

PUCL Editorial: No time to lose: Let's all stand up and reclaim the Constitution!

- Lies, half truths and evasions: Amit Shah's symbolic appropriation and material destruction of the Ambedkarite Constitution 4
- PUCL condemns the unremitting persecution of well known fact - checker Mohammad Zubair 6
- PUCL Appeals to the Prime Minister to urgently accept the demands of the protesting farmers relating to legal guarantee for MSP, complete waiver of loans 7
- PUCL Condemns Harassment of and Malicious FIR against human rights Activist and National General Secretary Nadeem Khan of the APCR by Delhi Police 9
- PUCL UP Open Letter to CJ 10
- PUCL UP demands for a judicial inquiry into the killing of 5 men in Sambhal 11
- PUCL: Ajmer Dargah is a symbol of faith for all 12
- Civil society groups in CG stand in solidarity with Bastar Adivasis 13
- Joint Letter from Citizens to Indian Statistical Institute: Rescind your invitation to Mr. Robert Aumann, known for his Zionist views 14
- Decoding Places of Worship Act 1991: The mischief Behind the Smoke Screen is to undermine Secularism 16
- Dissent Note by Leaders of Opposition in Lok Sabha and Rajya Sabha 18
- A Southern Pedagogy by Burhan Majid

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THE 75TH ANNIVERSARY OF THE INDIAN CONSTITUTION: AN APPEAL TO "WE THE PEOPLE OF INDIA"

NO TIME TO LOSE: LET'S ALL STAND UP AND RECLAIM THE CONSTITUTION!

The 75th anniversary of the Indian Constitution is a timely occasion to reflect on what it means to Indians. Is the Indian Constitution, an arcane legal instrument, an arena for quibbling by men with long purses as Justice Dwivedi put in Kesavananda Bharati's case? Or is the Constitution more publicly owned as the iconography of Babasaheb Ambedkar holding the Constitution in his hand seems to indicate? Did the anti-CAA protests in 2019-2020, breathe new life to the Constitution, with public protests centering the Preamble making it an artefact of resistance?

We have to understand the Constitution as an expressive document which signifies something more than the legalese which it expounds. CJ Dipak Misra eloquently described the constitution as an "organic and breathing document with senses which are very much alive to its surroundings, for it has been created in such a manner that it can adapt to the needs and developments taking place in society". Within this viewpoint a Constitution can shape a society's way of thinking". Or in

the evocative words of Dr. Ambedkar, the purpose of a constitution is to 'cultivate constitutional morality', especially in a society in which constitutional morality is not a natural sentiment' and 'Democracy is only a top-dressing on an Indian soil, which is essentially undemocratic.'

This viewpoint on what a Constitution is, finds resonance in Bhiku Parekh who says that 'constitutions are not merely documents of governance but also frameworks through which we imagine the possibilities of collective life.' There is an imaginative and utopian dimension to Constitutions, where Constitutions gesture towards a future free of the shackles of the present. More than being just a document of governance, the Constitution outlines a vision of our collective future and indicates how we can get there. The Preamble of the Indian Constitution outlines the vision in a synoptic form which envisages a world based on the core ideas of liberty, equality, fraternity and dignity as well as justice: social, economic and political. None of these come into being with the

birth of the Constitution, but become the benchmark by which we evaluate legislative, executive, judicial and citizen action.

Another viewpoint on the Indian Constitution is proffered by the former President of the PUCL and eminent human rights lawyer, K.G. Kannabiran who said that 'A constitution framed after a liberation struggle or a struggle for independence is like poetry, emotion recollected in tranquility.' For Kannabiran, the essence of the Constitution is that it is a product of struggle. The reason it inspires affection and even devotion among the people is because it is not a dry legal document, but rather something which results from the liberation struggle. What is a product of struggle is the notion of rights. Thus rights in the Indian Constitution are not conferred by the Constitution but rather confirmed by the Constitution. The normative commitment to freedom of speech, expression and association is only there because freedom fighters right from Bhagat Singh to Lala Lajpat Rai and many others gave their lives in defending these rights.

To add an Ambedkarite dimension to Kannabiran's formulation, the Constitution of a new India had to contend with the possibility of both state oppression, as also of oppression by society. The Constitution therefore recognises that in newly independent India where caste is the law and caste discrimination is legitimised, the new Constitution must visualize the law being used as a tool to combat caste oppression. This progressive worldview accounts for the criminalisation of the

practice of untouchability in Article 17, the criminalisation of forced labour and begar in Article 23 and the prohibition of discrimination in access to public spaces such as shops, tanks, wells etc in Article 15(2).

The SC has understood this dimension of the Constitution and therefore described the Constitution as 'a great social document, almost revolutionary in its aim of transforming a medieval, hierarchical society into a modern, egalitarian democracy'.

While the Constitution is about writing the script of our collective destiny, it is also about ensuring that power is limited by law, power is distributed among various constitutional authorities and power is made accountable. Thus the Constitution is a document which distributes the power of the state through dividing power between the union, the state and local self government as well as between the legislature, the executive and the judiciary. The division is an attempt to prevent an authoritarian form of governance. When we say that we are governed by a Constitution, implicit in the statement is the idea that power is defined, limited and is accountable. The political executive must act within the limit points of the power vested in it by the Constitution, as must other organs of the state.

Thus the Constitution traverses the realm from guaranteeing individual rights to creating institutions of governance who have to function within constitutional limits. In particular the Constitution, if its promise to 'we the people' is to be

honoured, it critically depends on one particular institution, namely the judiciary. The judiciary has in recent times, tragically failed to fulfil its responsibility of protecting rights and ensuring governance within the framework of the Constitution. The judgement on the abrogation of Article 370 which gave the go by to the principle of federalism, or the failure to ensure that those arbitrarily arrested under the UAPA such as the BK-16 and the anti-CAA protesters are released stand as testaments (among many) to this failure of the judiciary to ensure governance in accordance with the Constitution.

However, one must continue to argue against these failures of justice using the language of the Constitution when it is available to us. One such recent failure with very serious implications is the judgment in *Property Owners Association v State of Maharashtra* in which a majority limited the power of the state to use private property as a 'material resource to subserve the common good'. The Directive Principles of State Policy, Article 39 (b) directs that state policy should be towards securing that the 'ownership and control of the material resources of the community are so distributed as best to subserve the common good'. The majority judgment authored by C.J. Chandrachud, held that private property cannot be acquired or taken over by the state on the basis of Article 39(b). One of the legs of the reasoning adopted by the Chief Justice was that Ambedkar was 'not tied to one economic structure, such as socialism or capitalism, but to the aspiration for a 'welfare state'.

This conclusion which limits the

actions the state can take to address inequality is deeply worrying as the judiciary failed to remind the executive of its constitutional obligation to redress the worrying rise of inequality in India. The recent study by world famous economist Piketty notes that, 'Billionaire Raj' headed by India's modern bourgeoisie is now more unequal than the British Raj headed by the colonialist forces. It is unclear how long such inequality levels can sustain without major social and political upheaval.'

However the minority opinion by Justice Dhulia was cognizant of 'the inequality in income and wealth and the growing gap between the rich and the poor' and held that, 'privately owned resources' should be seen as 'a part of the "material resources of the community" as it is only then that, 'the purpose of Articles 38 and 39 is fully realised.'

Justice Dhulia's opinion finds its constitutional voice in Dr Ambedkar's speech in the Constituent Assembly when he presciently said that, 'On the 26th of January 1950, we are going to enter into a life of contradictions. In politics we will have equality and in social and economic life we will have inequality...We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up.'

One hopes that the minority judgment becomes the 'intelligence of a future day', and *Property Owners Association v State of Maharashtra* is overruled.

Even as we must go to minority judgments, Constituent Assembly Debates, contemporary economic and political analysis to challenge problematic interpretations of the law, the troubling question still remains as to what extent is the Constitution alive in contemporary India? To take an example, how has the history of freedom of speech fared with the draconian use of the sedition law and the now Section 152 of the BNS which is even broader in the criminalizing ambit? The persecution of Mohammad Zubair under this law tells a story of how weak is the protection of the freedom of speech in India today. How has rule of law fared in the context of arbitrary and punitive home demolitions of houses and places of worship of the minority community? The failure of the Union and state government to ensure governance in accordance with the Constitution in Manipur represents yet another devastating failure of the Government to ensure that the promise of the Constitution is available to all its citizens.

