets for environmental safety. Demand that money should be channelled into a SAARC Fund for Carbon (CO2) Control in the region. Environment served lavishly with rhetoric, while devastations and pollution continues unabated is a major issue that needs pragmatic and urgent answers, while regional democracy in its functional form would prove national security irrelevant and militarisation unnecessary in answering social unrest, armed or not. It is regional democracy that would

prove national security and militarisation is directly linked to global arms and weapons trade controlled and dominated by permanent members of the UN Security Council.

This International Human Rights Day for South Asia should therefore be about de militarising of society and opposing arms and weapons trade in this region for democracy and environmental safety.

*Kusal Perera is a Journalist and Political Commentator in Colombo, Sri Lanka,*

### SUDHA BHARADWAJ

On 10th December 2023, we shall observe the 75th anniversary of the Universal Declaration of Human Rights (UDHR).

The UDHR was born when the Second World War had just ended, causing more than 5.5 crore military and civilian casualties and another 2 crore deaths from war related diseases and famine, and people all over the world wanted an end to wars and genocide. On the other hand, there was the enormous hope generated by the liberation of more than 60 nations of Asia and Africa from colonial rule and occupation to gradually enter the fraternity of the United Nations as free and equal partners.

It is tragic then, that the 75th anniversary shall be observed amidst bombs falling on refugee camps, attacks on hospitals and ambulances, and more than 11,000 casualties in the Gaza

strip – largely women, and children; after the United States has used its veto (for the 46th time in the context of Palestine) on a Brazil-led Resolution on 27th October; and finally after the passing of a Malta-led UN Security Council Resolution 2712 on 15th November by a vote of 12 in favour to none against, with 3 abstentions (Russian Federation, United Kingdom, United States), by which it has called for “urgent and extended humanitarian pauses and corridors through the Gaza Strip to facilitate the provision of essential goods and services.”

Clearly war, occupation, genocide and the inequality of nations continues. The year 2022 recorded the largest number of refugees ever documented – more than 34 crore.

According to the World Inequality Report 2022, prepared under the leadership of Lucas Chancel and coordinated by Thomas Piketty, Emmanuel Saez and Gabriel Zucman - while the gap between the average incomes of the richest 10% of countries and the average incomes of the poorest 50% of countries did drop from around 50 times to a little less than 40 times over the last two decades, inequalities have increased significantly within countries. The gap between the average incomes of the top 10% and the bottom 50% of individuals within countries has almost doubled, from 8.5 times to 15 times. A tool that this Report uses to understand these inequalities is to focus on the gap between the net wealth of governments and

and net wealth of the private sector. It comments, *“Over the past 40 years, countries have become significantly richer, but their governments have become significantly poorer. The share of wealth held by public actors is close to zero or negative in rich countries, meaning that the totality of wealth is in private hands. This trend has been magnified by the Covid crisis, during which governments borrowed the equivalent of 10-20% of GDP, essentially from the private sector. The currently low wealth of governments has important implications for state capacities to tackle inequality in the future, as well as the key challenges of the 21st century such as climate change. .... Global multimillionaires have captured a disproportionate share of global wealth growth over the past several decades: the top 1% took 38% of all additional wealth accumulated since the mid-1990s, whereas the bottom 50% captured just 2% of it.”*

Clearly inequality, the concentration of wealth has not reduced either. It is estimated by the International Labour Organisation that nearly 5 crore people were victims of “modern slavery” in any day of 2021. And yet, is there hope? Yes, of course. The tens of thousands of people defiantly marching in the UK and the USA for immediate ceasefire in Gaza despite the stand of their governments. The resurgence of union struggles all over Europe demanding better wages and pensions and union rights. The fact that in May 2023, The Economist bemoaned that, *“Across Latin America, 12 of 19 countries are*

now run by left-wing governments. They represent 92% of the region’s people and 90% of its GDP”. In our own country - the remarkable one-year long movement of the farmers at the borders of New Delhi demanding the roll-back of pro-corporate farm laws; or the equally remarkable nationwide movement against the Citizenship Amendment Act and its discriminatory anti-minority provisions.

The governments may not be, but the people of the world stand with the spirit of the Universal Declaration of Human Rights. Against inequality, discrimination, torture and unjust incarceration; and for the freedom of expression, association and self-government. We shall overcome.

*Sudha Bharadwaj is a human rights lawyer, trade unionist and most recently, author of ‘From Phansi Yard: My Year with the Women of Yerawada’.*

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### SHEEMA KIRMANI

*“Distance does not count in love. If you love me, I am with you even if you are a distance of thousands of miles”.*

- Haji Syed Waris Ali Shah

For both my parents the distance from the land where they were born to the land that they had migrated to was not to be counted; in their hearts lived their *‘watan’* – for him it was Barabanki, UP, the erstwhile province of Awadh, for her it was Hyderabad Deccan. Their childhood and their past they cherished and carried with them as an essential part of their

being. They had strong roots in the soil they grew up in, the soil where our ancestors had been buried for the past six hundred years or more.

My parents got married in 1948 in India, a year after the tragedy of the partition of the sub-continent - a tragedy that affected the lives of millions of people who witnessed horrendous violence. Families separated, torn apart, displacements, deaths, rape, loot, murder and the refugee problem which continues, more so in Pakistan than in India.

1948 was also the year when the Universal Declaration of Human Rights was established by the United Nations. An important aspect of this declaration is the recognition of cultural rights and this is what I would like to focus on. It was hoped that there would be a greater recognition of human rights-respecting cultural mixing and syncretism and increased respect for mixed cultural identities – but unfortunately that has not happened!

My two siblings and I were born in Pakistan. It is in Pakistan that my parents are buried. My journey as an artist has been intertwined with my search for a cultural identity. I believe that for an artist to be creative it is so important to be deeply rooted and in sync with one’s cultural history and heritage. Culture is what forges our identities. I believe that for human rights to be attained, one’s material, intellectual and spiritual needs must be taken into account. With this idea in mind, I set up in 1978, a feminist cultural group and

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called it Tehrik-e-Niswan. The main aim has been and continues to be, to try and integrate art and politics, with especial emphasis on women's rights and the rights of all the marginalised. In a society where there is constant conflict, art, if it is truthful, reflects the conflict and the decay. It shows the world as changeable and can help to change it.

