

PUCL Editorial: Gender, violence and discrimination: Reflections on the role of the Court

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GENDER, VIOLENCE AND DISCRIMINATION: REFLECTIONS ON THE ROLE OF THE COURT

March, which is Women's history month, provides us a much needed moment to reflect upon the hierarchies imposed by gender and the unfair and arbitrary treatment of women and transgender persons around the world. Nowhere is the serious backlash on the question of gender more apparent than in the place where women's history month originated, namely the United States. The controversy around the Epstein files is only indicative of the impunity of the global elite when it comes to illegal sex with minor girls. The normative consensus achieved by the development of notions such as the right of the child to autonomy, dignity and freedom from sexual predators is threatened by the impunity of the most powerful to violate these norms at will.

In the Indian context as well, the brazen contempt for the norm that young girls should be protected from sexual violence is shocking. The Minister of State, Hardeep Puri, in responding to his name appearing in the Epstein files sought to trivialise Epstein's crimes, stating: "He was convicted for soliciting a prostitute and a woman who was underage. And that's it." The fact that there is a legal and normative consensus that sexual intercourse with a child is a

crime, seems not to have registered in Mr Puri's statement.

This contempt was on full display in the judgment of the Allahabad High Court in a case involving the rape of a 11-year-old girl from Kasganj, Uttar Pradesh by two accused named Pawan and Akash in Complaint Case No. 23 of 2022. The accused had gained the trust of the child's mother by offering to drop the minor home on their motorcycle. Instead of taking the usual route, they diverted and stopped near a culvert where they isolated the girl. They then proceeded to grab the girl's breast, break the string of her pyjama and tried to drag her underneath the culvert, thereby attempting to disrobe and further violate her. On hearing her screams, passersby intervened, due to which the accused fled from the scene, and the offence was not carried further. According to the High Court, the actions described above are conduct preparatory to rape but do not amount to the attempt to rape. The High Court opined that there was no sufficient indication of a determined intent to commit rape and noted, among other things, that there was no allegation that the accused were sexually aroused or "sexually unsettled". This treatment of the facts and the language used in the High

Court order was not only extraordinarily insensitive but represented a flawed understanding of the legal boundary between preparation and attempt in sexual offence cases.

Fortunately the Supreme Court took up this matter and came to a different finding. The Court opined that the factual matrix left no room for doubt that when the accused had lured the child away, taken her to a secluded culvert, grabbed her breasts, broken the string of her pyjamas and tried to drag her underneath, they had gone beyond mere preparation and had started executing the offence of rape. On this basis, the Supreme Court categorically held that the view taken by the Allahabad High Court in treating the acts as mere preparation was "patently erroneous". The bench stated that "a bare perusal of the allegations left no modicum of doubt that the accused proceeded with a predetermined intent to commit an offence under Section 376 of the IPC on the minor victim."

Beyond the correction of the specific legal error, the Court remarked that no judge or judgement can be said to do complete justice if it is inconsiderate toward the factual realities and vulnerabilities faced by litigants, particularly victims of sexual offences and other vulnerable groups. In this context, the Court highlighted how insensitive or dismissive remarks can have a chilling effect on victims' willingness to come forward and can perpetuate harmful stereotypes, especially where children and women are concerned. The judgement thus

links doctrinal accuracy on preparation versus attempt with the broader constitutional and human rights imperative of treating victims with dignity and respect.

To translate these concerns into concrete institutional reform, the Supreme Court directed the constitution of an expert committee under the chairmanship of former Supreme Court Judge Justice Aniruddha Bose. This five-member committee has been tasked with preparing within three months a set of draft guidelines for the training of judges on handling cases of sexual offences and matters involving vulnerable persons. The guidelines are to focus on inculcating sensitivity and compassion in judicial reasoning, simplifying language in judgements, accommodating linguistic diversity and ensuring that courts use a victim-centric approach. The Court also envisaged that the committee may compile commonly used offensive or derogatory expressions across different regions and languages so that judges are equipped to identify and avoid them in court proceedings and judgements. In this way, the decision not only vindicates the particular child victim in Kasganj but also seeks to reshape the judicial culture dealing with sexual offences in India in a more humane and rights-respecting direction.