What the troubling story of the Constitution in action lets us know is that justice in accordance with the Constitutional vision is often a mirage and sometimes the fruit of a long and passionate struggle. The failures of the constitutional courts only reinforces the point, that 'we the people of India' need to hold dear the ideals of the Constitution and remember the sage words of Balagopal and Kannabiran that struggle is what results in rights. As Balagopal put it, 'On the whole without some struggle or agitation rights do not accrue.' In challenging

times, the ownership of the Constitution needs to vest more strongly in 'we the people'.

The Constitution framers dreamt of the impossible in the India of the 1940's – that of giving universal suffrage to all adults, recognising the right to equality and equity and emphasizing the fundamental right to dignity and fraternity, in a social context when none of this could even be imagined. The people of India have over 75 years shown that they can be relied to safeguard the Constitution that literally made them enjoy social and political freedom. During multiple times in our political history, the people of India have demonstrated that they will rise up to oppose authoritarian and fascist tendencies.

In the last 10 years of the present BJP-led government there have been constant and continuous attempts to nullify and subvert, if not to totally erase the Constitution of India, especially its core characteristics of respect for diversity and plurality in India, thrust to ensure reduction of inequality through the constitutional ethic of inclusion, ensuring transparency and accountability of the executive and respecting dissent as elementary part of our polity. In such a background, we need to reach out to "We, the People of India" to rise up and reclaim the constitution so that the constitutional vision of realisation of justice (social, economic and political), liberty (of thought, expression, belief, faith and worship), equality (as a guarantee against arbitrary treatment of individuals and fraternity (which assures a life of dignity to every individual) will

facilitate the creation of a more humane and compassionate society.

LIES, HALF TRUTHS AND EVASIONS: AMIT SHAH'S SYMBOLIC APPROPRIATION AND MATERIAL DESTRUCTION OF THE AMBEDKARITE CONSTITUTION

PUCL COMMENTARY

The statement by the Union Home Minister, Amit Shah during a debate in the Rajya Sabha marking 75 years of India's Constitution, referencing Dr Ambedkar has given rise to a much needed debate on what Ambedkar means for contemporary India and the political forces who are seeking to appropriate his legacy? In the course of his speech Shah said, 'It has become a fashion to say Ambedkar, Ambedkar, Ambedkar, Ambedkar, Ambedkar, Ambedkar, Ambedkar, Ambedkar'. If they took god's name so many times, they would have got a place in heaven'.

The characterisation of the repeated invocation of the name of Ambedkar as a 'fashion' combined with the sarcastic mode of delivery, seems to belittle what Ambedkar means both to the Dalit community as well as those seeking to take forward the inspiration of the Constitution. It also highlights the contempt in which both the BJP and RSS hold those who seek accountability from the rulers while upholding the Indian Constitution.

There have been strong and vociferous protests over this perceived insult to Ambedkar from both political parties, Dalit groups, student groups as also those committed to the defence of the Constitution.

The protests, at a very instinctive level end up reading the political unconscious behind Shah's

speech as being at heart hypocritical, cynical and contemptuous towards the ideals which Dr. Ambedkar stood for and which underlie the Indian Constitution.

If one analyses Shah's entire speech, it is heavy in symbolism while completely ignoring the substantive contributions of Ambedkar to the Indian Constitution. Thus Shah claims credit on behalf of the BJP for erecting memorials to Ambedkar at places significant in his life journey, which Shah designates as five pilgrimage sites in Mhow, Delhi, Mumbai, London and Nagpur. However, apart from the politic of symbolism at which the BJP is a past master, does it have any real fidelity to the ideals which motivated Dr. Ambedkar?

It bears noting that Dr. Ambedkar himself was an iconoclast who was not interested in memorials. He preferred that the money be instead spent on public works like libraries or support to educational institutions like colleges!

Shah's speech was a targeted attack on Nehru as ignoring the contributions of Ambedkar and sought to make much of the differences between Nehru and Ambedkar which led to Ambedkar's resignation from the Nehru cabinet. While there were differences between Nehru and Ambedkar on policy choices, priorities and strategy, there were also deep points of agreement on the fundamentals which are

embodied in the Constitution of India.

Going back to the drafting of the Indian Constitution, the process begins by Nehru moving the Objectives Resolution on 13th December, 1946, which becomes the precursor to the Preamble. The part of the Objectives Resolution, which goes on to become the Preamble reads:

"WHEREIN shall be guaranteed and secured to all the people of India justice, social, economic and political; equality of status, of opportunity, and before the law; freedom of thought, expression, belief, faith, worship, vocation, association and action, subject to law and public morality".

If one reads this text, one realises that two vital concepts are missing, namely dignity and fraternity. Aakash Singh Rathore in his book, 'Ambedkar's Preamble' argues that it was Ambedkar's initiative which results in the addition of the words dignity and fraternity, thereby strengthening a document which originates with Nehru. If one looks at the contribution of Ambedkar to the Preamble, one realises that Ambedkar essentially works with a Nehruvian text and strengthens it immeasurably. The question which Shah should answer today, is whether he and his party are indeed comfortable with the language of fraternity and

dignity, which are Ambedkarite contributions ? In fact, in the ten plus years they have been in power apart from the symbolic politics of building shrines, what have they done to take forward the Ambedkarite ideals of both fraternity and dignity? The sheer and continuing rise in violence against Dalits across India and the continuing hold of caste hegemony and discrimination contradicts any claim to achievement of social justice in the country.

The difference Ambedkar has with Nehru on the Objectives Resolution is that he feels that it is 'disappointing' as it 'does not go far enough', even though, 'Pandit Jawaharlal Nehru' is 'reputed to be a Socialist'. Although Ambedkar wanted a stronger articulation of socio-economic rights in the Resolution, he is in agreement with Nehru on the fundamental values underlying the Preamble. Dr. Ambedkar in his response to Nehru's speech, notes that the resolution 'reminds one of the Declaration of the Rights of Man' and 'to repeat it now as the Resolution does is, to say the least, pure pedantry. These principles have become the silent immaculate premise of our outlook. It is therefore unnecessary to proclaim as forming a part of our creed.' In his understanding, even in 'our own country which is so orthodox, so archaic in its thought and its social structure, hardly anyone can be found to deny its validity.'

The question for the BJP and RSS is whether they see these principles of 'equality, freedom and dignity' (as Ambedkar did) as 'silent immaculate premise of our

outlook' ? Does the BJP/RSS accept that these principles are valid even in our country which is 'orthodox' and 'archaic in its thought and its social structure'? In short does Amit Shah accept the challenge to Sanatana Dharma posed both by the mover of the Objectives Resolution Jawaharlal Nehru and Dr. Ambedkar? Or does the BJP want to follow Dr. Ambedkar in his critique of the Resolution and want a more socialist articulation ? Or does the truth lie in the fact that the BJP is completely opposed to both Nehru and Ambedkar, because it wants the 'archaic social structure' to continue undisturbed because it is a part of Sanatana Dharma?

Dr. Ambedkar's key contribution to the concept of human rights is to assert that the social is a source of oppression and religion is the source of the social. Faith in a religion which oppresses needs to be annihilated. Ambedkar in his preface to '**Who were the Shudras**' states that there are 'five definite classes of Hindus'. There is a class of Hindus who are known as orthodox and who will not admit that there is anything wrong with the Hindu social system. There is class of Hindus who believe in the Vedas and only in the Vedas. There is a class of Hindus who admit that the Hindu social system is all wrong, who hold that there is no necessity to attack it. There is a class of Hindus for whom Swaraj is more important than social reform. The fifth class of Hindus are rationalists who regard social reform as of primary importance, even more important than Swaraj'.

Where does the BJP stand on

this Ambedkarite classification of Hindus into five classes ? Amit Shah, the BJP and the RSS undoubtedly fall into the first class of Hindus who in Ambedkar's words are 'orthodox and will not admit there is anything wrong with the Hindu social system.' This is the class of Sanatanists who Ambedkar fought against his whole life. He was fully cognizant of the dangers of the 'orthodox' viewpoint and his famous summation of the philosophy of the RSS was that, 'If Hindu Raj does become a fact, it will, no doubt be the greatest calamity for this country. No matter what the Hindus say, Hinduism is a menace to liberty, equality & fraternity. It is incompatible with democracy. Hindu Raj must be prevented at any cost.'

This statement ties in to an understanding of why the philosophy of the Constitution was fundamentally opposed to the ideals of the propagators of Hindu Raj, the RSS. Liberty, equality and fraternity which are the ideals which animate the Constitution of India are untenable within the Hindutva framework. For the RSS it is not freedom but conformity which is of value, it is not fraternity but absorption of the minority into the worldview of the majority which is important and it is not equality but a caste order marked by graded inequality which is the ideal.