I grew up in Karachi which was a cosmopolitan city; it was a multilingual, multi denominational, multiracial city. I cherish the fact that we have a great many languages, religious denominations, literatures, traditions of music and dance and great many distinct cultural traditions within us. Many different communities and groups used to live here. Marriages between these groups were common, as were those between Sunnis and Shias. Religious and cultural practices tended to accommodate a wide spectrum of customs and traditions. Given that my family came from the beautiful mix of the Ganga-Jamuni culture, our home was totally secular. Thus, we would celebrate the ancient Zoroastrian-Persian Nowruz, or New Year as well as Diwali. Muharram would be respectfully observed, and music, jewellery, bright colours and all celebrations were eschewed during this solemn month of mourning and remembrance. We also celebrated Christmas and Easter. There is something very comforting and deeply humane about a country so heterogeneous. When I was studying in Karachi I had four Parsi girls, three Hindus and five Christian girls in my class. Sadly today you find only Muslims –all others have left the country! It is

the very suppression of all of this that has been the greatest tragedy of Pakistan. Only if we can revive our links with what we have lost we may be able to survive. Clearly the need is for a human rights-based approach to questions of mixed cultural identities, cultural mixing and syncretism. Such an approach is grounded in interrelated commitments to the universality of human rights and cultural diversity.

One is always amazed to discover the various elements that become part of traditions and culture. I have always believed that it is not religion alone that creates different cultures! In fact, living in Pakistan one has for the last so many years been told that dance is not part of our culture and that it is part of Indian culture; by calling it Indian culture 'they' obviously imply that it is part of Hindu life and not Muslim life. Therefore dance still remains a taboo subject in Pakistan. This division of culture on the basis of religion has been totally unacceptable to me. I became a classical dancer and a theatre practitioner in this environment. My experience in the field of performing arts has reaffirmed my belief that it is not religion but the patriarchal system that determines the status of women and the status of artists in society.

In recent years, since the rise of religious fundamentalism, increasingly monolithic notions of culture and identity and purist views of the interrelationships of diverse cultures have taken hold. Those of us who come with an understanding that cultural mixing and syncretism, or the

blending, combining and merging of various cultural elements, representations and meanings, are the basis of a dynamic human culture find it increasingly hard to cope with the theory of a single monolithic cultural narrative, because we believe that our cultural lives and our basic human rights are all connected.

Religious fundamentalism plays a huge role in the context of political repression. We have to come into a dialogue with our past and our future. We cannot have a single totalitarian identity. This dialogue is necessary to build a civilized, just society, to strengthen peoples power, to develop a culture of peace.

So from Lucknow and Hyderabad Deccan to Karachi, where my parents lived for most of their lives and where they died, the distance does not count!

*Sheema Kermani is a Pakistani classical dancer and social activist. She is the founder of Tehrik-e-Niswan Cultural Action Group (Women's Movement). She advocates on culture, women's rights, and peace issues.*

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## LAXMINARAYAN RAMDAS

The World remembers that the Universal Declaration of Human Rights adopted in 1946 and published in 1948 – marking 75 years! But today we mourn the deaths and condemn the continuing violence in Palestine.

I, Laxminarayan Ramdas, better known as 'Ramu', joined the Indian Navy in 1949 as a raw teenager, with fire in my belly,



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and a burning passion to serve my newly independent nation and her people. By a strange coincidence, my trajectory in the newly minted armed forces and that of a newly minted nation, were closely intertwined. I joined as a 15 year old cadet and I ended up heading the service I had served for over 40 years, as the Navy Chief – retiring at age 60 in Sept 1993.

One of the early lessons we learned from our teachers and mentors at the Joint Services Wing – the precursor of the National Defence Academy – was loyalty to the newly adopted Constitution. We studied and discussed our inspiring Preamble, which summed up all the aspirations of a people who won freedom from colonization. We resolved to build a just and fair society where we would eliminate poverty and hunger, caste and creed, and above all, establish a spirit of Fraternity. The idea of Universal Human Rights for all mirrored the spirit of Vasudaiva Kuttumbakam – a powerful existing vision of our region, which saw the World as one Family.

As young leaders of a new India our thoughts and actions were anchored firmly in an unshakeable belief in something that I termed C3I ... standing for Commitment, Courage and Compassion, with Integrity being the cementing force.

However, as I look back today, over these 75 years, many of the dreams and ideals we had hoped to see as reality, have been shattered. And the constant question in my mind is

with regard to the extent to which the privileged like myself have been complicit because of our silence.

As soon as I retired in 1993 we moved to a rural area where we have lived for the past 30 years. I have been Re-Learning Citizenship after a Lifetime on Ships! This was a learning laboratory for people like us who had spent a life time in the privileged sanctuaries of the military and had little idea of the world outside...I was clear that we needed Peace in our neighbourhood if we were to bring millions out of poverty – hence my active work in building people to people dialogues between India and Pakistan.

I became an activist – from a Man o' war to a man o' Peace.

Some of what has made me question deeply the pathway we have taken includes the experience of partition, emergency leading up to Babri masjid demolition and the Godhra riots. The fact that India has been falling on almost all Global Developmental Indices, makes me question the path we have taken.

I am deeply concerned by the destruction of the institutions which are the base of a healthy polity as well as the growing move towards right wing extremism and fascism – targeting minorities.