However it is troubling that the Chief Justice has chosen to discard the gender glossary published during the tenure of D Y Chandrachud which was meant to offer 'guidance on how to avoid utilising harmful gender stereotypes, in particular those

about women, in judicial decision making and writing.' The reason given by the Chief Justice was that the glossary was too "technical" and "Harvard oriented." This discarding of an important step in ensuring judicial sensitivity, renders the working of the Court less institutional and more subject to individual predilections. One hopes that the current effort will take forward the learnings of the glossary and not discard it in the search for an indigenous jurisprudence!

The question of gender and rights is not only limited to the question of sexual violence. Even when it comes to livelihood issues, the Supreme Court has failed to address the concerns of the most marginalised women. In *Enn Thozhilalagal Sangam v Union of India*, the Supreme Court dismissed a petition filed by ten domestic worker unions from around the country asking that their right to a minimum wage was rooted in the Constitution and should be judicially recognised. This is nothing less than a missed opportunity as domestic work remains excluded from the core protection of labour law, namely the right to a minimum wage. All the Court did was to mandate the constitution of a 'Committee comprising subject experts to consider the desirability of recommending a legal framework for the benefit, protection and regulation of the rights of domestic workers.' The Court concludes with the pious hope that, 'a suitable mechanism will be developed by the Competent Authority in each State to improve the conditions of domestic workers and prevent the exploitation of unorganised workers, especially for the

purpose of paying minimum wages.’

Gender continues to be the form of structural violation which the Court fails to take note of. In the SIR process data from Bihar show that nearly 60% of all deletions under SIR are women: female voters dropped by about 22.75 lakh (around 6.1%) versus 15.55 lakh men (3.8%), meaning six of every ten deleted names were women.

The reasons for the same as highlighted by petitions before the Supreme Court are the ECI’s use of “biological age” algorithms (to detect improbable ages), migration presumptions, and document heavy verification, all of which disproportionately targets the rural poor, migrants as well as border communities and effectively operates as a mass disenfranchisement exercise.

The case highlights how technocratic electoral roll management can mask deep structural biases against women. The Court notes serious concerns about the opacity of the SIR process, particularly the absence of clear, individualised reasons for deletions and the lack of publicly accessible, gender disaggregated data. The proceedings also reveal that the verification architecture effectively inverts the burden of proof, requiring citizens to continuously demonstrate eligibility, something women are least equipped to do. Overall, the case foregrounds the need for transparent, rights-respecting revision procedures that recognise gendered life patterns instead of penalising them if the constitutional promise of

universal adult suffrage is to remain meaningful for women. However the Court has failed to recognise these structural patterns of exclusion and provide concrete relief.

The other category who will be disenfranchised by the SIR process are the transgender community. Transgender persons usually have documents with different names, and sometimes even leave behind documents when they run away from their homes. In cases of gharanas or homes where they reside with their chosen families, they would also struggle to furnish proof of residence / address.

In the middle of these failures by the Supreme Court the judgment in the case of *Dr. Jaya Thakur v Union of India* is a ray of light. The Court in this case, recognises that the failure to ensure that school going girls have access to menstrual hygiene products is a violation of the right to health, the right to equality, the right to dignity as well as the right to education.

As the Court observes, ‘MHM measures are inseparable from the right to live with dignity under Article 21... menstrual hygiene management is not confined to sanitation, it includes bodily autonomy and decisional freedom. The denial of adequate facilities, appropriate sanitary products, or privacy effectively compels a girl child to manage her body in a manner dictated by circumstance rather than choice. Autonomy can be meaningfully exercised only when girl children have access to functional toilets, adequate menstrual products, availability of water, and hygienic mechanisms for disposal.’

The Court highlights the question of stigma and casts the onus on men as well. As the Court opined, ‘Menstruation should not be a topic that is only shared in hushed whispers. It is crucial that boys are educated about the biological reality of menstruation. A male student, unsensitized towards the issue, may harass a menstruating girl child which may discourage her from attending school. In this context, the responsibility weighs even heavier on the male teachers. They must be sensitized to the needs of a girl child. For instance, a request to the restroom or the sudden need to leave the classroom must be treated with sensitivity rather than straight dismissal or invasive questioning. To put it briefly, we would say, ignorance breeds insensitivity, knowledge breeds empathy.’