So the protestors, intuitively and quite brilliantly read the deep meaning of the statement by Amit Shah more perceptively than a mere superficial reading would have revealed. Amit Shah and the BJP are past masters at selective quotation with the aim

of appropriation and domestication. The speech by Shah when he tries to blame Nehru for Ambedkar's resignation from the Cabinet is one such example.

Shah puts the blame for resignation on Ambedkar's difference with Nehru on foreign policy, on Article 370 and on not doing enough for Scheduled Castes and Tribes. The assertion that Ambedkar was opposed to Article 370 and hence sought to resign is not borne out by the text of his resignation letter and hence can only be called a lie manufactured by the Sangh eco system and dutifully parroted by Shah. Reading the resignation letter reveals that Shah has skilfully and deliberately, ignored what Ambedkar himself highlights as the main reason for his resignation, namely 'the treatment which was accorded to the Hindu Code', which 'was killed and died unwept and unsung, after 4 clauses of it were passed.'

With respect to the Hindu Code Bill, Ambedkar's difference with Nehru was a difference with respect to strategy and timing. Both Nehru and Ambedkar were united on the idea that the ancient social structure which was Hindu law must be reformed. In fact as Ambedkar says in his

resignation speech, 'the Prime Minister, although sincere, had not the earnestness and determination required to get the Hindu Code Bill through.'

It is a historical fact that one of the reasons which contributed to the delay in the reform of Hindu law were the vociferous protests and demonstrations against the Hindu Code Bill by the RSS, Hindu Mahasabha and groups affiliated with it and especially of its leaders like Shyama Prasad Mukherjee. In fact the RSS-linked periodical Organiser in 1949 clearly stated that, 'We oppose the Hindu Code Bill. We oppose it because it is a derogatory measure based on alien and immoral principles. It is not a Hindu Code Bill. It is anything but Hindu. We condemn it because it is a cruel and ignorant libel on Hindu laws, Hindu culture and Hindu Dharma.'

So Amit Shah must clarify as whether he is one with Dr. Ambedkar's passionate commitment to the reform of Hindu law ? Does he find palatable Ambedkar's statement in his resignation speech that, 'the Hindu Code was the greatest social reform measure ever undertaken by the legislature in this country' and that 'to leave inequality between class and class, between sex and sex,

which is the soul of Hindu Society untouched and to go on passing legislation relating to economic problems is to make a farce of our Constitution and to build a palace on a dung heap.'?Does he agree that Sanatana Dharma which consisted of practices like Sati, prohibitions on widow remarriage, no possibility of divorce and other regressive practices. should have been reformed? Or is he with his ideological mentors and opposed to any tampering with the 'ancient social structure' that is Hinduism?

Amit Shah through a mixture of lies, half truths and evasions is seeking to appropriate the legacy of Dr. Ambedkar. We must thank the protestors for calling out Shah's cynical attempt at paying symbolic homage to Ambedkar while continuing to kill by a thousand cuts, the Ambedkarite Constitution.

The nationwide protests on Shah's remarks mark a point of wider awakening, regarding the threats to the Indian Constitution on its 75th anniversary posed by the same Hindutva forces which in 1950 opposed Ambedkar's attempts to reform Hindu law through the Hindu Code Bill. It is up to all those who believe in the ideals for which Dr. Ambedkar fought for so passionately to join in the defence of the Constitution.

PUCL CONDEMNS THE UNREMITTING PERSECUTION OF WELL KNOWN FACT-CHECKER MOHAMMAD ZUBAIR

PUCL NATIONAL

Demands that the malicious and arbitrary prosecution be withdrawn

The PUCL condemns the unremitting persecution of well

known fact-checker Mohammad Zubair and his organisation, Atlnews. The latest FIR filed against him for merely tweeting and sharing publicly available videos of Yati Narsinghanand

flies in the face of both law and justice.

The sharing or rather resharing of publicly available videos of Yati Narsinghanand has resulted in

an FIR which invokes Sections 196 (promoting enmity between different groups on grounds of religion), 228 (fabricating false evidence), 299 (deliberate and malicious acts intended to outrage religious feelings), 356(3) (defamation) and 351(2) (punishment for criminal intimidation) of the Bharatiya Nyaya Sanhita (BNS). The police have also invoked Section 152 of the BNS which aims to punish speech which incites secession, armed rebellion or encourages feelings of separatist activity.'

Zubair has rightly noted his tweets did not call for violence against the religious leader and that he just alerted the police authorities about Mr. Narsinghanand's actions and sought action as per law. This could not be understood as 'promoting disharmony' or 'ill-will' between two classes of people. He also challenged the invocation of defamation law against him as his action of merely sharing the videos of Yati Narsinghanand which were anyway in the public domain could not amount to defamation.

The invoking of Section 152 of

the BNS to characterize Zubair's tweets as 'separatist' activity hits at the heart of a democracy which is founded on the exercise of the freedom of speech and expression. The PUCL is committed to challenging this provision which has for the first time been invoked in a high profile matter. This provision has serious implications for the future of media freedom and the freedom of speech and expression in India and should not be on the statute books.

The legal process is underway and the UP police have been restrained from any further coercive action such as arrest till the next date of hearing on January 6, 2025. The PUCL is hopeful that the Allahabad High Court will deliver justice in accordance with an interpretation of the constitutional protection for freedom of speech and expression. As the Supreme Court noted in a 2022 case when Zubair was arrested for his tweets: Merely because the complaints filed against the petitioner arise from posts that were made by him on a social media platform, a blanket anticipatory order preventing him

from tweeting cannot be made. A blanket order directing the petitioner to not express his opinion - an opinion that he is rightfully entitled to hold as an active participating citizen - would be disproportionate to the purpose of imposing conditions on bail. The imposition of such a condition would tantamount to a gag order against the petitioner. Gag orders have a chilling effect on the freedom of speech.

PUCL demands that the UP police withdraw the baseless prosecution and conduct themselves in accordance with the constitutional mandate to respect the freedom of speech and expression. PUCL also demands that Section 152 of the BNS be repealed as it is fundamentally incompatible with the ethos of a democracy. Dissent is indeed the lifeblood of a democracy and the continued persecution of Mohammad Zubair and the Altnews further attenuates our claim to being the world's largest democracy.

PUCL APPEALS TO THE PRIME MINISTER TO URGENTLY ACCEPT THE DEMANDS OF THE PROTESTING FARMERS RELATING TO LEGAL GUARANTEE FOR MSP, COMPLETE WAIVER OF LOANS

PUCL NATIONAL

- Ensure that there is negotiation which brings an end to the 28 days of the fast unto death of 73-year-old Farmers leader, Jagjit Singh Dallewal and
- End the impasse of the last 10 months on Shambhu and Khanauri border.

The PUCL is shocked at the

heartless manner in which the Government of India has refused to respond to the 10-month long protest of the farmers who have been sitting on the Khanauri and Shambhu borders of Punjab. What is worse is the complete disregard and callous attitude towards the fast unto death of 73-year-old Jagjit Singh Dallewal, the leader of the SKM (Non-

Political), who according to the doctors on the 27th day of the fast (22nd Dec, 2024), is very critical and faces a very high risk of cardiac arrest and multiple organ failure if the fast is not withdrawn. Yet no representatives of the Government have been sent to negotiate or listen to either Jagjit Singh Dallewal or the group of

protesting farmers who have been sitting at the borders.

A democracy is about listening to the voice of the people and when farmers are expressing their pain, anger and dissent, it is imperative that a government listen to them. Ignoring the protests sends out a message that the government is not response to the concerns of the farmers, who are the lifeblood of the nation. This authoritarian path of ignoring and crushing dissent taken by the Union of India does no justice to the image of India being the world's largest democracy.

It may be recalled that the year-long farmers protest (November, 2021 to December, 2022) on Delhi borders, was lifted by farmers groups with the Government of India promising to ensure legal guarantee for the MSP for all crops amongst other demands. When fourteen months had passed with no response, a section of the farmers were extremely agitated. It was only after much thought that, on 13th February, 2023, two platforms of Farmers with hundreds of unions and groups, Sanyukt Kisan Morcha (Non-political) and Kisan Mazdoor Morcha decided to march in several thousands, to Delhi to make the Government of India accountable to the promises made to lakhs of protesting farmers at the Delhi border in 2022.

As expected, they were stopped at both the Punjab - Haryana border villages of Khanauri and Shambhu in Punjab. It may be recalled the farmers were fired on with bullets and pellets killing one person and injuring several. There was police torture of some of the young farmers who were

then admitted to hospital ([link PUCI press note on famers protest](#)).