*Admiral Ramdas retired as India's Navy Chief on 1993.*

*He has been active in India and the region on several major peace initiatives. Was awarded the Magsaysay Award jointly with I A Rehman of Pakistan, for a nuclear free Southasia and for*

*peace initiatives between India and Pakistan.*

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## LALITHA RAMDAS

My 'Education to Reality' began in the day to day world of teaching and learning – Education for Social Change - for Empowerment – for Conscientization - for Liberation, Peace and Justice – for Communal Harmony - for Freedom of Choice for Girls and Women

Whilst living in the service milieu it was not always easy to straddle these two totally different worlds of which we were a part. Bastis and morchas in the day time and banquets and polite talk in the evening! But the big learning was that one could bring the Basti into the Rashtrapati Bhavans – by carrying a few blank sheets for signature campaigns – passing it around between the soup course and dessert – and lo and behold we were in the midst of animated discussions on the Mathura Rape case or dowry deaths!

Our Constitution has increasingly become the touchstone from which we drew both inspiration and courage to fight for the basic values it had laid down and which inspired the foundations of freedom and democracy. We the people must resist any move to replace this Constitution.

Being an active part of the struggle to preserve the Idea of India, and regional peace, has also brought a great sense of solidarity with all those whom we have had the privilege to meet in the last three decades. We have begun to think in a Human Rights perspective.

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The Universal Declaration of Human Rights says we need :

‘A Common standard of achievement for all peoples and all nations to recognize all human beings as being “born free and equal in dignity and rights” regardless of “nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status.”

If our Constitution is in danger and being given a thousand cuts today - it is up to us to heal and rebuild.

A Luta Continuu!

*Lalita Ramdas has been a community, a popular educator and a peace educator all her life. Both Laxminarayan Ramdas and Lalitha Ramdas are founder members of SAPAN (Southasian Peace Action Network). They lived and worked in a village in Raigad since his retirement.*

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## NAMRATA SHARMA

The last 75 years in Nepal has been a revolutionary tryst of a struggle between the monarchy and the people to institutionalise democracy in the country. A struggle through which the country has finally emerged from an absolute monarchy to a Federal Republic, but the mindset of the lawmakers and general public still seem to be dominated by the patriarchal feudal thinking. During the last eight decades the country has seen the fall and rise of dynasties, rewriting of the country's constitution several times and progress in promulgating laws favourable to

both marginalised communities and the addressing gender disparities. However implementation of the laws has been a struggle. But there are some very positive outcomes like Nepal is one of the few countries on earth where, when entering the country, the option of “other” is there apart from “male” and “female” when visitors fill visa forms. The same option is there for citizenship, voter IDs etc. There are also gender parity indicators showing that Nepal is climbing up the ladder. However, while summing up the state of impunity in addressing gender justice and rights of people affected in civil wars or other injustices, it can be said without hesitation that the dreams of the Nepali people in a federal Republic is yet to be realised. This passage from monarchy to a federal republic has had to confront further challenges such as the impact of climate change through earthquakes, floods, change in food cultivation patterns. Nepal has also had to cope with trade and economic embargoes imposed by India. The landlocked geography and geopolitical struggle of a small nation with two giant neighbours and a western power structure is an ongoing reality of the country.

Nepal is located between India in the East, South and West with the Tibet Autonomous Region of China in the North. Historically Nepal was under the rule of hereditary Prime Ministers favouring a policy of isolation and thus remained closed to the outside world until a palace revolt in 1950 leading to the restoration of the crown's authority in 1951. Much later in 2008, after a ten-years long period of civil violence impelled

by a strong Maoist insurgency, the Monarchy was dissolved and Nepal is since then a Federal Democratic Republic. This revolution has also enabled the highlighting of the issues of the Madhesi community along the southern border.

The social fabric of Nepal consists of an indiscriminately accepted mixing of Buddhist and Brahminic Hindu religions which is intermingled in various festivals, events and legends. This is a remarkable synthesis that has been achieved in Nepal between two related but divergent value systems. From the only Hindu country in the world, Nepal is now a secular country where the less than four percent Muslim, Christians and other religious communities are minorities but feel safe. This harmony can be attributed to the rich prehistoric legendary traditions of the Newar Indigenous community of the now Kathmandu Valley which was initially called the Nepal valley. Several kingdoms were united by Prithvi Narayan Shah to make one Nepal. Ancient Indian classics suggest that the Central Himalayan hills were closely related culturally and politically to the Gangetic Plains at least 2,500 years ago. While in the Buddhist accounts Lumbini, the birth place of Siddhartha Gautama Buddha has prominence. The Hindu kings from high-caste Indian origin started ruling over a population, majority of which were neither Indo-Aryan nor Hindu.

This historic background has made the two giant neighbours of Nepal a key deciding factor in

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various socio-economic and political developments in the country even today.

Nepal is unique as it was never colonised. The Anglo-Nepalese War of 1814-1816 ended with British Victory. The British annexed several parts of Nepal into India with a Sugauli Treaty put in place in 1816. They also created the Gorkha Regiment which still continues to be an integral part of British and now the Indian Army. After the British withdrawal from India in 1947 a series of revolts was launched in Nepal against the Rana regime ruling then, in association of the Shah dynasty and the people of Nepal led by the Nepali Congress which was initiated by Nepalese residents in India who were witness to the Indian Nationalist movement. After that the political relation with Nepal is determined by the treaty of 1950 between the two countries. Nepal and India have a special relation of sharing not only social, cultural relationships but also an open border of about 1,880 km.

Since 1950 and now Nepal has had a series of political uprisings led by political parties which had seeds attached with the Congress and the left movement of India. The first constitution was formed in 1959 but since then democracy was under the siege by the Shah dynasty which was ended by establishing a constitutional monarchy in 1990. It was then that a multiparty democracy was established and freedom of speech was established for the first time. It also led to the mushrooming of vibrant media houses with a diversity of voices, flourishing in the newly

democratic climate. The decade of 1990 and most of the early part of 2000 saw Nepal being affected by the Maoist insurgency. A stable government could not be put in place. The constitutional monarchy was disturbed by the royal massacre in 2001 leading to the intensification of the Maoist revolt and finally ending monarchy and establishing Nepal as a Federal Republic in 2008.

