

**PUCL Editorial: The new Labour Codes – Denying Rights, Depriving Protections: Unpacking the Propaganda and the Lies of the Modi Government**

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**THE NEW LABOUR CODES – DENYING RIGHTS, DEPRIVING PROTECTIONS: UNPACKING THE PROPAGANDA AND THE LIES OF THE MODI GOVERNMENT**

On 21st November, 2025, the NDA government notified the four Labour Codes: Code on Wages 2019, Industrial Relations Code, 2020, Occupational Safety, Health and Working Conditions Code, 2020 and Code on Social Security, 2020. The Government claimed that the Labour Codes are building a workforce that is protected; that they empower workers, extend social security cover to all, including gig workers, provide for a right to minimum wages, provide equal opportunity to women by permitting women in night shifts. The Labour Codes were touted as the biggest reforms since Independence.

These claims are not only far from true but a cruel joke on the Indian working class. Firstly the rights codified in the Labour Codes existed in the earlier legislations. Each and every right are the hard-won outcomes of decades of collective struggle by workers, trade unions and labour movements. Effectively, no new right or protection has been added.

The right to fair conditions, minimum standards, collective bargaining, safety, and social security represent victories of labour and unions against

entrenched power and exploitation. Ironically, while the Government touts simplification and modernisation, what the Codes actually do is rob workers of critical protections, eroding the very rights that were fought for over generations. The Codes for the most part are a mere reproduction of the earlier legislations with a mere re-ordering and numbering of provisions. What is most insidious however, are the few additions and alterations which effectively have stripped the working class of entitlements and rights secured after decades of struggle.

Alteration of 'coverage thresholds' is one such insertion. Under the Industrial Employment (Standing Orders) Act, 1946, employers were required to define employment conditions and certify Standing Orders in industrial establishments with 100 or more workers. These orders provide transparency and clarity on terms of employment, disciplinary procedures, and grievance mechanisms to workers and once certified, they have statutory force. Under the Industrial Relations Code, 2020, this threshold has been raised sharply to 300 workers, meaning that only establishments with 300

or more workers are now legally required to frame Standing Orders. This potentially leaves a large swathe of industrial and manufacturing workers without statutory clarity on terms of employment, disciplinary standards, termination procedures, or redressal norms. A vast majority of Indian formal sector establishments are small and medium in size—suggesting that lakhs of workers who were hitherto covered would now be excluded from the purview of the Standing Orders.

Similarly the Factories Act, 1948 — subsumed into the Occupational Safety, Health and Working Conditions Code, 2020 — applied to manufacturing premises where 10 or more workers were employed with power, or 20 or more workers without power. This threshold has been altered to 20 and 40 respectively. The Factories Act provided in great detail the duties of the owner to maintain clean and healthy premises with adequate ventilation and lighting, protection from heat, dust, dangerous fumes, protection of eyes, prevent overcrowding, provide safe drinking water, sanitation etc. The Factories Act stipulated mandatory safety precautions such as secure fencing of machinery, adequate training to handle moving machine parts and many other safety measures in the installation and handling of various types of machinery, explosive or inflammable substances etc. The Code by excluding factories engaging less than 20 workers in a manufacturing process with power, or less than 40 workers in manufacturing without power has in one stroke removed even the

basic physical safety measures to large numbers of workers. Thus many smaller establishments that historically attracted regulation will operate without immediate statutory safety oversight, placing worker lives at risk.

Previously, under the Industrial Disputes Act, 1947, establishments with 100 or more workers required prior government permission for closure, lay-off or retrenchment—a safeguard against arbitrary termination of jobs by employers. The Industrial Relations Code now raises this threshold to 300 workers, reducing protections for smaller establishments and giving employers considerably greater freedom to lay off or retrench workers without prior approval. Thus, by redefining coverage thresholds, the Labour Codes shrink the ambit of enforceable worker rights—precisely at a time when job insecurity and casualization are rising and many industries are moving to sub-contracting as a mode of functioning.

As to the erosion of labour rights, the process had begun much before the Labour Codes. The restrictions on registration of trade unions was brought in 2001 itself by the then NDA Government headed by Prime Minister Vajpayee. The Labour Code has merely re-enacted this provision as amended in 2001. Every Trade Union must have a membership of at least 10% of the workers engaged or employed in the industrial establishment or one hundred workers whichever is less, as a pre-condition to even getting the union registered. Any reduction in the membership will entail

cancellation of registration by the Registrar of Trade Unions. This has resulted in more governmental control over the very existence of trade unions. The constitutional validity of this pre-condition for registration of trade union has not been seriously tested as against the fundamental right to form Associations guaranteed under Article 19(1)(c) of the Constitution though the Allahabad High Court in 2008 had in a very cursory manner upheld it in *Lohia Machines Karamchari Sangh* case. The Allahabad High Court has glibly held that the amendment did not prevent formation of unions but only regulated the registration of unions. It must be borne in mind that the crucial protection to a trade union is the immunity against civil and criminal liabilities for trade union activities; this however enures or applies only to a registered trade union and not an unregistered one. Hence by controlling registration of trade unions, members of unregistered trade unions can be mired in tortious and criminal liabilities which literally sets the trade union movement back to the pre-1926 era. One cannot forget how the Trade Union Act was the result of the civil courts awarding damages of several lakhs for losses incurred on account of a strike demanding a higher share of profits as bonus on members of the first Labour Union in India – the Madras Labour Union.

It is to be noted that the Code provides for recognition of negotiating union or negotiating council but is silent on the mechanism for recognition, once again leaving it to be 'verified in such manner as may be prescribed'. It has been the

longstanding demand of Trade Unions to have the mechanism of secret ballot or check off system to ascertain the majority union. But the Code has not used this 'reform-moment' to include this very crucial aspect for recognition of majority union.

One key definition in the Industrial Relations Code which in one stroke denies workers access to courts in case of illegal dismissal or discharge and protection in case of lay off and retrenchment, is the definition of industry. The definition of 'industry' under the Code reverses the inclusive interpretation given by the Supreme Court in 'Bangalore Water Supply & Sewerage Board Vs. A Rajappa' (1978) which introduced the 'triple test' of (a) systematic activity, (b) cooperation between employer and employee and (c) production/ distribution of goods or services to satisfy human wants. This resulted in hospitals, educational institutions, charitable bodies, clubs, temples and all government departments and local bodies being brought within the definition of industry, thereby providing the large sections of workers employed in these sectors access to courts and protection under the Industrial Disputes Act.

The first legislative attempt to reverse the said ratio was made in 1982, when the Industrial Disputes (Amendment) Act, 1982 was passed. However, the said amendment was never notified on account of strong opposition by the Trade Unions. After 43 years, this anti-worker provision has now been successfully introduced in the Industrial Relations Code, 2020, which

excludes institutions owned or managed by organisations wholly or substantially engaged in any charitable, social or philanthropic, activities relatable to the sovereign functions of Government and any other activity as may be notified by the Central Government stand excluded from the definition of industry. This virtually turns the clock back to the pre 1978 situation and we will find many sections of workers out of coverage of worker protection laws and effectively being remedy-less.

One area which screamed for reform is the removal of ceilings under the Employees' State Insurance Act, 1948 (ESI) and Employees Provident Funds and Miscellaneous Provisions Act, 1952 (EPF). The current ceiling of Rs.21,000 salary for inclusion in the ESI scheme is irrational. Over the years the ESI has developed a vast infrastructure of hospitals, built entirely out of the contributions made by the workers and the employers. Removal of the salary ceiling would bring all workers into the fold thereby reducing the load on government hospitals. It would also provide affordable health care to large sections of workers who are otherwise dependent on the private hospitals and private insurance. This long pending demand has been ignored.

Similarly, the ceiling of Rs. 15,000/- for contribution towards EPF also requires to be removed. Even if the compulsory employer contribution is capped so that the burden on MSME is not unreasonable, the option to increase contribution voluntarily by employees and employers should not be denied as it has

the potential to provide the much-needed social security to workers, post-retirement. As per media reports, the EPFO holds Rs. 8,505 crores in inoperative accounts. These sums together with enhanced contributions can offer good pensions to workers. The Labour Code 'reforms' has completely overlooked this demand from the working class.