In the very initial period, some ministers of the Union Government did come and talk to the farmers leaders, urging them to not march to Delhi. However, when the farmers did not withdraw their plans, the Government of India refused to even meet them and decided to ignore them.

Several efforts were made by the farmers, but the GOI refused to hear the farmers in the last 10 months. It was the Supreme court who intervened and set up a committee to examine the feasibility of the demands made to the Government of India. The GOI has refused to make the committee report public.

When there was a complete denial of response from the Government and repression by Haryana police, in letting the protesting farmers get to Delhi, Jagjit Singh Dalewal started a fast unto death from the 26th of November, as a last resort, with the objective of making their voice and demands heard. When even that was not responded to by the callous attitude of the Government of India, the farmers on the 6th, 8th and 14th of December, in groups of hundreds tried to get into Haryana and march to Delhi, unarmed on foot, leaving behind their tractors.

The Haryana police decided to stop the marchers by using sophisticated weapons, like tear gas shells which were dangerous and lethal. The farmers also carried out Rail Roko Andolan on the 18th of December, but the Government of India has refused

to respond in any way, ignoring the protest and treating it like a law-and-order problem. Earlier this month, Farmer leader Sarwan Singh Pandher announced that the farmers had given a call for 'Punjab bandh' on December 30.

We at PUCI believe that the Government ought to be urgently addressing the demands of the protesting farmers. We also demand that the Supreme Court report to be made public and urge the Government to engage in a dialogue with Jagjit Singh Dallewal, Sarwan Singh Pander and other farmer leaders. A primary demand is the Legal Guarantee of Minimum Support Price (MSP) for all crops. Additionally, farmers are calling for the withdrawal of the Electricity (Amendment) Bill 2022, opposing proposed electricity reforms and the ongoing installation of smart meters for agricultural connections. The farmers also demand a Comprehensive Debt Waiver, seeking the complete cancellation of outstanding loans. Another critical issue is the withdrawal of police cases linked to the 2021 Lakhimpur Kheri violence. Protesters argue these cases are politically motivated and aim to suppress legitimate dissent. They also demand justice for the victims of the incident, including an impartial investigation and a fair trial for those accused. Further demands include reinstating the Land Acquisition Act, 2013 and providing compensation to the families of farmers who lost their lives during the 2020-21 agitation.

The PUCI demands that these concerns be addressed as only if that is done that justice will be done to the farmers.

PUCL CONDEMNS HARASSMENT OF AND MALICIOUS FIR AGAINST HUMAN RIGHTS ACTIVIST AND NATIONAL GENERAL SECRETARY NADEEM KHAN OF THE APCR BY DELHI POLICE

PUCL NATIONAL

PUCL is shocked at the manner in which Delhi Police is conducting a targeted witch-hunt and harassment of human rights activist Nadeem Khan, at the instigation of a few social media accounts on Twitter. Today (30th November 2024), at 5 PM, four police personnel including the SHO of Shaheen Bagh Police Station in Delhi, came to a private residence in Bangalore where Nadeem Khan was staying, and attempted to detain him without any warrant or notice.

From 5pm till 9pm, they sat in the hall of the first floor of the house and coerced Nadeem to come to Delhi “voluntarily” with them under “informal custody”. This was purportedly for investigation in an FIR filed that very afternoon in Delhi. FIR number 0280/2024, Shaheen Bagh, Police Station, N. Delhi. The said FIR was filed at 12:48 PM in Delhi and the concerned Police Station officer arrived in Bangalore at Nadeem’s brother’s house at 5pm, as if in hot haste, without first bothering to issue notice under Section 35(3), or having any authority in the form of an arrest warrant to come to his house and to demand that he return to Delhi with them. It was only at 10.45, after 5.45 hours of badgering Nadeem, that the officials pasted a notice under Section 35(3) of BNSS, asking him to appear at the Shaheen Bagh Police Station. For nearly six hours, they continued to harass and intimidate Nadeem Khan and members of his family, as well as

trespass on the residence of his brother in Bangalore.

The fact that 20 police officials came to the APCR office even before the FIR shows their malicious intent. They were going after the constitutional work that APCR does especially fighting cases of mob lynching, hate crimes. They are using this FIR as an excuse to target one of the forces behind APCR.

This morning, a few police officers returned and enquired about the office bearers. When asked about the basis for this enquiry, the Head Constable Yogesh of Shaheen Bagh police station refused to share the details with the lawyers present in the office. The Head Constable also misbehaved with the lawyers and threatened them with dire consequences. Lawyers representing APCR also went to Shaheen Bagh Police Station to ask about the reasons for the police raid but received no answer.

PUCL condemns the harassment, intimidation and illegal detention of Nadeem Khan by Delhi police personnel. Their conduct violates all the basic norms of due process and established law. We are also extremely concerned at the manner in which this investigation has been initiated, where a clearly vitiated social media campaign has sought to create pressure on police and state officials to take criminal action against those who are

fighting to uphold civil liberties and constitutional values.

The basis of this FIR is that Nadeem Khan was involved in putting up an exhibition highlighting recent incidents of hate crimes and hate speeches in India. The exhibition also displayed recent judgments of the Supreme Court like *Tehseen Poonavala v Union of India* where they have passed guidelines for dealing with cases of mob violence.

It is obvious to us that this is clearly an attempt to punish and criminalise the exercise of freedom of speech, as well as the advocacy of civil liberties and constitutional rights.

The PUCL demands that:

- 1) FIR be immediately quashed.
- 2) This harassment of Nadeem, his family be stopped. A compensation to the family must be paid for this harassment.
- 3) An FIR against the SHO of Shaheen Bagh Police station for criminal intimidation, harassment, trespassing must be registered.

OPEN LETTER TO THE CHIEF JUSTICE OF INDIA: REQUESTING WITHDRAWAL OF JUDICIAL WORK FROM JUSTICE SHEKHAR KUMAR YADAV OF ALLAHABAD HIGH COURT

PUCL UTTAR PRADESH

To,
The Hon'ble Chief Justice of
India,
Supreme Court of India
New Delhi

Subject: Requesting withdrawal
of judicial work from Justice
Shekhar Kumar Yadav of
Allahabad High Court

Respected Sir,

We, on behalf of People's Union for Civil Liberties (PUCL) Uttar Pradesh would like to draw your attention towards certain specific statements made by Justice Shekhar Kumar Yadav of Allahabad High Court at a recent event on Uniform Civil Code organized by the Vishwa Hindu Parishad's legal cell which we believe to be against the letter and spirit of the Indian Constitution and casts a shadow on the independence of the judiciary. Justice Yadav stated that the law like society and family will function as per the "bahusankhyak" (majority) and goes on to use a slur for certain Muslim people "kathmulle" which is unbecoming of a sitting judge from a High Court. We have learned from several judgments of the Supreme Court that might is not always right and it needs to be underlined in a healthy democracy that the rights of the weak, the minority cannot not be trampled upon just because they are less in number. The historic 2017 Puttaswamy judgement had mentioned how the Constitution curtails the power of majoritarianism from hijacking the

State. The same was echoed in another landmark judgement of Navtej Singh Johar where it reaffirmed that the guarantee of constitutional rights does not depend upon their exercise being favourably regarded by majoritarian opinion. Apart from the glaring undignified statements, a viral video clipping shows that his general tone towards the Muslim community in his speech reeks of furthering a divide of us versus them rhetoric which again goes against the judicial ethics and at the same time is criminal in nature.

Constitutional Morality is a philosophical concept that ensures the Constitution is interpreted and implemented consistently with its core principles and values. It also requires that all actions, whether by the state or individuals, reflect the ethical and moral imperatives of the Constitution.

The judiciary has been pivotal in evolving and upholding the doctrine of Constitutional Morality and the Supreme Court even equated constitutional morality with the spirit of the Constitution itself. Unfortunately J. Shekhar Kumar Yadav's comments showed his total lack of faith in the Constitution which is a serious breach of constitutional morality.

Former Chief Justice of India Justice Y.K. Sabarwal once said that judges must be cautious of their role and responsibilities while engaging in public speech and that they cannot be frivolous

in the use of their words. He then stated that judges have been bestowed with the responsibility of judging the conduct of fellow citizens and if they succumb to making wrong choices then they lose the moral authority to judge the lives of others.