In initiating the peace process in the country Nepal again made history by having a government where the Maoists were included. Another historical and revolutionary fact of the federal Nepal is that under the Local Election Act two ward members or each ward needs to be women and one of them a Dalit woman. For a total of 6,743 wards across the country there will be at least 13,486 women where at least 6,743 are Dalit women. Election commission also mandates 40.4% of total nominees to be women including a rule mandating that the chief and deputy chief nominations put forth by each political party in each local unit achieve gender parity.

Thereafter, the first local elections held in Nepal in 2017 resulted in putting one woman in the top two positions in every level of the municipalities and wards. This percentage has been recorded as highest in South Asia and globally too. In the second 2022 National elections the proportion of seats held by women in national parliament remains 33.09 percent which is in line with constitutional provision. In the 2022 elections the total percent

of women elected in local levels is 41.21% vs 40.9% in 2017. The first President of Nepal was from the Madhesi community, Nepal has had a woman President, Woman Speaker of the House of Representatives, and a Woman Chief Justice. Therefore it can be said that gender inclusion has been taken up-to the political forefront.

The relationship of Nepal with other South Asian countries has always been cordial. In today's turbulent South Asia, Nepal is often the meeting place for South Asian level dialogues. Therefore, there are several lessons to be learnt from this small country sandwiched between India and China. However, inside Nepal there is a lot to be done to make sure the freedom of press and human rights of all citizens are ensured by ending the growing rates of corruption and state of impunity, on getting justice over crimes against humanity conducted in the past and currently.

*Namrata Sharma is a senior Journalist based out of Nepal.*

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## THE THOUGHTS OF BALAGOPAL, KANNABIRAN AND JUSTICE SACHAR

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Every country has its own trajectory when it comes to how an international declaration such as the Universal Declaration of Human Rights (UDHR) becomes relevant at a national level. In India the UDHR took roots through the text of the Indian Constitution Chapter on Fundamental Rights which reflected some of the principles of the UDHR. It also took roots through courageous human rights activism. In this section we have extracts from three people who influenced the way we think of human rights in India, namely K. Balagopal, K.G. Kannabiran and Justice Rajindar Sachar.

K. Balagopal was the founder of the Human Rights Forum and one of the few people who was both a human rights activist who participated in numerous human rights fact findings, a lawyer as well as someone who wrote incisively on human rights practice and theory.

K.G. Kannabiran was an eminent human rights lawyer whose contribution to the legal practice of human rights right from the emergency onwards was incalculable. He was the President of the PUCL and the author of two important books on human rights namely, *The Speaking Constitution* and *The Wages of Impunity*.

Justice Rajinder Sachar was a President of the PUCL and the former Chief Justice of the Delhi High Court. He had a lifelong passion for human rights and we extract below an open letter written by his father during the emergency to Indira Gandhi

criticising the Emergency for which his father was imprisoned when he was eighty two years old ! Justice Sachar's career in law, the judiciary and human rights activism was undoubtedly inspired by his father, to whom along with his mother and wife he dedicates his autobiography.

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### K. BALAGOPAL

Various sections of the populace acquire their rights through movements. In history these movements need not always be organized political movements. They are the characteristics of the modern age. In the past they took place as bhakti movements, as unorganized struggles, as just 'anarchic' ones and in many other forms. On the whole without some struggle or agitation rights do not accrue. A right takes shape in some people's minds, in their thoughts. Then it spreads into the social consciousness. It gets recognized in the political practice. At a particular phase it registers victory, politically. That means the law, the constitution, the traditions, the culture all these recognize it as a right. They will institutionalize it in one form or other.

The story does not end there. There will be many loop holes in that institutionalization. Limitations will be there. After that in its implementations there will be many lacunas. The agreed to right is trampled upon everyday. As the crisis in society goes on increasing efforts will be made to get rid of it totally, to remove it. The duty of the civil rights movements

lies herein. Efforts must be made to remove the shortcomings in the method of institutionalization of a right that has been achieved by the people through struggles. It should strive hard to safeguard that the rights are not by passed in their implementation. It should remind the people everyday the people's struggles behind those rights. It should keep them live. The rights that are to be achieved in future, even if they are only in their initial stages now, must be propagated.

- Excerpt from an interview with Janam Saxi, [www.balagopal.org](http://www.balagopal.org)

The idea that governance should take place within the framework of fair norms and reasonable principles is a civilisational heritage resulting from a history of struggle, questioning and progress. The inviolability of rights is a principle of public morality that indexes the degree of progress achieved in the organisation of human affairs. It is this alone that can explain the imperative tone of one's protest at the trampling upon anybody's rights by the Executive.

- Balagopal, *Civil liberties movement: A philosophical retrospect*

The denial of democratic rights such as for instance the rights of free speech and assembly to any individual or group in society does not only destroy the chances of that individual or group to grow and dominate society. It simultaneously destroys the values expressed

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by the rights denied, and the institutions responsible for guaranteeing those rights. These values and institutions may be termed 'bourgeois' if their historical origin and philosophical expression is traced to the anti-feudal democratic revolutions of Europe which resulted in the domination of capital over society. For the reason of that historical origin the specific meaning and institutional form of the rights do also carry bourgeois limitations. Nevertheless each such right expresses a value that is as much a lasting resource of human civilisation as the steam engine that Marx was immensely impressed by, and each of the institutions evolved by bourgeois society for the implementation of the rights (a professional and independent judiciary, for instance) embodies principles that need to be carried forward while the structural and conceptual limitations of the institutions (such as the equation of total alienation from society with judicial impartiality) are criticised and overcome. Every contemporary civil liberties struggle must strive and does strive not only to protect a given right in a given context (the right of a prisoner against torture, or of slumdwellers against eviction) but also the democratic values and institutional principles relating to that right, while critically overcoming the bourgeois expression of the notions and forms in which the principles are embodied, and the institutions in which their realisation is enshrined.