The most critical lacuna over the decades, on the wage front, is the lack of a proper statutory formula or criteria in determining the minimum wages. The long-standing demand of legislating the formula evolved by the Supreme Court in 'Workmen vs. Raptakos Brett & Co' case (2008) on what constitutes minimum wage has been once again consciously ignored. Even if this single aspect was introduced now, the Labour codes would have served the purpose.

The numerous other laws specially enacted for mine workers, dock workers, plantation workers, construction workers, cinema workers, migrant labour etc were enacted to suit the peculiar working conditions in each of these sectors and the peculiarities of those industries. It was not out of lack of imagination that earlier Parliaments thought it fit to enact separate enactments. With the subsuming of all these enactments by the single Occupational Safety, Health and Working Conditions Code, the sector-wise focus is lost.

This apart, many States have Welfare Boards functioning for the benefits of workers in the unorganized sector and the future of these Boards remains uncertain. The Code on Social Security merely provides for

framing of welfare schemes by the Central Government and State Government from time to time, to unorganized workers, gig and platform workers; but no specific rights have been recognized.

Many of the state governments are yet to formulate the rules under the four Labour Codes. The devil is always in the detail and it remains to be seen what further chaos will be unleashed on the workers of our country. The shrill propaganda that the

Labour Codes bring in 'ease of doing business' remains just that – propaganda. The lack of ease of doing business was never caused by labour or were the result of the provisions offering them some basic protection against exploitation. Hurdles in doing business were always caused by the government bureaucracy. The Labour bureaucracy and the penalty sections remain intact and hence the employers will have to continue to make their 'regular payments' to keep the

government at bay.

At the end of the day the Labour codes legitimize exploitation of labour and emasculation of trade unions even as they offer little respite from the 'license rai' to the employers. At the end of the day, it is the Executive which is having the last laugh!

*Guest Editorial written by D. Nagasaila, Advocate, Madras High Court*

## **REPEAL UAPA: THE DANGEROUS IMPLICATIONS OF THE SUPREME COURT JUDGMENT DENYING BAIL TO UMAR KHALID AND SHARJEE L IMAM**

### **PUCL POSITION PAPER**

Below is a summary of the position paper which is available at <https://pucl.org/manage-writings/pucl-position-paper-repeal-uapa-the-dangerous-implications-of-the-supreme-court-judgment-denying-bail-to-umar-khalid-and-sharjeel-imam/>

#### **Introduction**

The judgment of the Supreme Court in *Gulfisha Fatima v State*, is extremely disturbing as it equates legitimate calls for protest and civil disobedience to acts of terrorism, thereby justifying the continued incarceration of two researchers and prominent anti-CAA activists in the Delhi riots conspiracy case, even as the trial has not commenced to date.

A close reading of the judgment indicates that the Supreme Court has given the supreme imprimatur to the criminalisation of the constitutional freedoms of speech, association and assembly, especially when

exercised by Muslim citizens of India. It also lays down a troubling interpretation of the UAPA with serious implications for the future of the constitutional freedoms of speech, association and assembly.

#### **Equates Protest to Terrorism**

The third thing the Court has wrongly done is to give a broad definition to terrorism. Section 15 of the UAPA states, that "Whoever does any act with intent to threaten or likely to threaten the unity, integrity, security, economic security, or sovereignty of India or with intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country," and does so through specified terror-linked means such as bombs, explosives, firearms or other hazardous substances, or by 'any other means of whatever nature' commits a terrorist act.

While none of the conventional

means of terror be it bombs, explosives, firearms were used in this case, the Court proceeds to interpret the last clause of Section 15, 'any other means of whatever nature' broadly. The interpretation of the Court broadens the understanding of terrorism by noting that, 'to construe Section 15 as limited only to conventional modes of violence would be to unduly narrow the provision, contrary to its plain language.' In the understanding of the Court, 'the means by which such acts may be committed are not confined to the use of bombs, explosives, firearms, or other conventional weapons alone. Parliament has consciously employed the expression "by any other means of whatever nature", which expression cannot be rendered otiose.'

This broad interpretation of the expression 'by any other means of whatever nature', goes against the *ejusdem generis* rule of legal interpretation. The phrase should

be interpreted in the light of the previous words like 'bombs, explosives and firearms' and cannot be interpreted to mean 'strike, gherao, bandh, rasta roko, rail roko' all of which are peaceful modes of expression. It is required that stringent laws be narrowly interpreted. Even when it comes to the economic security of India the means criminalised cannot be those which are constitutionally protected. This equation of protest to terrorism, in this judgment hits at the heart of the constitutional protections guaranteed to all citizens and marks a dangerous escalation in the ongoing criminalisation of the right to protest.

#### **The Problem of Protected Witnesses**

The charges against Umar Khalid in particular is that in a meeting he is 'alleged to have issued directions for stockpiling red chilli powder, acid, bottles, and sticks. It is further alleged that pursuant to the said meeting, Gulfisha Fatima stockpiled chilli powder, wooden sticks (dandas), acid, bottles, and other materials, and that she used coded language to transmit directions of the conspirators to the protesters. Statements of protected witness "Echo" are relied upon in the charge-sheet in support of these allegations.' Umar Khalid is also alleged to have 'instigated local women of Seelampur to stockpile knives, bottles, acid, stones, chilli powder, and other dangerous articles with the intent to engineer riots.' This is again based on the statement of a protected witness.

The Court is conscious of the fact that the protected witnesses statements may not withstand scrutiny but nonetheless holds

that, 'At the bail stage, the Court cannot test whether the protected witness statements regarding stockpiling or inducement of local residents will ultimately withstand scrutiny. What the Court can do is to examine whether, if those statements are accepted as they stand, they support an allegation that the agitation was not confined to symbolic protest, but contemplated engineered confrontation along communal fault lines.'

The evidence related to preparation for violence is solely reliant on the protected witnesses. Without the evidence of the protected witnesses, the protest is nothing other than a constitutional exercise of the freedom of opinion.

The UAPA under Section 44 empowers the court to 'for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.' However it is impossible to even challenge the veracity of these allegations as the name, address and identity of the witness is 'protected' and the defence cannot test the veracity of these serious allegations. The concept of 'Protected witnesses' can not only compromise the right to fair trial, but also become a supporting prop in the denial of bail to the UAPA accused under Section 43D(5).

The concept of protected witnesses can be traced back to the draconian Rowlatt Act, an act introduced to suppress the Indian struggle for independence. Motilal Nehru in his Presidential address at the 34th session of the Indian National Congress excoriates the Rowlatt Act noting

that under its provisions, 'The unfortunate person is not to be allowed to be represented by counsel, he may not be told the name of his accuser, nor even all the facts on which the accusation is based and is not entitled as a matter of right to examine any witness, or produce any document if the investigating authority considers it unnecessary.'

It is indeed a matter of outrage that the UPA government in 2008 by bringing in amendments to the UAPA, introduced the concept of 'protected witness' from a colonial law, thereby dishonouring the memory of the freedom struggle and re-introducing unfairness as a central dimension of law. The current political establishment is reaping the benefits of this grave misstep.

#### **Unconstitutional Conditions for Bail**

Even while granting bail to the five accused, twelve conditions have been imposed. Some problematic conditions include:

1. Till the trial is over they will report to the police station every Monday and Thursday between 10 A.M. and 12 noon.
2. They will not leave Delhi without prior permission of the Court.
3. The Appellants shall not participate in any programme or address or attend any gathering, rally or meeting, whether physically or virtually till conclusion of the trial.
4. The Appellant shall not circulate any post either in electronic form or physical form or circulate any handbills, posters, etc.

Conditions (i) and (ii) shackle the right to freedom of movement. Everyday life can become difficult as regular employment and reintegration into society will be challenging under these onerous bail conditions.

The bail conditions amount to an abridgment of constitutional freedoms for an indefinite period of time. The appellants are prohibited in any programme either online or offline. Further they are prohibited entirely from the use of the online sphere. How can a constitutional court deny individuals the right to speech on any issue whatsoever online or offline? These conditions make a mockery of the Constitution and deny those granted bail the right to speech, association and assembly and the right to a dignified life.