Justice must not merely be done but it must also be seen to be done. The behaviour and conduct of members of the higher judiciary must reaffirm the people's faith in the impartiality of the judiciary. Accordingly, any act of a Judge of the High Court or any court of the country, whether in official or personal capacity, which erodes the credibility of this perception has to be avoided. J. Shekhar Kumar Yadav had spoken in a virtual tone of a political leader and not as a constitutional functionary under the bounds of oath of the Constitution of India. The words he used against a section of the citizens of this country indicates his total lack of faith upon the Constitution of India which is the bedrock of our democracy. If a judge lacks faith upon the Constitution then his integrity gets diluted and judicial discipline comes under the cloud.

PUCL UP is compelled to write this letter to you requesting for immediate withdrawal of judicial work from Justice Shekhar Kumar Yadav and initiate necessary steps including criminal charges against him for reinstating faith of people in the Indian judicial system. J. Yadav's comments also contravenes the

“Reinstatement of Values of Judicial Life” which was adopted by the full court meeting of the Supreme Court of India on 7th May, 1997 and hence deserves to be reprimanded for the same,

So that a wrong example is not set in front of those doing judicial work.

President- TD Bhaskar
General Secretary- Chittjeet Mitra

People's Union for Civil Liberties,
Uttar Pradesh Unit

December 10, 2024

PUCL UP DEMANDS FOR A JUDICIAL INQUIRY INTO THE KILLING OF 5 MEN IN SAMBHAL

PUCL UTTAR PRADESH

Any new survey to be stopped in accordance to The Places of Worship (Special Provisions) Act of 1991

PUCL Uttar Pradesh expresses its deep anguish in the killing of 5 youths in Sambhal on 24th November allegedly by the bullets fired by the policemen and demands for high level judicial inquiry.

PUCL UP also demands that the order for surveying the 900 year old Shahi jama masjid claiming it to be Harihar Mandir which goes against the places of worship act 1991 and is unconstitutional should be averted in future.

In the present case a petition was submitted in the local Court where it claimed that the Shahi Jama Masjid made between 1526 to 1530 was made on Harihar temple on which the court without even listening to the Muslim committee heard the case and ordered for a survey. Subsequently the survey started where the locals remained patient but after the initial survey things started to heat up. On 24th November the survey team visited the site for the second time with a heavy police force which led to a tense environment in the entire area. In a press conference held on 25th November by the head of the masjid committee advocate Zafar

Ali said that when water from the cistern was removed then locals mistook it for digging up the premises. Many people started to gather near the masjid and started raising slogans and according to the police they threw stones at them and then the police lathi charged on them. According to the locals the police also shot at the crowd which led to the death of 5 youngsters but the police is denying the allegation even though in many videos they can be seen doing the same. The police has said that 20 policemen were injured due to the stone pelting and many vehicles were torched. In several videos the police can be seen throwing stones as well and Zafar Ali said in his press conference that of all the motorcycles that were burnt only 1 belonged to the police. It is highly condemnable that just after this press conference concluded the Uttar Pradesh police arrested him on the evening of 25th November.

Sambhal SP Krishna Kumar Bishnoi gave a comment that only 'simple force' which included tear gas and lathicharge was used to disperse the crowd but the five deaths due to gunshot wounds tells another tale. This incident is very serious. This seems to be a repetition of the 10th June 2022 incident regarding Nupur Sharma

statement where police had arrested several innocent Muslim youngsters and minors into the jail. PUCL Allahabad had even issued a fact finding report regarding it.

Two established individuals advocate Kashan Siddiqui and Javed Mohammed were picked up late in the night of 24th November from Allahabad by the SOG team of police for simply expressing their angst regarding the killing of 5 Muslim youngsters and were charged under sections of breaking peace. Kashan Siddiqui was granted bail on 25th November but Javed Mohammed was sent to jail. This poses a doubt that other people might have been arrested for writing something on social media regarding these issues in different cities of Uttar Pradesh.

PUCL believes that a high level judicial inquiry needs to be set up regarding the incident of Sambhal and cases should be filed against the accused policemen for the killing of 5 Muslim youngsters.

Another important issue is that PUCL would like to highlight that immediately ordering a survey in any petition which aims at questioning the religious sanctity of a building is a communal act. In this case the other side was not even heard and was not even

given an opportunity to reach out to the higher Court in order to challenge disorder which is illegal and reeks of religious bias which is the reason behind the current environment of unrest and the death of 5 people.

This would eventually lead to a flood of such petitions questioning the religious sanctity of religious sites which is dangerous to any secular and democratic country. In UP itself petitions around Ayodhya, Mathura and Banaras led to their surveys which were then used as political propoganda leading to communal polarization and marginalisation of the minorities. These petitions have become a means for the domination over Muslims and their otherisation and it is important that they are stopped immediately it needs to be remember that to solve such problems in 1991 the protection of religious places Act was brought with stated that any monument which existed in a

certain way on 15th August 1947 what we considered as such and no changes cannot be brought on to it. Even in the Ayodhya judgement is stated that this won't be treated as a president and another cases in 1991 act would be applied as per needed only through strong implementation of this law can be preserve the secular nature of India and hence the responsibility lies on not just government but also judiciary. Unfortunately both of them are currently conveniently ignoring this law leading to a scenario of communal clashes which needs to be sub immediately or else incidence like what happened in Sambhal will not stop.

PUCL Uttar Pradesh demands the following,

1. High level judicial enquiry needs to be set up regarding the incident of 24th November in Sambhal
2. The police officials responsible for the death of 5 individuals

need to be arrested and a case of murder needs to be tried against them

3. Appropriate compensation needs to be given to the families of the deceased

4. With regards to the incident in Sambhal, large scale FIRs being filed in which many who are picked up are minors and investigation needs to be done in this regard and false cases needs to be taken back

5. Those responsible for ordering the arrest of advocate Zafar Ali should be punished

6. The order of surveying the Jama Masjid of Sambhal needs to be cancelled

7. All petitions drawing aspersions on religious structures need to be dismissed with a fine and the spirit of the places of worship act 1991 needs to be preserved.

T.D. Bhaskar Adv. (President)
Chittajit Mitra (General Secretary)
PUCL Uttar Pradesh

November 26, 2024

PUCL: AJMER DARGAH IS A SYMBOL OF FAITH FOR ALL

PUCL RAJASTHAN

The People's Union for Civil Liberties has condemned the misleading claims and propoganda against the Ajmer Dargah and has called for adherence to the laws established regarding religious places.

In its statement, PUCL said that Ajmer is a city of communal harmony, home to globally significant religious sites such as the Dargah of Khwaja Moinuddin Chishti, the Brahma Temple, Jain pilgrim centers, churches, and Parsi temples. The Dargah has existed for 800 years of the city's 1,200-year history. The Dargah

has long been a place of faith for people of all religions, attracting millions of devotees over the centuries. The Dargah's development owes contributions not only to Muslim rulers but also to Hindu kings.

It is unfortunate that a person, unfamiliar with Ajmer's history, traditions, and harmony, is attempting to gain cheap popularity by claiming that a temple exists beneath the Dargah. This baseless claim has sadly been entertained by the judiciary. No such claims have ever been made in Ajmer. The Dargah exemplifies communal

harmony, with Jain processions, Jhulelal processions, and even RSS path marches receiving flower showers as they pass by the site.

PUCL said that the Places of Worship Act, 1991 clearly prohibits altering the religious character of any place of worship. Section 4 of the Act mandates that "the religious character of a place of worship as it existed on August 15, 1947, shall be maintained." In the case of M. Siddiq (Ram Janmabhoomi Temple) vs. Suresh Das (2019), the Supreme Court upheld the constitutional validity of this Act,

emphasizing its role in preserving communal harmony and protecting India's pluralistic heritage. The Court further stated that the Act reflects the secular fabric of the Constitution and prevents misuse of historical claims for political or religious gains.

The management of the Ajmer Dargah is governed by the Dargah Khwaja Saheb Act, 1955, enacted by the Government of India, which explicitly designates the Dargah of Khwaja Moinuddin Chishti as a Muslim religious site.

Therefore, claims that the Dargah is a temple are in direct violation of Indian law.

PUCL asserts that it is the government's responsibility to instil a sense of security among minority communities and safeguard the secular character of the nation. Both the central and state governments should take Suo moto action against those spreading such baseless claims that foster unrest in society. PUCL has also urged the Supreme Court to direct lower courts not to entertain claims that

contravene the provisions of the 1991 Act.