- K. Balagopal, *Democracy and the fight against Communalism*, EPW Jan 7, 1995)

## K.G. KANNABIRAN

A constitution framed after a liberation struggle or a struggle for independence is like poetry, emotion recollected in tranquillity. It is a severance from the past, a termination of imposed suzerainty and the setting up of a political sovereignty of one's own people. It rests on the proclamation of legal discontinuity, the transition of a people from the status of subjects to that of citizens of a nation whose sovereignty is located in the people. This announcement of discontinuity we find in the Declaration preceding the Preamble to the Indian Constitution. We resolved to constitute India into a sovereign, democratic socialist republic and thereafter set out the goals which this republic had to achieve. We moulded our struggle on liberal values and the rule of law. We rejected imperial domination but not the parliamentary system, which animated the politics and history of Britain and the British people's struggles against absolute monarchy.

- K.G. Kannabiran, *The Wages of Impunity*, p.18

In June, 1975, Emergency was declared. It was no longer possible to organise on any issue. So the only course left to us was the legal battle on the death penalty. The case was posted before the bench consisting of Justice K. Mahdava Reddy and Justice Madhusudhan Rao. By then I had to limit my arguments to legal and technical/procedural issues. I argued that their offence must be considered as

arising from their political beliefs if we were to do justice in this case. I argued for a whole day that it was unreasonable to execute them as a way of delegitimizing their political struggle. Justice Madhava Reddy was a judge who always patiently listened to the arguments of advocates. Justice Madhusudhan Rao was a very good man... In the course of arguments he asked me, 'Why should Naxalites who do not believe in the Constitution take shelter under it?' I replied, 'When such issues come before the court, it is your values and not their values that are on trial. It is the values enshrined in the Constitution and the values of the state that are under test.'

- K.G. Kannabiran, *The Speaking Constitution*, p.139

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## RAJINDER SACHAR

Apart from your political supporters, the common people of Delhi now talk in hushed tones as they do in communist societies; they do not discuss politics in the coffee house or at the bus stand and look over their shoulders before expressing any opinion. An atmosphere of fear and political repression prevails and politically conscious citizens differing from your viewpoint, prefer to observe a discrete silence, with some of them afraid of the mid-night knock on their door. [...]

Must the monster of fear devour us again, the monster for the annihilation of which our beloved Pandit Jawaharlal Nehru had sacrificed all his riches, his comforts [...]

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It is well to seek inspiration from his memorable words [...]

The greatest gift for an individual or a nation, so we had been told in our ancient books, was abhaya (fearlessness), not merely bodily courage but the absence of fear from the mind [...] But the dominant impulse in India under British rule was that of fear - pervasive, oppressing, strangling fear; fear of the army, the police, the widespread secret service; fear of law

meant to suppress it. It was against this all pervading fear that Gandhi's quiet and determined voice was raised: "Be not afraid".'

The present situation looks every citizen in the face and the old surviving freedom fighters in particular. We must respond to the call. Accordingly, we propose, with effect from August 9, 1975 and regardless of consequences to ourselves, to advocate openly the right of public speech and public

association and freedom of the Press for discussing the merits and demerits of the Government arming itself with extraordinary powers.

- Extract from the Open letter written by Bhimsen Sachar (the father of Justice Sachar) to Indira Gandhi during the emergency cited from Justice Rajindar Sachar, In Pursuit of Justice, p. 118. The letter was also extracted in the Shah Commission Report on the emergency of 1975-77.

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## CONDEMN THE ONGOING GENOCIDAL WAR WAGED BY ISRAEL AGAINST PALESTINIAN CITIZENS!

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### PUCL STATEMENT

#### **Demand Immediate Ceasefire and Unhindered Humanitarian Aid**

PUCL strongly condemns the genocidal violence and crimes against humanity perpetuated against Palestinians by Israeli forces in the Gaza strip and the occupied Palestine territory. The spectacle of mass destruction and the illegal killings of civilians being played before the world, is shameful and signals the colossal death of humanity.

As per the list released by Gaza's Ministry of Health, more than 8300 Palestinians have been killed of which 40 percent are children. The heartless war is killing a child every 15 mins. With bombardments continuing, about 1,600 people including 900 children have been reported missing and may be under the rubble. As the UNICEF spokesperson poignantly noted, 'Gaza has become a graveyard for thousands of children'.

The situation in the Occupied Palestinian territories has escalated quite rapidly ever since the October 7, 2023 heinous attack by Hamas which resulted in the killing of over 1,400 civilians and 229 hostages being taken. This attack by Hamas targeting and killing civilians is a war crime and is to be condemned. However, the carrying out of a war without limits by Israel, violates several core principles of international humanitarian law, international human rights law as well as international criminal law. Today we are witnessing an ongoing genocide, this one carried out in full public view with full impunity by Israel.

The UN Secretary General, observed on 24th October, 2023, "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."*

#### **Violation of international law**

The mass bombardment of all of Gaza violates the rules of humanitarian law as encoded in the Geneva Conventions. The heart of the rules which govern war are the "Principles of 'Distinction', 'Precaution' and 'Proportionality'". At the heart of the rules of war is the distinction between 'civilians' and 'combatants' which is being violated by Israel as it repeatedly casts the entire civilian population of Gaza as

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the enemy. The bombing of Jabaliya refugee camp with the murder of hundreds is only the latest illustration of the impunity with which Israel violates the rules of war.

It is becoming clear that the violation of the rules of war has underlying it an even more sinister objective. From the horror unfolding in Palestine before all our eyes, it appears that the warning on 14th October, 2023 of Francesca Albanese the UN Special Rapporteur on the 'Situation of Human Rights in the Palestinian Territory occupied since 1967' is coming true, "Israel has already carried out mass ethnic cleansing of Palestinians under the fog of war .... again, in the name of self-defence, Israel is seeking to justify what would amount to ethnic cleansing". (emphasis given).