One hopes that the Supreme Court will begin to address gender and its relationship to violence, stereotypes and discrimination in all its forms, taking inspiration from its *Dr. Jaya Thakur* judgment! That will be an appropriate way of marking women’s history month!

PUCL Bulletin Editorial Board

SUPREME COURT'S MOVE TOWARDS GENDER JUSTICE WASN'T 'HARVARD-ORIENTED'

INDIRA JAISING

Originally published in The Indian Express.

Recent years have seen an evolving trend for every incoming Chief Justice abandoning guidelines issued by outgoing CJIs, destroying institutional identity or consensus on vital issues. The latest example comes from the current CJI, Justice Surya Kant, who discarded the gender glossary published during the tenure of D Y Chandrachud.

Every common law court in the world worth the name issues practice guidelines or restatement of laws, intended to be the distilled wisdom of the Court. This is what the glossary attempted on the vital issue of gender justice. All the entries of the glossary were supported by the evolving wisdom of the Court on gender justice and were an attempt to eliminate gender stereotyping and victim blaming. This is an issue that has plagued the court since the infamous Mathura case, when a 16-year-old Adivasi girl was raped by a constable inside the precincts of a police station, and the Supreme Court (SC) held that she had consented and hence this was not rape.

Speaking at a public meeting recently, the former CJI B R Gavai referred to this judgment as an "institutional failure". In a recent news report, the survivor herself is reported to have said that 50 years later, the only thing that stayed with her was "humiliation". It is this type of humiliation that the gender

glossary was intended to address. It is this kind of last-mile delivery by magistrates, sessions courts and high courts that the guidelines would have addressed, without driving every aggrieved victim to come to the SC.

The gender glossary was intended to be a guide for individual judges, lawyers, victims and the general public on the use of gender-sensitive language. Language, we must note, is not just about semantics but a carrier of knowledge and values. The gender glossary was a part of an attempt at a gender audit of language as a carrier of discrimination based on sex, prohibited by Article 15. It was intended as a guide to judges across the hierarchy of courts and was a worthy attempt at delivering justice to women. Tragically, it has been discarded without so much as a conversation with the bar or the affected community.

The SC is an institution and not a collection of individual judges with no institutional memory. Practice guidelines provide an institutional memory and a judicial policy on gender justice. After 75 years of the functioning of the courts, we expect to see more and not less of such practice directions. This is one of the reasons why the SC itself has been endowed with the administrative function of making rules.

We now come to the reasons for discarding the glossary. There is no indication why they have been

discarded except to say that it was "too technical" and the survivors and their families would not understand it". All language is value-loaded. That apart, the language of law is nothing but "technical" and the task of the court is to interpret technical language in the light of constitutional principles. So, how does one understand the discarding of the glossary?

The giveaway is in reference to being "Harvard oriented" Is this perhaps an attempt to replace "Harvard" with "Swadeshi", part of the official narrative of the state that our laws and language need to be decolonised? English, after all, is the official language of the courts under Article 348(1), and writing Hindi in the Roman script does not make it English. Wisdom must be acquired from anywhere, be it Harvard, Oxford or international treaties and conventions to which India is a party.

At the very least, we expect from our judges some exchange of ideas between outgoing and incoming chief justices to maintain institutional integrity and predictability for the people they serve. It's not too late. A judicial conclave, a town hall with the bar and the concerned citizens, may produce some inputs for stable gender justice guidelines and for a gender audit of the functioning of our courts.

The writer is a senior advocate, Supreme Court of India.