#### **The Exercise of the Freedom of Speech, Assembly and Association by Muslims is not a crime**

At its heart, the judgment views with suspicion not merely the speech of Sharjeel and Umar in but also the exercise of the right to association and assembly by both of them. There are innumerable references in the judgment to Sharjeel and Umar's leadership role because of their presence in WhatsApp groups such as the 'Muslim Students of JNU', which was 'alleged involvement in the Shaheen Bagh protest, and pamphlets opposing the Citizenship Amendment Act', and the Delhi Protest Support Group (DPSG). Their presence in the Jamia Coordination Committee (JCC), Jamia Awareness Campaign Team (JACT), etc. also marks them out as 'suspicious'

according to the judgement.

The other suspicious activities noted by the judgment include Sharjeel's involvement in 'drafting, printing and circulation of pamphlets in early December 2019, which deliberately invoked communally sensitive themes such as Babri Masjid, Kashmir and alleged existential threats to the Muslim community' as well as Sharjeel's involvement in facilitating 'the establishment of a 24x7 protest site at Shaheen Bagh, allegedly at his behest, despite opposition from local residents.'

As far as Umar Khalid is concerned he is alleged to have 'participated in the protest held on 07.12.2019 at Jantar Mantar, where he, along with Yogendra Yadav and Sharjeel Imam, purportedly agreed to utilise social media as a platform for large-scale indoctrination and mobilisation of youth for the purpose of enforcing a "Chakka Jam" as a mode of protest against the Citizenship Amendment Act.' It is also alleged that JCC was 'the brainchild of Umar Khalid and Nadeem Khan, allegedly created to mobilise a larger number of students for the protests.' The Jamia Awareness Campaign Team (JACT) was also constituted by Saif-ul-Islam and Asif Iqbal Tanha 'on the directions of Umar Khalid, with the stated objective of maximising mobilisation of the Muslim population in Muslim-dominated areas.'

If one leaves aside the testimony of the protected witnesses, the conspiracy which the Court is so eager to buy into, falls apart like a house of cards. The

organisational efforts to mobilize against the CAA and the rights of the Muslim community are sought to painted as per se suspicious. The name of the WhatsApp group, 'Muslim Students of JNU' is invoked a number of times as if the constitution of a Muslim group is proof of a terrorist conspiracy. However hard the Court tries, bending logic at the wheel of prejudice, the conspiracy is still nothing more than an exercise of a constitutional right.

As K.G. Kannabiran noted, 'The first right a people under tyranny exercise is associational freedom, which alone gives them the capacity to articulate their problems and what according to them are the solutions.'

#### **Conclusion**

What is being criminalised is the expression of political ideas, the associations people form to express those ideas and assemblies people participate in to take forward those ideas. The fact that Sharjeel and Umar are in jail for their ideas, for associating with others to take forward those ideas and for being part of protests and demonstrations. This makes them 'prisoners of conscience'.

**Prisoners of conscience** are 'persons imprisoned for the peaceful expression of their political, religious, or other conscientiously held beliefs, or for their identity, even though they have neither used nor advocated violence.' What makes their imprisonment even more telling is that the ideas they are advocating are the ideals of equality and non discrimination in the Indian Constitution. Are we

then supposed to conclude that the State which imprisoned them has no more faith in the ideal of equality of all regardless of religion and is therefore imprisoning those who continue to believe in equality? However, ideas cannot be silenced and as Stan Swamy eloquently put it, 'a caged bird can still sing.' The song of equality sung by Sharjeel and Umar continue to resonate with us.

The PUCL demands that:

- The Indian government to stop the reprisals on human rights defenders and ensure the enactment of law for protection of human rights defenders from unjust

persecution for taking up human rights issues and exercising their right to protest.

- The Indian government to repeal the draconian UAPA, that tramples upon the rights of accused to fair trial and that has served as a tool of repression and criminalisation of the right to protest.

The task however cannot be left to the state alone and its incumbent that all sections of civil society get together to oppose this draconian law.

- Like minded groups, parliamentarians and political parties together to form an

alliance against this brazen abuse of power and work towards the repeal of the UAPA law as it violates the right to life, speech, assembly, association as well as the right to a fair trial.

- Work with retired judges and members of the Bar so that voices can be raised in defence of the Constitution
- Advocate both nationally and internationally that the Indian state comply with ICCPR as well as other international standards on fair trial.

(18<sup>th</sup> January, 2026)

## PUCL DIALOGUES (VIII): SPECIAL INTENSIVE REVISION: EXCLUSION BY DESIGN, DISENFRANCHISING CITIZENS

### PUCL NATIONAL

PUCL organised an online discussion on 7th December, 2025 about the Special Intensive Revision, amidst the implementation of its second phase in 9 states and 3 union territories. The discussion was moderated by Kavita Srivastava, National President, PUCL and the speakers were Prashant Bhushan (Senior Advocate, Supreme Court), Yogendra Yadav (Bharat Jodo Abhiyan) as well as activists from various states: Madhuri from Madhya Pradesh, Albertina Almeida from Goa, Kaladas Dehariya and Sama from Chhattisgarh, EP Anil from Kerala, Sarfaraz from Bihar, Arundhati and Chittajit from Uttar Pradesh, Mujahid Nafees from Gujarat, Mamta Jaitly from Rajasthan and Balamurugan from Tamil Nadu.

Prashant Bhushan, Senior

#### Advocate, Supreme Court

The exercise of intensive revision has been done before. It was done in 2003, but it has not been done in the manner in which it is being done today. Let me go in to what is unique about this current exercise.

Firstly, it is being done in a great hurry. Earlier, the ECI itself had said that if a state election is only six months away, the SIR will not be done in that state, simply because at least six months are needed to complete this exercise of intensive revision. However, the SIR is being done in a great hurry. In Bihar, the SIR was completed in less than three months. Even in other states, the SIR was scheduled to be completed within 3 months.

Secondly, the SIR is the first of

its kind since India's independence. This is an unprecedented exercise. Never before in the history of this country has a fresh voters list been prepared except in the first election in 1950-52. Never before have all people been expected to fill an Enumeration Form. Even those already on the voters' list have been asked to fill a form. Whoever doesn't fill it will be removed from the voters list. Thirdly, earlier, the presumption was that you are a citizen of India. For the first time, this has been reversed. Now you have to prove that you are a citizen, even if you are already a voter. This is very dangerous.

In 1995, a Supreme Court judgement said that the ECI cannot ask a person to prove their citizenship. If the ECI suspects someone of not being a

citizen, they are required to initiate proceedings to prove that they are not a citizen: issue them a show-cause notice and ensure that they have an opportunity to reply, explain and be heard. But now, they have reversed the entire process and are demanding to see documents that will decide a person's citizenship. They are asking for passports, citizenship certificate, land records, matriculation certificate – these are being treated as proof of citizenship.

However, citizenship can only be decided by authorities under the Citizenship Act or under the Foreigners' Act, such as the Foreigners' Tribunal, a court or the Government of India. The ECI has no authority to decide on citizenship; it can only flag people who they consider as 'doubtful' and forward those matters to one of the authorities. The ECI on its own cannot remove somebody's name on merely suspecting someone's citizenship.

They have devised another type of NRC in the name of SIR. There is absolutely no transparency in this exercise. The lists of voters have not even been given in a machine-readable format in order to search for names or duplicates. They are not even giving complete information about the voters who have been deleted or added.

Fourthly, SIR is not an attempt to clean the electoral rolls. The Election Commission says they are just cleaning it up, removing dead names. That's false. For example, if they were serious about removing inaccuracies they should have used duplication software to remove duplicate

names. They did not do it. In Bihar, after the SIR, there were more than five lakh duplicate names within a constituency; across constituencies it was as high as 59 lakh. The Election Commission did nothing to correct it. Even small instances we produced in the Supreme Court — same photograph, same name, same constituency — were not removed in the final list used in Bihar. We showed about 75,000 blank and gibberish names; the Election Commission did nothing. Their own rule says that in a house with more than ten voters you should physically verify it; they did not do it. There were 21 lakh such houses in Bihar containing more than three crore voters; they were not checked.