As per the Convention on the Prevention and Punishment of the Crime of Genocide, 1948, genocide is defined as the 'intent to destroy in whole or in part a national, ethnical, racial or religious group'. Some of the acts which can constitute genocide include 'killing, 'causing serious bodily harm' and 'deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part'. The Genocide Convention places a duty on all 153 signatories to both prevent and punish genocide.

In the attack on Gaza, Israel's actions seem to be geared towards the infliction of 'conditions of life' all of which are 'calculated to bring about its physical destruction'. International law characterizes genoc-

ide as the 'crime of crimes' or the supreme crime. According to the UN General Assembly, 'Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings' and 'such denial of the right of existence shocks the conscience of mankind'.

The calls for the mass evacuation of Palestinians to South Gaza the persistent pressure on Egypt to open the Rafah Crossing so that Palestinians can be forcibly resettled into the Sinai as well as the mass and indiscriminate bombing, seem to indicate Israel is intending the destruction of the basis of life of the people of Gaza.

There has also been an escalation of violence, arrests, torture, expulsions, and destruction of whole Palestinian communities in the occupied West Bank and Jerusalem. The news reports of violence coming from different parts now conclusively show that there is no safe space left for the people of the West Bank as well. Israeli settlers, with the backing of the army and police, have attacked and shot Palestinian civilians at point blank range, have invaded their homes and assaulted residents. Since 7th October, more than 115 Palestinians have been reportedly killed, 2000 injured and more than 1000 forcible displaced by Israeli settlers in the West Bank under the gaze and protection of the Israeli security forces.

Taken together the action of the Israeli state in Gaza and its complicity with the actions of

settlers in the occupied West Bank, speak to the intention of taking forward another wave of ethnic cleansing, what the Palestinians refer to as second Nakba.

The ongoing crime by Israel in Gaza and the West Bank ought to be investigated by the Special Prosecutor of the International Criminal Court as war crimes and crimes against humanity as well as genocide.

### **India's votes on Gaza: A betrayal of its constitutional responsibility**

In 1974, India was one of the first non-Arab countries to recognize the Palestinian state. India co-sponsored the draft resolution on "the right of Palestinians to self-determination" during the 53rd session of the United Nations General Assembly (UNGA) and voted in favour of it.

However, shockingly, in the UNGA Special Session on October 27, 2023, India abstained in a resolution calling for 'an immediate and sustained humanitarian truce leading to a cessation of hostilities'. The General Assembly also demanded the unhindered provision of essential aid to civilians throughout the Gaza Strip. By a recorded vote of 121 in favour to 14 against, with 44 abstentions, the Assembly adopted the resolution titled "Protection of civilians and upholding legal and humanitarian obligations" demanding that all parties immediately and fully comply with their obligations under international law, including international humanitarian law.

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This abstention by India on the above resolution is not only a betrayal of India's record of support for Palestine but is also in violation of the Directive Principles of State Policy which under Article 51(c) oblige India to 'foster respect for international law' and under 51(a) require the State to 'promote international peace and security'. The abstention indicates a foreign policy out of tune with the Constitution. A resolution for the protection of civilians and upholding legal and humanitarian obligations is at the heart of India's constitutional vision and to abstain does injustice to that constitutional mandate. When genocide is being incited or being attempted, all countries have the responsibility to prevent it as per Article 2 of the Convention. Article 2 read with Article 51(a) and (c) would oblige India to have acted at the international level to try to prevent genocide.

### **The unconstitutional shutting down of protests in India**

Indian citizens exercising their right to protest against this gravely unjust and inhuman war against the people of Palestine, are being denied protest permissions, unlawfully detained and arbitrarily arrested and criminalized for their anti-war protests across the country! Meanwhile, pro-Israel and pro-war voices have complete impunity to protest as well as spread misinformation on social media. The role of protest in providing a counter voice becomes that much more important when we see the invidious role of news media which is engaged in biased reporting which is

dehumanizing all Gazans. We condemn the arbitrary and openly biased action of the Indian state in silencing actions of non-violent democratic forms of peaceful protest which violate the citizen's fundamental right to free speech, assembly and association.

Citizen voices against violence, war, apartheid and genocide are the conscience keepers of humanity and of the Indian constitution. The Indian government must encourage and not subdue these voices.

### **Demands**

PUCL calls upon the Indian government and the police authorities to uphold the right to protest of the citizens, allow peaceful and democratic protests and to unconditionally withdraw all the FIRs filed against protestors for organizing and participating in pro-Palestine protests. It is pertinent that citizens of the largest democracy founded on a self-determination struggle against colonial rule, stand with Palestine in this unfortunate hour in history and demand justice and accountability for Israel's war crimes.

PUCL further calls upon the Indian Government to extend full support, humanitarian aid and solidarity to the Palestinian people so they can surmount the enormous losses, damage and harm caused to them.

PUCL urges the Indian Government to take a firm stand against Israeli genocidal policies in line with its historical recognition of the struggle for self-determination of the

Palestinian people. The International Criminal Court must begin investigations for crimes against humanity, war crimes and genocide being committed against civilians and captives.

India's position on peace and non-violence, not only has strong constitutional roots but also draws on an older civilizational tradition rooted in the teachings of Mahavir, Buddha and Gandhi. It is important that we build an anti-war movement in India as well, to raise its voice in tandem with the inspirational global anti-war movement. We urge the Government that talks about Vasudhaiva kutumbakam, to be true to its constitutional and civilizational traditions and work to stop this war.

Kavita Srivastava, President  
V. Suresh, General Secretary  
PUCL

*(November 1, 2023)*



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## DEMOCRACY DEMANDS THAT THE RIGHT TO PROTEST BE PROTECTED NOT PUNISHED!