(February 13, 2026)

FEMINIST TRANSFORMATION OF SOCIETY: MAHARASHTRA CONFERENCE OF WOMEN AND TRANSPERSONS - 2025

SANDHYA GOKHALE

In 1975, the United Nations Decade for Women was declared to highlight and act on issues affecting women, from gendered violence to labour rights. In 2025, in order to mark 50 years since this declaration, and to deliberate on the future of the movement, autonomous women's organisations and feminist activists from Maharashtra gathered for a state-level conference – first in September 2024, and then converging in December 2025. Year-long campaigns on issues faced by women, transgender communities and other marginalized communities were planned and organized in various districts of Maharashtra.

Throughout the year, many offline and online workshops and discussions were held focusing on various issues faced by marginalized sections of society, which included queer/transpersons, nomadic tribes, denotified tribal communities, OBC communities, Dalit and Adivasi communities. The campaigns documented and focused on growing state sponsored hate and communal violence, sexual violence, control over women/queer/trans persons lives by family, police and other state machinery, toxic masculinity and rights of minority communities. Discussions were also held with various trade unions. Some campaigns are listed here:

- One of the main campaigns in which 114 organisations, with 750 youths participated, was carrying out safety audits

- at public places and public transport places late in the night.
- Public meetings and workshops were held in different districts on the theme of "Denounce Manusmriti and Uphold the Indian Constitution."
- Meetings and discussions were held with youths in various colleges covering topics like democracy starts at home, what feminism is, marriage market etc.
- Around twelve booklets were brought out covering issues like Hindu Rashtra and feminist movement, aggressive nationalism, on queer/trans/intersex people and collectives, women farmers, environment, institution of family etc.

All six regions of Maharashtra held meetings, conferences or workshops throughout the year and identified issues confronting the people.

Vidarbha level conferences and discussions were held at Nagpur, Gadchiroli, Wardha, Yavatmal, Chandrapur, Amravati. The main issues emerging in this region were issues faced by single women, disabled persons, access to natural resources, water issues, as well as issues faced by sex workers.

Marathwada level conferences and discussion were held in Aurangabad, Pachod, Beed, Latur, Usmanabad. The main issues discussed here were challenges before unorganized sector women workers,

increasing child marriages, women's health and growing superstitions, issues faced by nomadic tribes and denotified tribal women and difficulties in uniting women from various sections of society.

Western Maharashtra held workshops and conferences at Pune, Sangli, Kolhapur, Solapur, Ahmednagar. The issues discussed include problems faced by sex workers, economic boycott of Muslim community, pollution of river water and health hazards emerging from that, access to public places, gardens, toxic masculinity.

North Maharashtra level meeting/conference were held at Nandurbar, Dhule, Jalgaon, Nasik, the main concerns were sexual violence faced by girl students in Adivasi schools, issues and violence faced by migrant women, child marriages, declining sex ratio, issues faced by children of divorced mothers.

The issues emerging from conferences in **Mumbai, Thane, New Bombay** level included the rapidly changing nature of the city, the othering of Muslim community, increasing ghettoization, increasing insecurity and discrimination faced by minority and marginalized communities, changing nature of work and laws, cultural and social moral policing, lack of civic amenities and increasing control over mobility.

Konkan area held conference/workshops in Palghar, Raigad, Sindhudurg

discussions brought out lack of implementation of Forest Rights Act, issues of displacement and environmental crisis, development project giving rise to natural calamities, water and fuel issues, tribal population not having access to various documents.

The Maharashtra level conference on 20, 21 and 22 December 2025 was held at Yashwantrao Chavan Prasthan in Mumbai. This conference was attended by 800 delegates from 36 districts of Maharashtra. It was the result of coordinated efforts by 92 organisations and more than 250 individual activists.

The four major themes identified by the conference were growing violence against women and transpersons, growing hate and communal violence against minorities and marginalized sections of society by Hindutva forces, the devastation of economic life of people due to crony capitalism and complete destruction of various democratic structures of the nation.

The inauguration was done by Dr. Saeeda Hamid and the keynote speech was delivered by Senior Advocate of Supreme Court Ms. Indra Jaisingh. Other plenary sessions included Challenges before Indian Constitution – Patriarchy and Manuvaad, the Dismantling of Democratic Institutions and Anarchy, Assault on Minorities, Terrorism and the Politics of Genocide. Current global economic and political situation in which various prominent thinkers addressed the activist, including Chaya Khobragade, Teesta Setalvad, Adv Vrinda Grover, Shama Dalwai, Sanjiv Chandorkar and Kumar Ketkar. There was also a special session held on the struggles and political understanding of queer, trans, intersex persons and sex workers.