The best way to determine the veracity of the rolls is a social audit. A meeting must be called of all the people of a particular booth, and their names must be read out one by one. People will tell you who has moved out, who died, who is a new voter and who was never there. In 2003, when a social audit was done in Rajasthan, 7 lakh names were corrected. They are not doing that now. The Election Commission wants this arbitrary power.

The Election Commission has no interest in cleaning up electoral rolls. The CEC himself said they don't need duplication software which is provided for in their own manual. We showed examples where names were written in Kannada and Tamil; even those corrections were not made.

Fifth, SIR has nothing to do with wanting to eliminate illegal foreigners. If they were serious,

they should have carried out SIR thoroughly in Assam. But in Assam they have an extraordinary order: they will check citizenship in all parts of India but not in Assam. In Assam you don't have to fill any enumeration form; the BLO will come to your house, take the names and go back. So that's strange and shows they have no interest in checking illegal foreigners. My simple submission: SIR is not a revision of voters list, SIR is not a routine exercise, SIR is not about cleaning the voters list, and SIR is not about removing illegal foreigners. What SIR is about is disenfranchisement; it is about doing NRC from the back door.

The Bihar exercise showed a scale of disenfranchisement we have never witnessed. Usually the ECI and its supporters say that voters' lists are inflated and we need to throw out a few lakh names. How do we assess whether a voters' list is inflated? You look at population figures based on government projections of adult population. For Bihar: adult population was 8.20 crore. How many people were on the voters list when SIR began? 7.89 crore. A good revision should move from 7.89 towards 8.20. What happened instead was the opposite: instead of covering up the deficiency, the SIR increased the deficiency. We went from 7.89 down to 7.45 in the final list. So instead of adding names it removed many — a deficit of about 75 lakh people in Bihar.

SIR led to disproportionate exclusion of women and Muslims. We have evidence submitted in the Supreme Court. In Bihar, for every 1000 men on the voters list, there were 916

women when SIR began; at the end there were 894 women for every 1000 men. At least seven lakh women who should have been on the voters list were thrown out because of SIR. Muslims were 18% of Bihar's population, but among the 65 lakh people who were excluded, Muslims were 25%; among people whose names were deleted after the draft list, Muslims were 32%. So there is disproportionate exclusion of women and Muslims.

One would expect the Election Commission to learn from Bihar and revisit the exercise. They did not. They made a few minor changes to make their own life easier, but nothing fundamental. The same story is being repeated all over the country.

#### [Yogendra Yadav, Bharat Jodo Abhiyan](#)

I will start by mentioning four simple basic things for everyone to remember: what SIR is not.

1. SIR is not a revision of the voters list. It is a fresh rewriting of the voters list.
2. SIR of today is not a repetition of something that happened in the past. It is absolutely unprecedented. The Election Commission is lying when it says it's routine because in 2002-03 what they did was entirely different. Two respects make it unprecedented: people were never asked to fill an enumeration form before, and the presumption of citizenship has been reversed.
3. SIR is not about cleaning the voters list. If they were serious about removing

inaccuracies, they would have used duplication software. They did not. In Bihar, final voters' list had more than five lakh duplicate names within a constituency and up to 59 lakh across constituencies.

4. SIR has nothing to do with eliminating illegal foreigners. If they were serious, Assam would have been thoroughly audited. Instead, SIR was not applied in the same way in Assam.

So what is SIR about? It is about disenfranchisement. Bihar showed that SIR led to a reduction in voters instead of correcting the deficit. Instead of moving from 7.89 crore to 8.2 crore, it went down to 7.45 crore. The total deficit is about 75 lakh voters.

SIR led to disproportionate exclusion of women and Muslims. Evidence was submitted in the Supreme Court. For every 1000 men, women dropped from 916 to 894; at least seven lakh women were thrown out. Muslims, though 18% of the population, were 25% of the excluded and 32% of those deleted after the draft list. Election Commission learned no lesson from Bihar.

We should tell this to everyone: SIR is not a revision, not a routine exercise, not about cleaning voters' lists, and not about removing illegal foreigners. It's about disenfranchisement and doing NRC from the back door.

#### [Madhuri, PUCL – Madhya Pradesh](#)

I would like to mention the issues

that are unique to tribal areas.

Firstly, tribal areas face internal colonization; tribal culture differs from non-tribal. There are a lot of differences in the name of a person across different documents, when it is being written by non-tribal officers. Most people in tribal communities have different names and spellings in different documents.

Secondly, it has already been reported in various states that women are facing challenges linking their names to the 2002 voter list. But in tribal communities, it is even more difficult because there are no documents.

Thirdly, it is the peak season of migration, and almost half the people in the villages have left their homes for work. Many people will be excluded because of this reason.

Fourthly, there are lakhs of fake voters in the voter lists here. We do not know how they plan on removing all these fake names. I would therefore like to ask – what can be done in court about those who will be deleted from the final rolls?

Another issue is that Form 7, the form to be used for deletion of voters, has been given to BLOs everywhere. But Form 6, the form required for inclusion of new voters, has not been given to anyone.

Receipts or acknowledged forms that are supposed to be given to voters, are also not being given.

I stay in a tribal area in Barwani district, which does not have a history in communal tensions.

Even here, BLOs here are saying that the names of Muslims have to be deleted.

BLOs are usually Anganwadi workers, many of whom do not know how to use a smart phone. They are unable to do the exercise as required.

Schools that run in tribal areas already struggle with limited resources, teachers and workers. All the teachers have been pulled out of school and are assigned these responsibilities. So the education infrastructure including Anganwadis and schools, that was already so scarce, has completely collapsed.

We need to challenge this exercise, but we are unable to understand how to do so.

Albertina Almeida, Activist, Goa

Goa has got a disproportionate high number of OCIs. CAA 2019 already set a precedent for arbitrarily setting up mechanisms for cancelling OCI registrations. SIR is another arbitrary process which will threaten this.

Another issue pertains to cultural points. Our system of naming is different. For example, my uncle's name in the 2002 roll has his father's name as his middle name. But this is not the culture for Catholics. So if there has to be a link between him and his progeny, there will be a problem because of the difference in names in documents. People are paying the price for the mistakes that were made in writing people's names in 2002.

The third issue is that although they were not supposed to ask for documents in the

Enumeration phase, there have been reports of people being asked to show their passports. There is a presumption that people from minority communities would be holding Portuguese passports. But people are unable to submit their passports.

The fourth point is that many groups are trying to create awareness about SIR. But we saw police being deployed in such places because they are not appreciating such efforts.

Goa's history of entering the Union of India is unique, and the question of Portuguese citizenship arises. That is being used against the people. These are the issues specific to Goa, and we are seeing that it is only an endeavour of disenfranchisement.

Kaladas Dehariya, PUCL-Chhattisgarh

We have formed a coalition, through which we approached the CEO with the issues being faced by people in Adivasi areas. We have been demanding extension of deadlines and have also demonstrated to the CEO how Enumeration Forms are being incorrectly filled. BLOs were then instructed to correct those mistakes.

Another issue we raised is that a photograph was required to be submitted by people. In forest areas, we do not have studios or shops that can provide for photographs. BLOs were immediately instructed to inform people that photos were not mandatorily required to be collected.

There is no doubt that Adivasis, especially migrant workers, will be excluded from voter lists. We have formed teams in every district to assist people and ensure that no voter is left out.

Samaa, Chhattisgarh

I will go through some of the issues highlighted in Manish Kunjam's petition. Manish Kunjam is a 2 time MLA, and the president of Adivasi Mahasabha. He has witnessed how lakhs of people are living without documents due to conflict, displacement and administrative neglect. Bastar is a Fifth Schedule area, which requires protection for Adivasi land, Adivasi culture and political representation. Any process that risks demographic change or deletion of voters should have come to Bastar with extra safeguards – not the speed and carelessness with which SIR is happening.

Bastar has been historically neglected by the state, and has been ridden with conflict which has caused a lot of displacement. The documents that are being asked in SIR are those which people simply do not possess. The state itself has burnt villages, as we know 644 villages were burnt during Salwa Judum. The villages are very scattered, and remote. You have to walk 8-10 kilometres by foot, you have to cross streams. It is impossible to expect BLOs to conduct door-to-door verification by visiting all the hamlets.