Kavita Srivastava (National President)
Bhanwar Meghwanshi (President, PUCL, Rajasthan)
Anant Bhatnagar (General Secretary, PUCL, Rajasthan)

November 28, 2024

CIVIL SOCIETY GROUPS IN CG STAND IN SOLIDARITY WITH BASTAR ADIVASIS

JOINT STATEMENT, CHHATTISGARH

Accusing police of killing innocent tribals, civil society demands judicial inquiry into incidents

Ban on Moolvasi Bachao Manch is unconstitutional, a violation of fundamental rights

Bombing remote villages of Bijapur is illegal and must be stopped

Raipur: Various people's organizations of the state participated in a press conference organized by the Chhattisgarh unit of PUCL (People's Union for Civil Liberties) to express solidarity with violence-hit tribals in Bastar. Representatives of farmers, workers and social organizations questioned the series of recent encounters in Bastar in the buildup to the Home Minister's visit to the area and demanded the government to immediately stop the violation of constitutional rights in the name of anti-Naxal operations.

The current year of 2024 has claimed the highest number of casualties in encounters by security forces (leaving aside the Salwa Judum era). More than 235 alleged Naxalites have been killed by security forces since December 2023 during police operations. Villagers have often claimed that many of these encounters are fake – that the people who have been killed had no dealings with the Maoist organization, or that the deceased had been unarmed and were not posing any threat to anyone. In response, the Maoists have also ratcheted up their levels of violence, killing more than 60 civilians in Bastar this year, accusing them of being police informers.

Just a few days before Home Minister Amit Shah's arrival in Bastar, three encounters took place in Bijapur and Narayanpur on the 11th and 12th of December, in which security forces killed 10 alleged Naxalites. Of these, 7 people were killed in

Abujhmad (Narayanpur) on 11.12.2024, one person named Pandu Madvi was killed in village Moonga in Bijapur on 11.12.2024, and 2 people were killed in village Nendra in Bijapur on 12.12.2024. All these encounters have been questioned by the villagers of the three villages, and out of the 10 people killed, only 2 people have been confirmed as Maoists.

Villagers in Kумman (Abujhmaad, Narayanpur) have told activists and local journalists that they were busy harvesting and threshing Kosara paddy in the fields, when around 8–9 am on 11 December, DRG jawans came on the scene and opened fire indiscriminately. Some people were killed on the spot, the rest ran towards the forest in fear. At least four minors were injured in police firing. Out of the 7 people who were killed in police firing in Abujhmaad, the villagers are claiming 5 as ordinary villagers living in the village itself. Villagers of Moonga in Bijapur recall that Pandu Madvi was

working in his field in the morning of 11.12.2024, when the forces arrived suddenly. He ran away in fear and hid in someone's house, but the jawans followed him into the house and shot him in front of everyone. On 12.11.2024, Nendra villagers report that DRG jawans had come to their village, where they caught and killed 2 unarmed villagers. Around the same time, within the first week of December 2024, Maoists have killed 3 people in three separate incidents in Bijapur on suspicion of being police informers.

An atmosphere of fear and terror pervades Bastar. The villagers are insecure in their own villages, and encounters is not the only violence they face. News from Kondapalli and surrounding villages of Bijapur suggest that ever since a security force camp opened there 2 months ago, bombs are being continuously dropped on their villages. Earlier the bombings were only happening at night in nearby forests and fields, but now bombings are also occurring during the day and in populated areas as well. Villagers are so terrified of these bombs that they have stopped going towards their fields and have not been able to harvest their ripe crops. If these bombings are not stopped immediately, then famine will spread in these villages next year.

For last several years, Bastar youth have been organizing peaceful protests against security camps being built at various places without the prior permission of the relevant Gram Sabha as required by law. These protests have been crushed ruthlessly this year, and the youth organization "Moolvasi Bachao Manch" spearheading many such protests has been banned by the state government on 30 October 2024. The justification put forth by the Government for banning this organization under the Chhattisgarh Special Public Security Act is simply that this group "opposes development work done by the government, and also opposes the security camps being built to conduct these development works" - which is unprecedented in itself. There is no accusation of involvement in any violent action; the only "crime" committed by the group is that it peacefully opposes the government policies, using its constitutional guarantee to freedom of expression. This ban completely violates the fundamental right of the people of Bastar to associate peacefully, and thus, deserves to be revoked immediately.

The civil society organizations of Chhattisgarh below believe that peace in Bastar cannot be enforced at gunpoint. For a stable and just peace, there

needs to be an unconditional dialogue between the government on the one hand, and social, political parties of every ideology active in Bastar, on the other. Apart from this, we also make the following demands from the state government –

1. A judicial inquiry should be set up as soon as possible to know the true facts of the above mentioned 3 encounters that took place in the month of December.
2. An immediate and permanent ban should be imposed on the bombing in Komadpalli, Kondapalli, Tumirguda, Rekhapalli, Tikamgarh villages of Bijapur, and the damage caused to the villagers by this bombing should be compensated immediately.
3. The ban on the Moolvasi Bachao Manch should be lifted, and other peaceful protests should not be disturbed.

Respectfully –

1. People's Union for Civil Liberties
2. Chhattisgarh Bachao Andolan
3. Chhattisgarh Mukti Morcha
4. Guru Ghasidas Sevadar Sangh
5. Sanyukt Trade Union
6. Bharatiya Kisan Union (Tikait)
7. Chhattisgarh Jan Sangharsh Morcha
8. Pradesh Kisan Sangh

December 21, 2024

**JOINT LETTER FROM CITIZENS TO INDIAN STATISTICAL INSTITUTE:
RESCIND YOUR INVITATION TO MR. ROBERT AUMANN, KNOWN FOR
HIS ZIONIST VIEWS**

SIGNED BY AROUND 250 CITIZENS

To,
Director, Indian Statistical Institute

Aumann, known for his Zionist views, for a lecture

We are writing to you, on behalf of concerned citizens and human rights activists, after learning that the economist Robert Aumann has been invited by the Indian

Dear Sir,

Subject: Your invitation to Robert

Statistical Institute (ISI) for a lecture on January 13, 2025. We understand that there has not been any public announcement regarding the same, and therefore seek clarification on whether Mr. Aumann has indeed been invited.

We would like to remind you that Mr. Aumann has openly identified himself as a Zionist and is a member of a number of groups opposing the historic existence and recognition of the Palestinian state. He has repeatedly supported the ethnic cleansing of Palestinians and the denial of their equal rights. He also joined a Zionist political party to which he served as 'Scientific Advisor', and subscribed to the aim of a 'Greater Israel', which includes parts of Egypt, Syria, Jordan and other countries. He also made public statements claiming that the disengagement from Gaza in 2005, in which Israeli settlements were removed, should be termed as 'ethnic cleansing'. This invitation mocks the historic position of the Indian government to stand with the rights of Palestinian people to sovereignty, drawing from its own anti-colonial struggle for independence.

Coming at a time when the International Court of Justice (ICJ) has held Israel liable for committing plausible genocide and held Israel's occupation of Palestinian territories to be unlawful and when the International Criminal Court (ICC) has issued arrest warrants against Israeli Prime Minister Benjamin Netanyahu, an institution as esteemed as yours, by inviting and hosting a keynote lecture by Mr. Aumann, is ignoring its moral obligation to

support an international order based on compliance with international law and human rights.

We are on Day 441 of the genocide of Palestinians in Gaza, and the continued expansion of Israeli terror in the West Bank, other Occupied Palestinian Territories, Syria, Lebanon and other areas in neighbouring countries. The continued partnership with Zionist leaders and Israeli institutions by the ISI and other Indian academic institutions not only endorses and supports a regime built on ethnic cleansing and genocide, but also violates universal human rights principles and values of solidarity, empathy and justice which are central to academic pursuit and learning. The decision to invite someone who has justified the ethnic cleansing of lakhs of Palestinians, also undermines the stand taken by the Indian government in the UN of recognising the Palestinian state and voting in the UNSC for a permanent ceasefire.

As of today, there is no university left standing in Gaza. To make this targeted assault on the Palestinian education system worse, Israel has destroyed 80% of schools in Gaza. Palestinian academics and intellectuals have been deliberately killed by Israeli forces. These actions taken together are being referred to as the crime of 'scholasticide', a term developed in the very specific context of Israel's attack on Palestinian scholars, students and educational institutions since the time of the Nakba in 1948. For years, there has also been increasing evidence of the central role played by Israeli universities in being 'a key planner, supporter

and defender of Israel's attacks on Gaza' including in enforcing the occupation and in developing defense and arms technology for the Israeli state. For example, Israel bombed the Al-Tabin school in central Gaza killing hundreds of displaced families including children in one of the deadliest massacres since Israel first launched its full scale offensive in Gaza in October 2023. Despite this, some Indian academic institutions in fact have chosen to deepen their ties with Israeli institutions, rejecting global and national calls for academic and cultural boycott of Israel.