There were also group discussions and plenary sessions held on public transport, critical view of the institution of family, domestic violence, sexual violence, the new four labour codes, the struggles of the waste pickers, women farmers,

challenges facing Adivasis in context of extraction of forest and natural resources, environment and development and displacement and development. Various plays and cultural programs were held in the evening.

The conference ended with a public meeting held in Azad Maidan where resolutions that were passed in the conference were read out loud. Several activists also spoke about their experiences and struggles.

The emerging Maharashtra Stree Mukti Parishad network of organisations and individuals will continue to organize for our democracy and constitutional rights to defeat the politics of hate and violence.

AN UNFORTUNATE IMPENETRABILITY OF LAW - THE LAW ON RAPE IN CHHATTISGARH HIGH COURT

SHALINI GERA

Chhattisgarh High Court has outraged women rights activists once again – by holding that a man, who has kidnapped a woman, disrobed her, bound her hands and feet, placed his penis on top of her vagina, and ejaculated on her – cannot be held guilty of rape, since he did not penetrate her. Thus, the accused, who had been convicted by the session's court in Raipur to 7 years of rigorous imprisonment under section 376

IPC had his sentence cut in half by the Chhattisgarh High Court in Bilaspur, for an offence committed in 2004. Relying on the definition of rape as it stood then, the High Court has held that ejaculation with penetration is a sine qua non for the offence of rape.

This judgment comes almost exactly one year after another startling judgment from the same court, indeed the same judge,

which acquitted a man of the offences of raping his wife, having unnatural sex, and committing culpable homicide, after he had such violent, non-consensual, anal intercourse with his wife that her rectum was perforated, leading to bleeding, infection and death. The wife revealed the barbaric cruelty of the intercourse in her dying declaration before the SDM, which was relied upon by the trial court in Jagdalpur to convict the

accused under sections 376, 377 and 304 of the IPC. However, the High Court held that since the accused was married to the victim, he could take the benefit of the “marital rape” exception in our criminal law, and thus he stood acquitted on all charges. The two judgements not only rely upon a completely mechanical interpretation of the law of rape, devoid of all context, compassion and reason, but are also similar in how they engage with evidence to trivialize the testimonies of the victims.

Vasudeo Gond Vs State of Chhattisgarh, CRA 355 of 2005

It is true that prior to the IPC amendment of 03.02.2013, the definition of rape in section 375 of the IPC was limited to peno-vaginal penetration which took place against the woman’s will, without her free and properly informed consent, or in the instance of her age being less than 16 years. The first proviso specifically states that “penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.” But had the judgment come to a finding that no penetration took place at all, pointed to the limited definition of rape at the time of the commission of the offence in 2004, and stopped at that, it might have been more palatable. However, the judgment does not do that.

The judgment actively sidelines all evidence that points to penetration/ or partial penetration. The victim in her testimony stated that accused penetrated his penis into her vagina, but later also said that he kept it over her private parts without penetration. Plausibly,

these acts happened sequentially, however, her testimony is discounted because it is considered contradictory. Further, the doctor notes that the victim complained of pain in her private parts, there was redness of the vulva, and the presence of white liquid on her private parts. However, as the hymen is not ruptured, the doctor raises the possibility of ‘partial penetration.’ This is also not considered by the court. Furthermore, two articles described as “slides” (vaginal slides?) are shown to have human sperm, which should lay to rest any question about penetration and ejaculation. But they are only mentioned in passing, in paragraph 8 and not considered in the judgment at all. In paragraph 22, the judgment notes that partial penetration has occurred:

“... [i]t is quite vivid that an offence of attempt to commit rape is made out against the appellant as there is partial penetration by the appellant. As such, the act of the appellant forcibly taking the victim inside the room, closing the doors with motive of carnal knowledge, was the end of ‘preparation’ to commit the offence. His following action of stripping the victim and himself, and rubbing his genitals against those of the victims and partial penetration which was indeed an endeavour to commit sexual intercourse....”