Past revisions that have taken place in the state have taken several months, but the timeline has been shrunk into 30 days in SIR.

Another issue is that villages are completely empty now. It is the season of paddy cultivation, and farmers are living in the fields. Others are migrating to TN and Andhra for work. The recent monsoons were very harsh, and many interior roads are still not accessible.

Lastly, Bastar is witnessing a historic moment, when a lot of people are en masse surrendering, and are wanting to join the mainstream. These are people with no documentation. At the same time, almost the entire Bastar region is being auctioned off. Mining companies are opening, outsiders are coming to set up shop. These outsiders have documents, resources and connections. But the indigenous people of Bastar are not going to have these documents to show.

This will go on, as Bastar will be auctioned until nothing is left. The people who protected Bastar are going to be termed as illegal residents.

#### EP Anil, Kerala

The CEO-Kerala himself agreed that 20 lakh enumeration forms have not yet been filled and returned, and 50 lakh people will be expected to come back to their BLOs for clarifications regarding their enumeration forms. While double-voting is an issue, the data says that it is only 0.4% of the total voters.

According to the latest reports, they are unable to find 5.6 lakh people for the filling of enumeration forms. Elections have been won in Kerala with margins as slim as 1 lakh votes. Therefore, the SIR will directly affect the elections. Even if 1% of

the voters are removed, it will have a very adverse impact in Kerala, politically.

New voters are being asked to produce the details of their parents in the 2002 list. People are extremely concerned with the approach of the CEO, and such arbitrary rules.

#### Sarfaraz, PUCL-Bihar

In Bihar, there were efforts from civil society as well as political parties to protest against SIR. But after elections were announced, parties went into election mode. The ECI strategically chose to start SIR in Bihar, when mass mobilisation was extremely difficult. The entire process was arbitrary. I personally know of several people who did not fill any enumeration forms, and yet have been included in the final rolls.

#### Arundhati, Activist, Uttar Pradesh

There was a huge settlement displaced from the centre of Lucknow in 2023, called Akbar Nagar settlement. When their case went to the Supreme Court, they were granted rehabilitation. Despite being a huge settlement, none of these residents have been given an enumeration form on the grounds that Akbar Nagar does not exist. Thousands of families were affected because of this, 99% of whom were Muslims. The CEO himself was confused about this and other similar cases, in which people have been displaced because of 'bulldozer justice'. Another main issue is the impact being faced by transgender persons. Several of them neither have the documents, nor houses. They don't even know that this

exercise is going on. Similarly, single, abandoned women who are also homeless, are being impacted.

#### Chittajit, PUCL-Uttar Pradesh

In many cases, there is a mismatch of barcodes on the Enumeration Forms. There are also discrepancies in spellings in the 2003 list. The transgender community are particularly vulnerable in this aspect, because it is impossible for them to retrieve the details of their parents in the 2003 list.

#### Mujahid Nafees, Gujarat

There were many issues in the 2003 list itself. There was distortion of names, and members of families are not even grouped. Those who have faced displacement due to demolition were in distress as they could not link to the 2003 list, and will be deleted. Denotified Nomadic Tribes especially, who do not have permanent residence, will be affected. Some voters of the 2003 list do not appear in the 2025 list. BLOs are unable to give them the appropriate forms in order to be included in the voter roll.

We have been undertaking research, conducting trainings even for political party representatives. We are also running centres to assist people in filling forms and help BLOs.

Almost 56% of South Rajasthan migrate to other states for work. Most such migrant workers do not return till April. They will be excluded from voter rolls, because the SIR has been planned in extremely unreasonable and short

timelines.	Due to changes in the wards and booths, several people have faced difficulties locating their names in the 2002 list.	districts, people who have been displaced from the forest because of the tiger reserve, said that they have not been issued any Enumeration Form, and have not been visited by any official. In one village, they said they have received forms, but no official has come to collect the forms.
There is immense pressure on BLOs and at least four BLOs have died in Rajasthan alone. Some are in hospital because of heart attacks.	<u>Balamurugan, PUCL-Tamil Nadu</u>	Another issue is that the Tamil translation of the Enumeration Forms is done incorrectly. This has also led to a lot of confusion. Other issues we are facing are common to those being faced by other states.
Despite the Supreme Court's order, Aadhar is not being accepted by BLOs as proof of name and age. Nomadic communities, transgender communities, women who have lived in homeless shelters and several communities who have no information about their parents – they will be undoubtedly excluded.	In Tamil Nadu, DMK is a tough opposition to the NDA. Partners of NDA are welcoming and celebrating SIR, thinking that it will win them their elections.	The full video of the webinar is available to watch on our YouTube channel - <a href="#">PUCLIndia</a> .
Women who have relocated after marriage and changed their names have documents with 2 different names, and have no way to prove that it is of the same person.	While the ECI issued a press statement saying 95% of the existing voters have been given their forms, and only 85% have filled and submitted them. We are anticipating that 85 lakh to 1 crore people will lose their right to vote which accounts for 14-16% of the total number of voters. In Chennai, 32% of the voters' forms were not collected.	In tribal areas in the Nilgiri

## **LETTER TO RAJASTHAN CM AND DISTRICT OFFICIALS REGARDING DENIAL OF ENTRY TO A REET CANDIDATE IN KOTA FOR WEARING HIJAB — REQUEST FOR URGENT INTERVENTION, ENQUIRY AND RELIEF**

### PUCL RAJASTHAN

Amidst growing hate crimes and instances of discrimination against religious minorities in Rajasthan, a young Muslim woman candidate was denied entry to the Rajasthan Eligibility Examination for Teachers (REET) solely because she wore a hijab. She lost the opportunity to apply for a job this year because of this sudden and arbitrary imposition of the restriction. PUCL Rajasthan wrote to the authorities in an effort to hold the government accountable for such arbitrary action and will continue to pursue advocacy efforts to ensure that the candidate can get justice, and such incidents don't occur again.

To,

- (i) Hon'ble Chief Minister, Government of Rajasthan
- (ii) CC: District Collector, Kota
- (iii) CC: District Education Officer (DEO), Kota

Sir,

This is to bring to your urgent attention a serious and deeply concerning incident reported from Kota, Rajasthan. As per the information received, Ms. Alisha, a candidate appearing for the REET Mains Level-2 examination, was denied entry to the examination centre solely because she was wearing a

Hijab. The incident reportedly took place at Tilak School, Sector-3, Mahaveer Nagar Extension, Kota (Rajasthan). The examination was scheduled from 3:00 PM to 5:30 PM.

This incident has not only caused grave harm to the candidate's future prospects, but also represents an apparent violation of the fundamental principles of constitutional equality, dignity, freedom of religion, and non-discrimination.

Competitive examinations must be conducted in a fair, transparent and rule-based manner, consistent with basic

human dignity. If any identity verification or security checks are required, the same can and must be carried out respectfully and without humiliation.

However, denying entry on the basis of religious attire is unacceptable.

We therefore request your immediate intervention and directions to ensure the following:

1. Immediate relief be provided to the candidate, as she has missed the examination, and a fair remedial arrangement / appropriate alternative solution be ensured.
2. An urgent enquiry be conducted into the role and actions of the staff/officials deployed at the centre, and strict action be taken against those found responsible.

3. Clear directions be issued to the district administration, education department and REET authorities that no candidate should be discriminated against or denied entry at any examination centre on the basis of Hijab or any other religious/cultural attire.

4. A written Standard Operating Procedure (SOP)/instructions be issued for all examination centres to ensure that security checks and identity verification are carried out in a manner that is constitutional, respectful and gender-sensitive.

The candidate must be provided a written update regarding the enquiry and action taken.

Examination: REET Mains Level-2 (Time: 3:00 PM – 5:30 PM)  
Examination Centre: Tilak School, Sector-3, Mahaveer Nagar Extension, Kota, Rajasthan

We trust that the Government of Rajasthan will treat this incident with the seriousness it warrants and take prompt measures to uphold constitutional values and ensure equal opportunity for all candidates.