Deepening academic ties with Israeli universities is neither in our national interest, nor compliant with our own constitutional values. There are genuine concerns that such ties might pull Indian academia into a military industrial complex much like American and Israeli universities. India is already imitating inhuman and undemocratic Israeli policies directed towards Palestinians: oppression of minorities, forced evictions and demolitions, curbing of dissent, among others. Indo-Israeli academic ties, many Indians fear, may end up entrenching such policies even more deeply in India's body politic.

Mr. Robert Aumann is a member of the group 'Professors for a Strong Israel', a group of academics which has publicly and repeatedly called for the ethnic cleansing of Palestinians in the interest of preserving the domination of Jewish Israeli society. While many argue that an individual may be separated from their political beliefs, Mr.

Aumann has repeatedly used his research to justify Israel's authoritarian regime and called for more aggressive strategies to be used to oppress Palestinians. Even the Nobel Prize conferred to Mr. Aumann was vehemently opposed by hundreds of academics. A petition was sent to the Swedish Academy to condemn the decision to give Mr. Aumann and Thomas Schelling the award.

The Indian Statistical Institute prides itself for being a centre for excellence in the fields of Mathematics, Statistics and related sciences. No academic pursuit is meaningful without an awareness and commitment to making the world a more just and equitable place where every human being can realise their

right to a life with dignity. Inviting Mr. Aumann would make ISI complicit in the Zionist goal of genocide and expansion of Israeli terror, and guilty of abandoning the values of human rights and justice which must underline every academic pursuit.

We urge you to rescind your invitation from Mr. Aumann, and demand that your institution heed the call of the Palestinian Campaign for Academic and Cultural Boycott of Israel and desist from entering into new tie-ups with Israeli institutions, terminate existing collaborations with Israel and boycott all Israeli state officials. Just as the international boycott of South African institutions during the apartheid years led to the fall of the apartheid regime in South

Africa, we are confident that a similar boycott of Israeli institutions will ensure that Israel fails in its entirely illegal objective to destroy the very social, cultural and political foundations of the collective life of Palestinians. It is the moral imperative of our times, that all right thinking people stand in solidarity with the people of Gaza.

We, the undersigned, demand the following from your authorities immediately:

- A clarification whether Mr. Robert Aumann will be hosted by Indian Statistical Institute in January 2025.
- And if that is the case, a public announcement of the withdrawal of invitation to Mr. Aumann

Circulated: December 21, 2024

DECODING PLACES OF WORSHIP ACT 1991: THE MISCHIEF BEHIND THE SMOKE SCREEN IS TO UNDERMINE SECULARISM

S. FARMAN AHMAD NAQVI, SENIOR ADVOCATE, HIGH COURT, ALLAHABAD

The Act stipulates that the religious character of places of worship as they existed on 15th August 1947, must be preserved, and prohibits any changes to the religious identity of such places. The Places of Worship (Special Provisions) Act, 1991, aims to preserve the religious status of places of worship, preventing conversions between different religious denominations or within the same denomination.

The Act seeks to maintain communal harmony by freezing the religious character of these places and preventing disputes over such conversions.

While introducing the bill in parliament, then home minister SB Chavan expressed anxiety about "an alarming rise of

intolerance propagated by certain sections for their narrow vested interests". These groups, he said, were resorting to "forcible conversion" of places of worship in an attempt to create new disputes.

Certain relevant provisions of Places of Worship Act 1991-

a. Section 3: Prohibits the conversion of any place of worship, either in full or in part, from one religious denomination to another.

b. Section 4(1): Mandates that the religious identity of a place of worship must remain unchanged from its status on 15th August 1947. Any attempt to alter the religious character is prohibited.

c. Section 4(2): Terminates all ongoing legal proceedings concerning the conversion of a

place of worship's religious character prior to 15th August 1947, and prevents the initiation of new cases challenging the religious status of such places.

d. Section 5: The specific dispute at Ayodhya (Babri Masjid-Ram Janmabhoomi), was exempted from the purview of the Act.

e. Besides the Ayodhya dispute, the Act also exempted, 'Any place of worship which is an ancient and historical monument, or an archaeological site covered by the Ancient Monuments and Archaeological Sites and Remains Act, 1958.' The exemption of the Ram Janmabhoomi-Babri Masjid from the Act has raised concerns about inconsistency and the potential for selective legal treatment of certain disputes.

f. Cases that have already been

resolved or settled by mutual agreement were also exempted
g. Conversions that occurred before the Act's commencement were also exempted.

h. Section 6 relates to penalties: The Act establishes strict penalties for violations, including imprisonment of up to three years and fines for attempting to change the religious character of a place of worship.

In May 2022, the Supreme Court noted that inquiries can be allowed into the religious character of places of worship, as long as such inquiries don't lead to a change in the religious character.

There are reservations and apprehensions over the Places of Worship Act, 1991.

1. Constitutional validity of the Act has been challenged on the ground of limiting judicial review, potentially undermining the role of the judiciary in resolving disputes.

2. The Act's retrospective cutoff date of 15th August 1947 has been criticized as arbitrary and irrational, potentially infringing upon the rights of certain religious communities.

3. Multiple petitions have been filed against the Act, with petitioners arguing that it prevents Hindus, Jains, Buddhists, and Sikhs from reclaiming places of worship they believe were "invaded" or "encroached upon" by rulers is violative of their rights.

The Supreme Court on 12th December 2024 barred civil courts across the country from registering fresh suits challenging the ownership and title of any place of worship or ordering surveys of disputed religious places until further orders, and

made it clear that no "effective" orders can be passed. Hearing batch of six petitions challenging the constitutional validity of the Places of Worship Act, 1991, a three-judge bench, headed by Chief Justice of India Sanjiv Khanna alongwith Justice Sanjay Kumar, and Justice KV Viswanathan said, 'As the matter is sub judice before this Court, we deem it appropriate to direct that, though fresh suits may be filed, no suits would be registered and no proceedings shall be undertaken therein till further orders of this Court. Further, in the pending suits, no Court will pass any effective interim orders or final orders, including orders directing surveys, etc. till the next date of hearing/further orders of this Court.'

The court will hear the matter next on February 17, 2025.

WHAT SHOULD WE DO TO QUELL THE SPREAD OF THIS VIRUS

The legal and social debates surrounding the Act are often tangled with provocative communal issues. Critics argue that challenges to the Act may worsen communal tensions, particularly when it comes to sensitive sites like mosques, temples, and churches. The Act was intended to protect India's secular nature by preserving religious harmony, but its critics believe that it may inadvertently allow for the suppression of certain religious communities' claims to historical sites, thus undermining the secular fabric of the nation. The Act is often invoked in political and religious debates, leading to concerns that religious issues could be used to stoke division or mobilize support

for political causes. Some of the ongoing disputes have led to social unrest, with protests and communal tensions erupting over religious site claims, reflecting the deep societal divide over such issues.

With varying interpretations of the Act's provisions, there is a pressing need for the Supreme Court to provide clear and definitive guidelines on the applicability of the Places of Worship Act. Local court interventions in sensitive religious matters call for a closer examination of the jurisdictional limits of lower courts.

The recent history of how lower courts have responded to the Places of Worship Act, underscores the need for a final determination by the Supreme Court.

Few weeks ago, a court in Rajasthan issued notices to the government after admitting a petition claiming that the revered Ajmer Sharif dargah - a 13th-Century Sufi shrine that attracts thousands of visitors every day stood over a Hindu temple.

Last month, five people were killed in Sambhal town in Uttar Pradesh state when violence broke out during a court-ordered survey of a 16th-Century mosque. Muslim groups have contested the survey in the Supreme Court.

There have been tensions over other court-ordered surveys earlier, including in the case of the Gyanvapi mosque. Hindu groups said the 17th-Century mosque was built by Mughal emperor Aurangzeb on the partial ruins of the Kashi

Vishwanath temple. Muslim groups opposed the survey ordered by a local court, saying it violated the 1991 law. But in 2022, a Supreme Court bench headed by then chief justice DY Chandrachud did not stop the survey from going ahead. He also observed that the 1991 law did not prevent investigations into the status of a place of worship as of 15 August 1947, as long as

it did not seek to alter it.