There are a multitude of judgments by the apex court, which hold that partial penetration is sufficient to establish the offence of rape under the pre-2103 definition. Thus, what is described above should have satisfied the Court of the presence of all ingredients of

rape, yet this judgment holds that only an “attempt to rape,” has happened, and not rape, as ejaculation has taken place outside the body of the victim. “Ejaculation without penetration constitutes an attempt to commit rape and not actual rape,” says the judgment, with the underline in the original.

This judgment, thus, further limits the definition of rape in the pre-2013 IPC – not only is penetration necessary, but it must take place at the same time as ejaculation, for the act to be counted as penetration, and for the offence to be counted as rape. This is an unnecessarily restrictive definition of rape, and one without any legitimate legislative, social or moral backing.

One notes with relief that the new definition of rape after the 2013 amendment, requires neither penetration, nor ejaculation as a mandatory precondition. Coerced oral sex without penetration, or penetration of a woman’s private parts with objects other than a penis also qualify as rape.

Gorakhnath Sharma Vs State of Chhattisgarh, CRA 2025 SCC OnLine Chh 2287

However, even this progressive definition of rape excludes marital rape from its ambit, leading to unfortunate interpretations by judiciary as seen in the Gorakhnath case. This judgment illiberally expands the scope of the marital rape exception from rape, as defined section 375 to coercive unnatural sex defined in section 377, without any legislative, moral or social mandate. The Chhattisgarh High Court simply stated in its

judgment that:

“Thus, it is quite vivid, that if the age of wife is not below age of 15 years then any sexual intercourse or sexual act by the husband with her wife cannot be termed as rape under the circumstances, as such absence of consent of wife for unnatural act loses its importance, therefore, this Court is of the considered opinion that the offence under Section 376 and 377 of the IPC against the appellant is not made out.”

Further, the court doubted the veracity of the dying declaration, and the testimony of the victim

and went on to exonerate the accused of the charge of culpable homicide under S. 304 also.

It is notable the Supreme Court itself has read down the marital rape exception and restricted it to cases where the wives had attained the age of 18 years (Independent Thought vs Union Of India, AIR 2017 SC 4904). The Karnataka High Court, in Hrishikesh Sahoo v. State of Karnataka (WP 48367 of 2018) has ruled such a marital rape exception as contrary to Article 14 and held that a man can be punished under section 376 of the IPC for raping his wife. The

marital rape exclusion is not an immovable, immutable block that resists creative legal interpretations in face of flagrant brutality, and Chhattisgarh High Court would have done well to have taken note of such precedents rather than mechanically reproducing the legal text and legitimizing such cruelty.

(1s March, 2026)

HIMANTA BISWA SARMA MUST RESIGN AS CHIEF MINISTER OF ASSAM FOR SERIAL VIOLATIONS OF HIS OATH OF OFFICE TO GOVERN WITHOUT ‘FEAR OR FAVOUR, AFFECTION OR ILL-WILL’

PUCL NATIONAL

PUCL strongly condemns the recent statements made by the Chief Minister of Assam promoting divisive rhetoric against minorities which brazenly undermines the rule of law and violates his constitutional oath of office to protect all citizens without fear or favour. It is deeply alarming that a constitutionally elected Chief Minister is inciting hostility against Muslims and Christian minorities thereby violating the constitutional goal of upholding equality and secularism.

We are constrained to point out that Himanta Biswa Sarma has a notorious track record of making hateful statements about religious minorities, from Christians to Muslims as well as statements which reinforces the legitimacy of caste hierarchy and order. The rhetoric of the Chief Minister has often gratuitously

and pejoratively invoked the term “jihad” in connection with various issues involving the Muslim community.

In August 2024, Sarma recklessly accused the University of Science and Technology, Meghalaya, a Muslim-run institution, of engaging in “flood jihad”, blaming it for the outbreak of floods in Guwahati. He has also made the ridiculous claim that the university has a Mecca-like structure, and therefore it is a symbol of “jihad”. Similarly, Sarma also made the unfounded allegation that Bengali Muslim farmers were practising “land and fertiliser jihad” by using high amounts of fertilisers on their crops.