Sincerely,  
Bhanwar Meghwanshi  
(President)  
Mamta Jaitly (Vice President)  
Anant Bhatnagar

(18<sup>th</sup> January, 2026)

Details of the Candidate:

Name: Alisha  
Father's Name: Barkattulla Khan

## **LAWYERS ROUND TABLE ON COMMUNAL HARMONY TO BE HELD IN DELHI ON 13TH FEBRUARY, 2026**

### **PUCL DELHI**

#### **Introduction**

Communal harmony is the bedrock of a progressive and peaceful society. In India, a nation renowned for its diversity, the promotion and preservation of communal harmony is both a social imperative and a constitutional duty. However, the proliferation of hate crimes and hate speech poses a significant threat to this harmony, often leading to violence, discrimination, social exclusion and fragmentation. Lawyers, as custodians of justice and advocates for the rule of law, have a pivotal role to play in combating these challenges and fostering a climate of mutual respect and understanding.

#### **Understanding Hate Crimes and Hate Speech**

Hate crimes are criminal acts motivated by prejudice or intolerance towards particular communities based on religion, caste, ethnicity, or other identity markers. Hate speech refers to communication that incites hatred, discrimination, or violence against individuals or groups, often targeting minorities. Both phenomena undermine social cohesion and violate the fundamental rights enshrined in the Indian Constitution, such as equality before the law and freedom from discrimination.

#### **The Legal Framework in India**

India's legal system provides several mechanisms to address hate crimes and hate speech. Section 196 (which replaces Section 153A of the IPC): Promoting animosity among different groups based on religion, race, language and other factors; Section 197 (replacing Section 153B of the IPC): Aims to protect national integration by prohibiting statements or actions that promote enmity, divisions, or distrust among social groups based on religion, race, language; Section 299 (replacing Section 295A of the IPC): criminalizes deliberate and malicious conduct intended to offend the religious sensitivities of any community. Section 353 (replacing Section 505 of the

IPC): This section criminalizes statements and publications that promote violence or provoke panic, resulting in public disorder. Section 356 of the BNS deals with the legal surrounding defamation, which involves making statements that harm another person's reputation.

Moreover, the Constitution of India guarantees fundamental rights that protect individuals from discrimination and violence. The judiciary has also played an active role in interpreting these provisions to safeguard communal harmony. However, in spite of these provisions hate crimes and hate speech are prevalent at large scale and they become more strident during election days.

#### **The Role of Lawyers in Combating Hate Crimes and Hate Speech**

a. Lawyers can represent victims of hate crimes and hate speech, ensuring their access to justice. By filing complaints, pursuing litigation, and advocating for fair trials, lawyers help hold perpetrators accountable and deter future offences.

b. Legal Awareness and Education: Through workshops, seminars, and public outreach, lawyers can educate citizens about the legal consequences of hate crimes and hate speech and raise awareness about constitutional values and the importance of communal harmony can prevent incidents before they occur.

c. Strategic Litigation: Public interest litigation (PIL) can be used to challenge unconstitutional practices, demand stricter enforcement of laws, and seek remedies for

affected communities. Strategic litigation can also set important legal precedents that promote communal harmony.

d. Mediation and Conflict Resolution: Lawyers can act as mediators in communal disputes, facilitating dialogue and reconciliation between conflicting groups. By promoting peaceful resolution, lawyers help prevent escalation and foster long-term harmony.

e. Monitoring and Reporting: Lawyers can collaborate with civil society organizations to monitor incidents of hate crimes and hate speech, document cases, and report them to the relevant authorities. Reliable data is crucial for effective policy interventions.

#### **Challenges Faced by Lawyers**

Despite their crucial role, lawyers may encounter obstacles such as political pressure, lack of awareness, threats to personal safety, and systemic delays in the justice system. Overcoming these challenges requires institutional support, strong professional ethics, and collaboration with other stakeholders.

#### **Purpose of the Lawyers' Roundtable**

This Lawyer's Round Table proposes to discuss the issues related to hate crimes and hate speeches and explore the possibilities of addressing the same through collective efforts under the aegis of Delhi Unit of the People's Union for Civil Liberties. For evolving a consensus on the methodology for effective action, PUCL-Delhi is organising this Lawyer's Round Table on 13th February 2026

from 2.30 pm to 6 pm at Conference Hall II, India International Centre, Max Muller Road, Near Khan Market, New Delhi-110003. Each participant who wishes to speak will be given 5 minutes to express his opinion on the following issues:

a. Possibility of setting up a dedicated group which is active especially during State or National Elections to monitor speeches and whenever a hate speech or hate crime is reported takes immediate action and an alert is issued, resulting in Civil liberties, human rights and civil society organizations immediately writing to concerned authorities e.g Election Commission, Police Authorities, Home Ministry, Judges of Supreme Court and High Court etc. Requesting them to take immediate action.

b. Possibility of setting up legal aid cells in various District Courts, High Courts and Supreme Court for taking legal action for prosecuting hate crimes and hate speeches and providing legal aid to victims of communal violence.

c. Possibility of building a unified pressure group of lawyers who can persuade their Bar Councils/Associations to take steps for promoting communal harmony within the bar.

d. To explore the formation of a dedicated group that can carry this work forward and can also come up with other ideas to promote communal harmony and combat hate crimes and hate speech.

We welcome participants and stakeholders committed to the idea of Communal Harmony. If you want to work and are interested in expressing your

opinion, or if you wish some other issue also to be discussed, please convey to the following of Delhi Unit of People Union for Civil Liberties: Mr. Arun Maji, President, PUCL Delhi Mr. T S Ahuja, General Secretary, PUCL Delhi

## SEEMA AZAD'S "UNSILENCED - THE JAIL DIARY OF AN ACTIVIST"

### "ZINDAN NAMA: A WORLD WITHOUT THE MOON AND STARS"

V. SURESH, ADVOCATE, MADRAS HIGH COURT AND NATIONAL GENERAL SECRETARY, PEOPLE'S UNION FOR CIVIL LIBERTIES (PUCL)

Originally published as "Writing through the Prison Walls", *Frontline*, 25th November, 2025

Can prison writings make enjoyable reading? How does one turn a grim 2.5 year period spent inside Naini jail (UP) into a riveting account of how children born in prison learn to enjoy the small pleasures of infant games even while they live lives when they don't know how a star studded sky looks? Of how romance blooms even inside the stone walls enclosing women prisoners, as when a male constable falls in love with a much married poor woman prisoner with 3 children and goes on to marry her after she is released from prison?

Reading through the pages of Seema Azad's prison memoirs, "*Unsilenced - The Jail Diary of an Activist*" (published Aug 2025) one is amazed at the sharpness of detail she brings to her writing. The memoirs are written with a sense of humour, laced with a biting comment about the way social prejudice, caste sentiments, religious practices, cultural superstition and economic deprivation stalk the women prisoners through the high gates of the prison, once they enter it.

Seema's pen strokes turn stories of women prisoners' lives, which

can ordinarily make for grim, drab and boring reading, into a fascinating journey into the minds and hearts of women undertrial and convict prisoners; offering us an insight into the pettiness and meanness of prison staff and the occasional flash of human feeling they exhibit, as when a prison official arranges for toys for children. We look by, as if we were standing inside the prison, as the women inmates prepare for the mulakaat day – the designated day when they can receive and meet family members, relatives, friends and also sometimes, present and future lovers! We see the excited women prisoners decking themselves with whatever flowers they can collect from inside the prison, oiling and braiding their hair.

Seema's 'Jail Diary' reflects a wonderful amalgam of her varied persona: Seema the political activist merges with Seema the poet, the humanist, the optimist, the feminist and numerous other things that she strongly believes in. The confluence of the various persona that Seema integrates within herself imbues her writing with a sense of history, politics and human rights written with a depth of sensitivity and humanness to socio-cultural practices and relations, which stands out in every page of her prison memoirs.

Above everything else, what stands out is Seema the incorrigible romantic.

Incredibly, she and her life partner, Vishwa Vijai, were arrested, remanded, imprisoned, tried and convicted together, in the same case, on the same dates, by the same court on the same accusation! Seema and Vishwa Vijay were arrested together on 06.02.2010 and were in jail throughout the trial as pre-trial bail was refused to both of them. They were both released on bail by a common order of the Allahabad High Court, when they appealed against their conviction. Both of them were released from prison on the same day, 06.08.2012!