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### PUCL MAHARASHTRA STATEMENT

People's Union for Civil Liberties (PUCL) Maharashtra expresses grave alarm and concern at the increasing trend of criminalising public protest or any form of public expression on social issues and deplores the manner in which police in Mumbai speedily lodge cases against those participating in such democratic events. Especially in the context of the ongoing Israeli war on Palestine resulting in civilian deaths, the Mumbai police has in effect imposed a de facto ban on any form of peaceful public protest by citizens demanding an end to the violence, including the holding of peace gatherings and prayer meetings, even candlelight vigils in public places like the Azad Maidan. In no other part of India do we see this sort of obstruction to the right to protest, as is being seen in Mumbai.

The recent example of the First Information Report (FIR) lodged by Juhu police under sections 37 (1), 37 (3) and 135 of the Maharashtra Police Act (MPA) against 13 individuals, 11 of whom are students, on November 14, 2023, for alleged violation of prohibitory orders, is a case in point. All of them were picked up on November 14, 2023, after they responded to a multi-city call emanating from an Instagram account 'solidaritymovement', to observe Children's Day in India with a quiet prayer recital of the names of children who were killed in Palestine. It appears that several persons attended

the peaceful prayer gathering at Juhu beach. However, after the prayer gathering ended and participants had dispersed, Juhu police picked up 17 individuals at around 10.30 a.m. They were taken to Juhu police station and illegally detained there until 7.00 pm when they were released. 4 of them who were underage youth (2 boys and 2 girls), were allowed to leave only at 4 p.m. and their parents were called.

PUCL Maharashtra has learnt that of the 17 individuals - all from the minority community, picked up by the Juhu Police, 16 individuals being 4 minors, 11 students and 1 mother of a student, had gone immediately after the prayer gathering ended to collect the posters that they had earlier voluntarily kept in the police cabin near the beach as it was decided that the gathering was meant to be silent i.e. without any posters or banners. The police present there however started questioning them and asked them to pose with the posters and placards and photographed them. The police then told them they will escort them to the Bus Stop to ensure they leave safely. As they proceeded under the directions of the police, suddenly they found a police van had arrived and they were forcibly pushed into the van, detained and taken to the Juhu Police Station. The youth were frightened and many were crying. At the police station, none of them were allowed to contact their parents or seek

any legal help and call up a lawyer. All this is in clear gross violation of their basic legal rights. The 17th person picked up by the Juhu Police was social activist Feroze Mithiborwala. He too was picked up by Juhu police after the prayer gathering had ended and was also made to remove posters from his bag, though he had never displayed any posters at the prayer gathering. But the police were not willing to listen to any reason. In this manner, the 13 people illegally detained were finally released only at 7.00 pm on November 14, 2023, after being served with notices. They were asked to return the next day i.e. on November 15, 2023 at 11.00 am to submit their Aadhar Card xerox copy and 2 photographs. Then, on that day, the rest were allowed to leave by around 1.00 pm, but Feroze Mithiborwala was detained there till 6.30pm once again, when he was extensively questioned.

Clearly, the police action was excessive and arbitrary, and this is a clear case of police harassment. Disturbingly, the attitude of the police was also intimidatory towards the young members of the minority community, especially the young girls, who had peacefully participated in a prayer gathering for peace. The youth were asked to provide all their personal details and their parents were later summoned to the police station. Activist Feroze Mithiborwala was repeatedly questioned whether

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he had organised the meeting, despite his repeated denial that he had only come in response to an online call and knew none of the youth involved. Even a copy of the FIR was only provided to them after an application from their lawyers. There was no occasion or ground for the police to file an FIR, that too selectively against the 13 people after the peaceful gathering had dispersed and when there was no disturbance to public order or violation of law. Moreover, in any event, none of the 13 people were involved in organizing the event but had only responded to a humane call on social media for the prayer gathering.

Right to protest is a fundamental right of citizens guaranteed under the Indian Constitution and essential to our democracy. However, the increasing number of such instances show that the right to protest of citizens is not only being infringed upon, but even attempting to assemble peacefully in Mumbai is being met with harsh and intimidatory police action and criminal sanctions, creating an atmosphere of fear in which democracy cannot thrive or find expression. There has been continuous imposition of prohibitory orders under Section 37 (1) and (3) of the MPA, thereby providing ground to the police to criminalise peaceful gatherings and protests, and to selectively restrict protests. Meanwhile, most applications / intimations to the police for holding protests by citizens' groups and civil society organisations are being denied and met with sanctions, including the peace gatherings

and anti-war public protests on the ongoing Israeli war on Palestine.

The police has been serving notices under Section 149 of the Criminal Procedure Code, 1973 (CrPC) to the applicants/organisers while denying permission to protest and the applicants/organisers have also on occasion been put under preventive detention under Section 151 of the CrPC. Just last month, the Mankhurd Police had arrested two young Mumbai activists and charged them under Section 353 and 332 of the Indian Penal Code, among other offences for violation of prohibitory orders under Section 144 of the CrPC and Section 37 of the MPA, and also detained 4 persons under Section 151 of the CrPC, in connection with a protest against the Israeli government's ongoing violent attacks impacting civilians in Palestine.

It is unfathomable that the arbitrary police action has in effect resulted in a complete restriction in Mumbai on public protests and peace gatherings against the unprecedented violence and suffering faced by Palestinians, for which daily protests are taking place globally and even in other states in the country calling for ceasefire. Infact, it is even more shocking that public demonstrations calling for an end to the ongoing violence in Palestine are being penalized in such fashion, considering India's own history of freedom struggle from colonial rule and its long-standing recognition of the statehood of Palestine and the self-determination struggle of Palestinians.

PUCL Maharashtra expresses concern on the misuse of penal law against peaceful protestors, thereby criminalizing and silencing voices of democratic expression and dissent. PUCL Maharashtra demands that the FIR lodged against the 13 civilians by Juhu police on November 14, 2023 be dropped forthwith and that the constitutional right of citizens to protest and to give peaceful expression to their views or feelings be protected.