As Assam prepares for its next state general election in 2026, Sarma has intensified his targeting of Bengali Muslims.

Sarma said that between “four to five lakh Miya voters” would be removed from the electoral rolls during the Special Intensive Revision (SIR) process in the state. He also emphasised that “Himanta Biswa Sarma and the BJP are directly against Miyas” and urged people to “trouble” Miyas saying “only if they face troubles will they leave Assam”.

He has made no bones of not only discriminating against Bengali speaking Assamese Muslims but has also illegally incited others to discriminate against them. On January, 28, 2025, he said that, ‘Whoever can give trouble in any way should give, including you. In a rickshaw, if the fare is Rs 5, give them Rs 4. Only if they face troubles will they leave Assam... These are not issues. Himanta Biswas Sarma and the BJP are directly against Miyas. What is the point

of telling us that these are issues? We are saying it openly; we are not hiding it. Earlier, people were scared; now I myself am encouraging people to keep giving troubles”.

The Chief Minister has moved from speech which demeans, degrades and humiliates to speech which incites civil society to demean, degrade and humiliate Bengali speaking Muslims. With none of this hate speech facing any significant pushback, the Chief Minister has been emboldened to further extend the boundaries of his hateful and unconstitutional rhetoric.

On February 8, 2026, a video which has come to be referred to as the ‘Point-blank video’ purportedly showed Assam Chief Minister Himanta Biswa Sarma aiming a rifle and firing a shot at two individuals — one wearing a skullcap and the other sporting a beard that looked like a Muslim man. The wall the photo was hung on bore the words “No mercy” – with the caption “point-blank shot”. Though the outrage which greeted this video resulted in the video being removed from social media page of the BJP Assam unit, the damage had been done. For the video reinforced the CMs constant diatribe against Bengali Muslims as intruders who have stolen the jobs of Assamese thereby inflaming passions with the potential to result in major violence against Muslims and other minorities.

The only conclusion one can draw is that the incitement to murder was a bridge too far as far as what was acceptable from the Chief Minister and he was

forced to take down the video. However, the fact that the video was deleted cannot be allowed to obscure the history of Sarma’s repeated violations of his constitutional oath as Chief Minister to ‘faithfully and conscientiously discharge’ his ‘duties as a Minister for the State’ and to ‘do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will.’

The Chief Minister has been sought to be made accountable for this unprecedented history of violations of the constitutional oath by noted social activist and former civil servant Harsh Mander. Harsh Mander, filed a police complaint against Sarma at Hauz Khas police station in New Delhi over the latter’s public statements made on January 27 on the grounds that the Chief Minister was “promoting hatred, harassment and discrimination against Bengali-speaking Muslims in Assam”. Mander sought the registration of an FIR under relevant provisions of the Bharatiya Nyaya Sanhita, 2023, including sections 196 (promoting enmity between groups and doing acts prejudicial to harmony), 197 (making assertions prejudicial to national integration), 299 (malicious acts intended to outrage religious feelings), 302 (uttering words intending to wound religious feelings) and 353 (statements conducing to public mischief).

The Chief Minister’s response exposes his belligerent, and ominous, response: “He has filed just one case against me. Just see, I will file at least 100 cases against him now as I have the necessary materials for it.” The Chief Minister accused Mander of

“destroying” the National Register of Citizens (NRC) process in Assam. He had earlier raised this allegation against Mander, accusing him of visiting the state during the NRC process and working to “create false kin” to include names of “ineligible applicants” in the NRC.