So many have criticized this phenomenon since then, with former civil servant Harsh Mander saying that it "opened the floodgates for this series of orders by courts that run contrary to the 1991 law. If you allow the survey of a mosque to determine if a temple lay below it, but then prohibit actions to restore a

temple at that site, this is a surefire recipe for fostering resentment, hate and fear that could detonate for years in bitter feuds between people of diverse faiths," Mr Mander wrote, "As long as Indian courts are allowed to defy the spirit of the Places of Worship Act, 1991, bloodshed will follow the reopening of the wounds of history."

ON APPOINTMENT OF THE CHAIRPERSON AND MEMBERS OF THE NATIONAL HUMAN RIGHTS COMMISSION

DISSENT NOTE BY LEADERS OF OPPOSITION IN LOK SABHA AND RAJYA SABHA

The Protection of Human Rights Act 1993 provides for a selection mechanism for the appointment of the Chairperson and Members of the NHRC. The law stipulates that the committee chaired by the Prime Minister, and the other members being the Speaker of Lok Sabha, the Home Minister, leaders of opposition of Lok Sabha and Rajya Sabha and deputy chairman of Rajya Sabha.

In view of the importance of the NHRC in promoting, protecting and defending human rights, it is important to historically document the controversy over the manner of appointment of the Chairperson and members of the NHRC. Two of the six members of the committee which submits the recommendation to the President of India, gave their dissent in the form of this note, made public.

Dissent Note

The meeting of the Selection Committee for selection of Chairperson and Members of the National Human Rights Commission (NHRC) was held at 1:00 PM on 18 December 2024

at G54, Parliament House.

Without prejudice to the names of the Chairperson and members approved by the Selection Committee, we respectfully record our dissent on the following grounds:

Firstly, the selection process adopted by the Committee was fundamentally flawed. It was a pre-determined exercise that ignored the established tradition of mutual consultation and consensus, which is essential in such matters. This departure undermines the principles of fairness and impartiality, which are critical to the credibility of the Selection Committee. Instead of fostering deliberation and ensuring a collective decision, the Committee relied on its numerical majority to finalise the names, disregarding the legitimate concerns and perspectives raised during the meeting.

Secondly, the National Human Rights Commission (NHRC) is a vital statutory body tasked with safeguarding the fundamental human rights of all citizens,

particularly those from oppressed and marginalised sections of society. Its ability to fulfill this mandate depends significantly on the inclusiveness and representativeness of its composition. A diverse leadership ensures that the NHRC remains sensitive to the unique challenges faced by various communities, especially those most vulnerable to human rights violations.

We proposed the names of Justice Rohinton Fali Nariman and Justice Kuttiyil Mathew Joseph for the position of Chairperson keeping in mind both merit and the need for inclusivity. Justice Rohinton Fali Nariman, a distinguished jurist from the minority Parsi community, is renowned for his intellectual depth and unwavering commitment to constitutional values. His inclusion would send a strong message about the NHRC's dedication to representing India's pluralistic society. Similarly, Justice Kuttiyil Mathew Joseph, a former Supreme Court judge, belonging to minority Christian community, has consistently delivered

judgements that emphasise individual freedoms and the protection of marginalised groups, making him an ideal candidate for this critical position.

Furthermore, for the position of Members, we recommended the names of Justice S. Muralidhar and Justice Akil Abdulhamid Qureshi, both of whom have exemplary track records in upholding human rights. Justice S. Muralidhar is widely respected for his landmark judgements advancing social justice including his work on custodial violence and the protection of civil liberties. Justice Akil Abdulhamid Qureshi, belonging to the Muslim minority community, has consistently defended constitutional principles and demonstrated a strong

commitment to accountability in governance. Their inclusion would contribute to the NHRC's effectiveness and its commitment to diversity.

Thirdly, while merit is undeniably the primary criterion, maintaining a balance that reflects the regional, caste, community and religious diversity of the nation is equally important. This balance ensures that the NHRC operates with an inclusive perspective, sensitive to the lived experiences of all sections of society. By neglecting this critical principle, the Committee risks eroding public trust in this esteemed institution.

Lastly, the dismissive approach adopted by the majority of the Selection Committee in today's

meeting towards these considerations is deeply regrettable. The NHRC's credibility and effectiveness depend on its ability to embody the diversity and inclusiveness that define India's constitutional ethos. The names we proposed reflect this spirit and align with the foundational principles of the Commission. Their exclusion raises significant concerns about the impartiality and fairness of the selection process.

Mallikarjun Kharge
Leader of Opposition,
Rajya Sabha

Rahul Gandhi
Leader of Opposition,
Lok Sabha

A SOUTHERN PEDAGOGY

BURHAN MAJID

A review of 'Of Law and Life: Conversations with Upendra Baxi' by Upendra Baxi et. al. (edited version of piece published on Outlook on May 12, 2024)

In my decade-long career of teaching law, I have often contemplated the delicate relationship between activism and scholarship. Central to this thought have been these questions: Can a scholar maintain a detached stance from their positionality while effectively questioning the prevailing paradigms? Is the axiom of 'personal is political' exclusive and elusive to objectivity? How can one reconcile, if at all, the pursuit of objectivity with the ethos of an 'activist scholar'?

Baxi emerges as a living embodiment of the delicate equilibrium between activism and theory. This equilibrium is

brilliantly explored in the book *Of Law and Life*. Written in a question-answer format, the book delves into the interplay between Baxi's convictions and his extensive body of socio-legal scholarship. Put simply, *Of Law and Life* stands out in laying bare the influence Baxi's person has had on his academic work, and, in turn, how his academic work has changed him as a person. Composed in a conversational tone, the book defies the label of an autobiography or a biography of Baxi, as described by the writers themselves. My reading of the book would describe it as a semi-autobiographical account where we are introduced to the spoken Baxi, who otherwise has only come to be known through his written work. *Of Law and Life* is a unique intervention that enables us to know the person

and scholar that Baxi is through deep reflective questions.

The organisation of the book is not chronological but thematic and hence saves us from falling into the pitfalls of linear structuration and sequential boredom. Chapters on activism, justice, constitutionalism and human rights extend an opportunity to look inside Baxi's life-world and a blueprint of the making of the scholar, activist, professor and human rights advocate he has come to be and we have all come to admire.

Baxi's academic journey stands out for his focus on the subaltern, demonstrated by the themes explored in the book. Caught in the crosshairs of lawfare—a term lately used by some to describe political dismantling through legal

recourse—this book comes as a timely intervention. The book serves as a respite to its parched reader that law, despite all its problems, has the potential to redress human suffering. This hope in the powerful redressive ability of law centres the orientation of my own research and teaching of law. Authors Arvind Narrain and Sitharamam Kakarala aptly note this as the 'optimism of the intellect'.

The book also holds space to lament the state (lack) of constitutionalism as a pedagogical tool in Indian law schools, and rightly so. Baxi's scholarship is a wake-up call for the legal academy in India and the Global South broadly to anchor the liberal constitutional scholarship around the history of violation and dispossession. This rings true in the current socio-political context wherein the grand constitutional documents have been misused by the state to push the marginalised further down. The treatment of Muslims and Kashmir serves as evidence. The book also flags the lack of critical engagement with the courts by the legal academy. Interrogating the judicial behaviour post-Emergency, the book's claims resonate with contemporary judicial behaviour.

Baxi's critique of human rights as a 'gift from the West for the rest' starkly reminds us of the rule—scepticism that forms the core of critical legal thinking. For Baxi, taking human rights seriously is taking suffering seriously. To quote Oishik Sircar, 'Baxi's single most important contribution to jurisprudence in India has been

to infuse legal scholarship with pathos—the pathos of suffering, resistance, responsibility and care'.

Premised on a postmodern critique and a southern turn, Baxi's scholarship on human rights, as the book demonstrates, puts people at the centre-stage instead of the predominant myth believing the state to be the arbiter of human rights. The book captures at length Baxi's activist interventions, including the Bhopal gas tragedy, the open letter to the Chief Justice of India on the Mathura rape case, and his pioneering work on Social Action Litigation (SAL) in India. However, the origins and functions of SAL have been critiqued through the recent scholarship of Anuj Bhuwania, who warns against the unregulated use of SAL/PIL as a weapon for amassing unchecked power for the judiciary.

A book of this nature cannot become possible without the labour, patience and commitment of all the people who have contributed to the fruition of the work. The undeterred resilience of the authors is commendable and can only be justified by the sheer admiration Baxi strikes in all the lives he has touched, for the authors have an affiliation to him—all are his former students. Of Law and Life is a book that was long due and one that should be widely read to understand the trajectory of the Indian legal system through the life and work of one of its most commendable scholars.

(Burhan Majid is an Assistant Professor of Law at the School of Law, Jamia Hamdard, New Delhi)

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