Seema and Vishwa Vijai have written their prison memoirs as separate books. While Vishwa Vijay's book is titled "*Hope is not a dead word*", Seema's memoirs are titled "*Unsilenced: The Jail Diary of an Activist*". Together the memoirs constitute a valuable addition to prison literature.

Seema and Vishwa Vijai were arrested by a vengeful state and an immoral police because of their human rights work. They were both prisoners of conscience. Despite the harshness of prison life, and the fact that they are out on bail in their criminal appeal, since their

release on 6th August, 2012, both of them have not withdrawn from public activity or standing up for human rights causes. Their courage and determination have only deepened as their voices now also contain personal experiences of the harsh cost to be paid for demanding accountability from the state and the political executive.

Seema, and her partner, Vishwa Vijai are a living testimony of the undying commitment to make our Constitution and democracy work; over the last 10 years since release, their enthusiasm has not dimmed one bit whether it is challenging state terror and police excess, or in support of victims of custodial violence, hate crimes, caste and communal atrocities or environmental challenges.

Reading Seema's prison diaries reminds one of what Faiz Ahmed Faiz wrote so eloquently while imprisoned (in 1951) in a poem titled, "Let Them Snuff Out the Moon":

*"This thought keeps consoling me:  
though tyrants may command  
that lamps be smashed  
in rooms where lovers are  
destined to meet,  
they cannot snuff out the moon,  
so today,  
nor tomorrow, no tyranny will  
succeed,  
no poison of torture make me  
bitter,  
if just one evening in prison  
can be so strangely sweet,  
if just one moment anywhere on  
this earth".*

Through her writings, and in her life, Seema exemplifies the quintessential human rights

warrior – never scared to question those in power and authority. While Seema is a tough person when challenging rights violations, she nevertheless retains a core of caring and compassion. Her concerns cover not just human beings, but also nature, natural resources and the inanimate world too! In her persona, she embodies what Faiz said: that no tyranny and no torture can make her bitter or dim or dullen her commitment to fight for justice, inclusion and dignity.

#### **Seema's Jail Diary: A Toolkit for the activist!**

There are many writing styles that Seema adopts in her prison notebook – which reminds one of Faiz Ahmad Faiz's famous Zindan Nama - urdu for Prison Chronicles or notebook.

Different readers and professionals will find her writing addressing their interests!

For example, to an ordinary reader, Seema's "*Unsilenced: The Jail Diary of an Activist*" is a chronicle of her journey and experiences from the time of arrest by the UP Special Task Force (STF) to being confined in police station lockups during investigation to eventually being imprisoned in Naini Central jail during the course of trial and conviction.

The feminist, the gender and women's rights activists will find a sensitivity to women's issues which are normally not found in prison literature, which are mostly written by men. Seema points out that the bulk of women confined to prison come from socially and economically marginalised and

discriminated communities. Their harsh conditions of living in ordinary life are mirrored in their disempowerment when kept in custody.

For those coming from the field of 'Prison Sociology' the book is rich in information, contains highly nuanced comments about the interplay of caste, class, community and literacy background of the women inmates, seen from the lens of a woman activist – prisoner.

The Jail Diary is however unique in one respect, which also stands out in comparison with many other similar prison accounts. This difference lies in the clever inter-weaving into the textual narrative of the book, ways and methods to be adopted by anyone unfortunate to be arrested by the police, to safeguard and assert their fundamental rights guaranteed by the Indian Constitution.

Any arrest by the police and subsequent confinement is always a traumatic and unnerving experience. More so, when the arrest is totally unanticipated and sudden. The experience is made more difficult when the arresting police do not inform the arrested person why they are arresting them, about the case against them and other details. In Seema and Vishwa Vijai's case they were arrested by the UP Special Task Force, a specialist police force given vast powers and resources to arrest people for 'so called' "Special Crimes".

It is very natural and understandable for the person arrested without warning to be emotionally and psychologically 'psyched' out. Apart from the

questions abounding about the arrest itself, many other concerns flood the mind: how do we inform the family members? How will they take the arrest? What about contacting a good lawyer of your choice to come over to the police station? How to inform other human rights activists that your sudden disappearance was because of police arrest; and that they should immediately inquire from the police authorities why the activists were arrested. The fear always lurks behind the mind, especially when the arrest is politically motivated, about whether the police will kill you in a staged encounter.

The importance of not allowing anxieties and tension to overrun our sensibilities thereby increasing mental stress, is pointed out in an incident that occurred soon after she and Vishwa Vijai were arrested. In a very matter-of-fact way Seema describes how soon after her arrest she was locked up in a dark room in the police lock up. The room was filthy with uncleaned, stinking toilets. She could find a place to rest only by following the contours of the wall. The only source of light in the totally darkened room was a small sliver of moon light shining through a slit not even half an inch in diameter. As she battled inside herself not to allow her mind to be frightened and panic she remembered the poetry of Pash:

"This tiny sliver of blue sky,  
Is my life line,  
Bearing the weight of the  
heavens on its shoulders,  
It saunters by".

Recollecting the song stopped the feeling of terror overtaking her. Seema describes it

eloquently, "The moment I remembered this poem, my thought process changed course. I began thinking of all the revolutionaries who had not broken down even in the face of utmost atrocities. I thought of Nazim Hikmat, who was regularly coerced to stand in a mass of sewage. The foul smell would give him headaches. He would start singing loudly to avoid letting his enemies see him in such a condition, who were waiting to take pleasure in his misery".

This is an important reflection for rights activists of all shades. It is well known that with the police, the most difficult experience is not just the physical torture but the mental and emotional pressure they pile up. At the end of the day it's all about mental games. The stronger the arrested person remains, the less it is possible to crush the spirit of the activist.

Throughout the memoir Seema writes about the practical skills and legal knowledge that all activists in particular, and citizens generally, need to have. Do we have a right to demand the grounds we are arrested in or in which case? Do we have the right to contact our family members and personal lawyers? Can the police deny us this right? What tricks do the police play to ensure that the arrested person is not able to reach out to family and lawyers? Can the arrested person complain of physical and emotional torture during interrogation while in custody? What about registering a complaint of illegal arrest and confinement the very first time the arrested person is produced before a Magistrate for remand?

The memoirs contain many references in which her prior knowledge about legal procedures and protection helped her to inform her parents, siblings, media professionals and lawyers. In this sense the Zindan Nama is an invaluable tool kit of sorts, for current and future activists.

#### **Duplicity of the police and the deviousness of the media: Concoction to repress**

Seema's memoir documents the innumerable ways by which the police brazenly abuse their powers to subvert important legal rights, starting from the responsibility vested in the police to inform the person they are arresting about the grounds for arrest, details of the case, intimation to near family members, being informed of their right to call a lawyer of their choice and so on. These rights which were explained in the landmark SC case of 'DK Basu vs State of West Bengal' (1997). The ruling commonly referred to as the DK Basu Guidelines or the 'Commandments to the police' eventually got incorporated in criminal law by inclusion of section 41A of the Code of Criminal Procedure. The SC guidelines were meant to operate as a vital 'check and balance' to legitimate exercise of power by the police while preserving the rights of arrested persons.

In the case of the arrest of Seema and Vishwa Vijai, the UP STF brazenly violated all the requirements in law to inform the arrested person and a close relative of why they were being arrested or where they were going to be detained and so on. All through the arrest,

interrogation, remand and investigation the police are recorded to have behaved as though they were a force above and beyond the law of the land. Unfortunately, despite voluminous evidence available from across India, the judiciary, at all levels, do not respond to complaints of abuse of law allowing the police to get away with impunity, even when they commit egregious violations of the law.

The deviousness of the police is matched by the extent to which the state and police go to orchestrate a media circus around the arrest of political activists like Seema and Vishwa Vijai, whipping up popular opinion and wrath against them as being 'antinational', 'dangerous extremists, naxals, Maoists' and dreaded criminals is written in a personally poignant manner. She writes with severity about the servile manner by which select newspaper journalists report their arrest with totally false information. These journalists are given access to select documents, concocted in the first place by the police themselves, to ensure that public opinion is prejudiced from the beginning. The effect of such vile tricks played by the cops follows Seema throughout her stay in Naini Central Prison. For example, well into her stay in Naini, she is asked by some prison guards who a "Maoist" is and whether she is a terrorist!