PUCL Maharashtra once again notes with distress, that there appears to be a concerted attempt to silence peaceful protests against war and violence. PUCL Maharashtra demands an end to the excessive, continuous and restrictive imposition of prohibitory orders under Sec 144 of the CrPC and Section 37 of the MPA. These orders, ostensibly issued to maintain public order, actually result in a curb on the constitutional right to public protest or gatherings and instead facilitate the criminalization of peaceful and democratic protests. This creates a chilling effect, amounts to censorship and is against the fundamental right to freedom of speech and expression, association and assembly. PUCL Maharashtra reiterates its demand that the legitimate right of citizens to protest be protected fiercely in the interest of our nation which is built on the fulcrum of that very right.

Mihir Desai, President  
Lara Jesani, General Secretary,  
PUCL Maharashtra

(November 19, 2023)

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# THE KILLING OF A PRISONER IN BIKANER JAIL

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## PUCL RAJASTHAN STATEMENT

The PUCL condemns the Government of Rajasthan, Home Department, and the State jail authorities at all levels, for having not protected the life and liberty and giving a safe space to 22 year old Sajid, who was lodged in Bikaner Jail, u/s 308, IPC (attempt at culpable homicide). Sajid was killed by a 40–45-year-old sec 302 convicted prisoner, Budhram, a patient of depression and had been put into a restricted access, special ward with 17 other prisoners, which included Sajid. Budhram picked up a stone slab covering a water drain in the barrack and smashed the head of Sajid in the early hours of 15th, November.

This murder in Bikaner Jail would have sent shock waves in all the prisons of Rajasthan, with the 25,000 population of prisoners feeling extremely unsafe as such a murder is a serious compromise in the systems of safety and security put into place by the Bikaner Jail authorities and the state Jail authorities. Immediate counselling would be needed for the prisoners who were in that Barrack and in the rest of the Jail.

### **Mental Health of Prisoners mostly neglected in Jails of Rajasthan**

This incident clearly shows the failure of proper care of mentally disturbed patients by the Bikaner Prison authorities. This incident could have been avoided if proper medication

and care protocols were taken care off.. The PUCL through its jail work knows that patients with depression or mentally disturbed ailments hardly undergo proper screening and medication. It is well known that the Jails of Rajasthan are mostly devoid of psychiatrists in the Jail hospitals, so was the case here. Our Jail for the last two decades or more in Rajasthan has shown that Patients are taken rather infrequently to the City hospital and their medication is also irregular.

What is shocking is that ten years ago in 2013 too, a mentally disturbed patient went berserk and killed three prisoners, with almost the same tool, which was a brick. Similarly in Jaipur jail in February 2019 a Pakistani prisoner was also stoned to death by inmates.

### **Lack of sufficient staff due non appointments**

This incident also shows the failure of the state to meet even the minimum standards of staffing in our state jails. The deficit in Bikaner at the constabulary level is 50 %, it is almost one constable manning two wards, how would protection happen of prisoners, if fights broke out between prisoners in the night. This is a serious lapse of the state in provisioning safety for prisoners. The total deficit in Rajasthan is 25 % of the required staff according to the NCRB data. Why are budgets of

Jails not raised by Governments. Successive Government have failed the Jail department in Rajasthan, whether of the congress or the BJP.

Deaths due to custodial violence in Rajasthan shows a huge number. According to a TOI news report, in response to a question asked by the BJP MLA Satish Poonia, more than 159 prisoners had died in Jails in Rajasthan, (80 Prisoners died in 2021 and 79 in 2022). Of which magisterial enquiry into the death of only 52 prisoners had been completed till March 2023 under section 176 CrPC. And till now nobody had been booked for any breach in rules leading to death. It is not the PUCL case that all deaths in Judicial custody are homicide or death due negligence, however, it is very important to make public the cause of all deaths, in order to restore faith and confidence in all the 25,000 prisoners in jails.

The PUCL demands:

- Compensation of Rs 50 lakhs to the family of Sajid as he was killed for no crime of his doing.
- Independent enquiry of academics and other citizens, into this murder in Bikaner Jail so that all angles including the communal angle can be examined.
- immediate appointments of psychiatrists and clinical psychologists in all jails including adherence to care protocols for all mentally disturbed prisoners.

- Immediate appointment of the deficit Jail Staff needs to be done and it should be a priority of the next Government.

Bhanwar Meghwanshi, President  
Anant Bhatnagar, General Secretary  
Pragnya Joshi, Jail Initiative Coordinator  
PUCL Rajasthan

### PUCL DIALOGUES

- The fourth edition of PUCL Dialogues was held on October 24, 2023, to discuss the Supreme Court judgement in *Supriyo v Union of India*, denying the right to marry to LGBTQI+ community. The speakers were Mihir Samson, Advocate, Dr. Akkai Padmashali, Writer and Transgender rights activist, Chayanika Shah, Queer Trans Feminist, Hazrat-e-Zindagi Mamuli and the discussion was moderated by Arvind Narrain, President, PUCL-Karnataka. The full video and the transcript are available on the PUCL website.
- The fifth edition of PUCL Dialogues was held on November 6, 2023 titled 'Bombing of Gaza: Genesis, Human Rights & Justice'. The panel discussion had renowned speakers: Yanis Varoufakis (MeRA25 leader, DiEM25 co-founder, Professor of Economics – University of Athens), Gilbert Achcar (Professor of Development Studies and International Relations at SOAS, University of London) and the discussion was moderated by Kavita Srivastava, National President, PUCL. The full video and transcript are available on the PUCL Website.

### ORGANISATIONAL QUERIES

We receive from time to time queries/requests from new members regarding the PUCL identity card and also regarding the privileges of the Life members and Patron members as compared to Annual members.

The three types of membership, i.e., Yearly, Life, and Patron, do not represent a hierarchy of membership. All members are equal.

Life membership and Patron membership simply afford an opportunity to those who desire to contribute some extra money to the PUCL to strengthen its financial position. No membership carries any privilege. All members shoulder the burden of fulfilling the aims and objects of the PUCL.

The PUCL does not issue any identity cards to its members as they are not supposed to take initiative independently.

- Dr. V. Suresh, General Secretary, PUCL

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