What is striking in her approach is that she never lost an opportunity, whenever it presented itself, from clarifying to anyone asking for the reasons for their arrest, the true character of the police. How they foist false

cases against activists; cook up fabricated criminal cases; have no hesitation to plant false evidence in the homes and properties of arrested persons, threaten and intimidate family members and who use their position and power to take sides with the rich, propertied and the politicians. No person is too small, no opinion is too insignificant to clarify, explain, deconstruct the way the state, political executive and the police operate, about the importance of using every occasion to deepen human rights consciousness.

In that sense "Unsilenced: The Jail Diary of an Activist" is a treasure house of 'SURVIVAL TOOLKITS' which every activist should read.

#### ***"Patriarchy, women and life in prisons"***

In a very moving part of the memoirs, Seema recounts a statement made by a jail official when she is brought to the Naini central jail and tries to sit on a stool instead of crouching on the ground:

#### ***"Beta, you cannot sit on a stool anymore; you've lost the right; you will have to sit on the ground"***

The statement poignantly captures the harshness of the introduction to prison life. The arrested person is no longer a human being; she cannot claim to have any right to be treated with kindness, humaneness or concern. She is now only a cipher, with a number for her name, to identify herself.

The robbing of inherent dignity of being a woman is shown in

numerous ways, to have a numbing effect on the self-esteem, self-respect and confidence of the women prisoners. The women prison officials, women staff, convict prisoners who are used by the prison department as supervisors of other prisoners - all of them indicate the same expression of male, patriarchal values and mind sets. There is no show of concern, sensitivity or caring – even at minimal levels – within the prison system. Abusive language, using force including physical violence, punishing inmates for the slightest transgression of rules – become potent weapons in the hands of prison officials. They are used to keep the inmates under constant sense of fear and subordination; by continually creating a sense of indignity, powerlessness and loss of self-esteem, the prison system ensures that women inmates remain as mute residents, unable to exercise their 'agency' to challenge unfair rules and extraction by prison officials.

Jahnavi Sen in an article titled, "Buzz of a mosquito ... but with the sound of Grief, The Lives of India's Women Prisoner's" writes about what some inmates of a Mumbai prison told her:

*"Every time we get back from one of our court dates," Meena says, "we had to strip completely in front of the women guards, and they would put their hands everywhere you can think of. And there's nothing you can do. You feel completely powerless."*

*"It didn't even matter if women were on their period," Leela says. "They would be asked to take off their underwear, to spread their legs."*

In a dairy entry dated 21st

August, 2011 Seema writes, "I am pained to see that women in prison do not possess any feelings of self-respect ... Women in prisons engage in petty quarrels with each other, but they do flinch or even protest when they are abused and humiliated by the Constables. Instead they prefer to indulge in their adulation. Seeing this, I wonder how long it would take for democracy to seep into our society when half of our population has not even been able to develop dignity for themselves" (added emphasis)

#### **"Cycle of Looting": Institutionalisation of Corruption**

Even though the widespread prevalence of corruption in prisons, across India, is well documented and known, Seema, in her very dramatic style highlights how corruption is not just deeply entrenched but is also very scientifically constructed!

The scene is the visit of Seema's sister's visit to meet her bringing peeled peas. On that day, a much dreaded women official, Mithilesh Pandey had returned to work after availing leave. Seema had instructed her family members only to bring what were permitted food items. She later came to know that jail officials permitted non-permitted food stuff, including fully cooked food to be brought in, of course for a price.

The trick was that the police staff outside the prison would demand only a small sum at the outer gate. Anxious to somehow reach food stuff, relatives paid up. Once let in, the visitors had to pass 2 to 3 other locked gates to finally

enter the prison meeting place. The bribe amount to be paid to the prison officials kept going up at every gate and by the time the visitor got to the final door they would have paid a hefty sum which would be divided amongst the prison staff. Having paid to enter with the food stuff, visitors would not fight or object to extraction of more money to somehow reach the food stuff inside.

Referring to this as "the cycle of loot", Seema highlights the institutionalized manner in which corruption is laid down in the prison. The irony is that everyone knows about this: but no one, literally no one, is bothered to do anything about it: none from the State prison department or the state police or even the judiciary feel it's important to check corruption as it ultimately affects the poorest sections of women, who go to jail. This is the tragedy of prison life for all in general, and for women prisoners, in particular.

#### **Caste & Community: Superstition and Prejudice**

Seema points out that by and large bulk of women prisoners in jail belong to the OBC communities, Dalits and Muslim communities. Women belonging to the 'Pardhi' community – previously known as 'Denotified Community or Criminal Tribes' were also regularly arrested for petty thefts and smaller offences if they had taken place in the areas under the jurisdiction of the local police stations.

One thing common to the women prisoners irrespective of the caste or community of the prisoners was the constant

recourse to superstitious beliefs especially of 'Spirit Possession'. In a fairly longish recording of events in the prison when she observed different women inmates acting as though they were 'possessed' Seema records the dilemma of approaching superstitious practices from a 'rational, scientific, objective and factual framework'. As she records, "I remain cautious about these matters and do not say anything because I fear that if I said anything, people would forget the goddess and attack me instead".

A number of incidents are narrated to highlight how people from differing social backgrounds claim the use of magical chants, mantras and spells can help detect theft inside the prison barracks or the ability to influence officials, including judicial officers and more bizarre claims. Irrespective of the outlandish claims, this only indicates the wider social consciousness prevalent in society which believes in spells, mantras and magic potions.

There are two limitations to any remedial action to check the play of superstitious beliefs inside jails: first, the specific instances of superstitious acts and how widespread is its prevalence, can be found out only by a person who is an inmate in the prison and has watched these incidents; few outsiders will be given privy to these incidents; second, is it intervene when incidents as picturised by Seema occurs. For which the prison staff will need to be trained.

Seema writes that Vishwa Vijai also told her that similar beliefs and practices are prevalent in the

men's prisons also. So it is not peculiar about women's prisons and will need to be studied better with the help of psychiatrists, psycho-analysts, counselors, social workers and other specialists.

The problem here is that the prison officials themselves, many times, exhibit similar superstitious beliefs! So the change has to start from them!

#### ***The colourful world of children born in the dreary world of the prison***

The most poignant portion of the Zindan Nama is the section where Seema writes about the lives of infants and children born when their mothers were in prison or brought along with the mothers at the time of imprisonment.

The most touching scene is recounted about an evening incident when Khushi, a small girl born in prison, came running in excitement to Seema pointing to the skyline where the moon could be seen rising. She was wanting to know what it the shining object was. Her mother explained that she had never ever seen the moon before as everyone was locked up at sunset and do not even see or sight the moon. Seema puts it very movingly pointing out, "I could not even fathom that the joys of expressing wonder over celestial bodies could be snatched away from any child; that the twinkling stars that put them to sleep can be plucked from their imagination". The formative insights of young children built around first hand experience with nature was

deprived to children who remained with their mothers until they became 6 years old after which they were taken away from the custody of women prisoners. Seema points out wistfully, " .. many formative experiences and significant needs are neglected in their upbringing, which can no longer be fulfilled by anyone in their entire lifetime".

A number of recent articles also highlight the plight of children who are forced, due to circumstances, to remain in prison with their mothers. It's a poor reflection on both the prison department and state policy as also the apathy of wider civil society that they continue to remain blind, deaf and apathetic to the plight of children inside jail.

It's a shame on a country which aspires to be a leader in the 21st century world, that they do not give priority to ensuring that facilities are created for children of women prisoners so they do not lose their childhoods.

Seema Azad's "Unsilenced: The Jail Diary of an Activist" is a valuable addition to the field of prison studies. Future rights activists, academics, policy makers, members of the judicial fraternity and the media community will all find numerous issues which Seema has skillfully described in her prison memoirs. Although written a decade back, the issues she highlights are as alive today, as they were during the 2.5 years she spent in Naini prison.

(Please visit [www.pucl.org](http://www.pucl.org) to read the full article.)

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