The PUCL strongly condemns this brazen language of the Chief Minister in which the law is instrumentalised as a tool to harass and intimidate eminent human rights activists. We should point out that Harsh Mander represents the constitutional idea of India and has stood with the most marginalised and often invisible Indians. He has worked with homeless people including street children. In ‘PUCL v Union of India’, (known as the food security PIL) the Supreme Court recognised his constitutional commitment by appointing him Special Commissioner of the Supreme Court for the right to food. In that position he has contributed significantly to ensuring the right to food to the most marginalised. He has stood with victims of hate crimes across India. He has also played a key role in documenting the violations of due process in Assam’s Foreigners Tribunals as well as documenting the conditions of detention as part of an NHRC constituted team. Mander has raised concerns about the “lawless cruelty” and inhumane conditions within Assam’s detention centers, where people have been held for years, resulting in significant mental anguish and suicide. For this work, he has been endlessly harassed by all agencies right from the ED to the CBI and Income Tax authorities. This harassment has not deterred him

from his continuing fearless and dogged commitment to ensuring that the values of the Constitution are kept alive in contemporary India.

It is this work which is sought to be delegitimised and criminalised by the Chief Minister of Assam. The Assam Chief Minister instead of targeting Mander should address the concerns raised by him as to how the Foreigners Tribunals are a mockery of the legal process and are perpetrating inhumane suffering.

The PUCL strongly condemns the language of the Assam Chief Minister as a complete repudiation of his oath of office. The Chief Minister has used language which demeans and degrades Assam's Muslims, incites discrimination against them and goes so far as to incite the murder of Muslims. None of this language is sanctioned by

the Constitution. The Chief Minister has violated his oath not to discriminate on grounds of religion and not to incite violence against members of a community. Far from promoting fraternity, which is the most basic constitutional obligation of a head of state, he has gone out of his way to promote divisiveness, hatred and violence in Assam.

The Chief Minister has thus been a serial violator of the most basic norms which govern a constitutional democracy as well as the constitutional responsibility of a head of state. His language has made it amply clear that he does not seek to govern on behalf of the Muslim communities of Assam. As such he has unequivocally and expressly repudiated his constitutional oath to govern without 'fear or favour, affection or ill-will.' In particular the Chief Minister has made it clear that he governs with an animus which targets the Muslim

community. The Chief Minister has thus proved himself constitutionally incapable of abiding by the mandate of the Constitution that all persons are equal before the law.

The PUCL calls for the Chief Minister to resign as he has repeatedly violated his oath of office to govern without 'fear or favour, affection or ill-will.' The PUCL also calls on the Prime Minister to take action against the Chief Minister under Article 355 to ensure that Assam is governed in 'accordance with the provisions of the Constitution.'

Kavita Srivastava, President
Dr. V. Suresh, General Secretary

People's Union for Civil Liberties

11th February, 2026

DEMANDING ACTION AGAINST THE SHAMEFUL REMARKS MADE BY BJP MLA BAHADUR SINGH KOLI IN THE RAJASTHAN LEGISLATIVE ASSEMBLY

JOINT MEMORANDUM BY WOMEN'S AND PEOPLE'S ORGANISATIONS OF RAJASTHAN

Respected Sir,
We are writing to express our deep anguish and disappointment over the remarks made by BJP MLA Shri Bahadur Singh Koli in the Rajasthan Legislative Assembly. He compared the current government's budget to the "birth of a boy" and the Congress government's budget to the "birth of a girl." Such a patriarchal analogy is deeply disturbing and reflects a regressive and anti-women mindset. These words were spoken inside the Assembly, which makes their implications even more serious.

Son preference and the devaluation of girls have been among the deepest social evils in our country, responsible for female foeticide, distorted sex ratios, and the denial of equal opportunities to women and girls. When an elected representative uses such prejudice casually in political speech within the House, it sends a harmful message to society — that such thinking is acceptable, even worthy of celebration.

The Constitution of India guarantees equality (Article 14), prohibits discrimination on the

basis of sex (Article 15), and ensures the right to life with dignity (Article 21). When a legislator makes derogatory remarks about women, it is not only an insult to women but also to the Constitution he has sworn to uphold.

Yet Shri Koli appears to see no contradiction in taking this oath while making such trivial and regressive remarks. More troubling is the absence of remorse — no acknowledgment that what he said was wrong. This is not merely an error of judgment; it is a disregard for the

dignity of the office he holds.

It is also deeply hypocritical that a member of a party that publicly celebrates the birth of girls is using the birth of a girl as an insult. Perhaps most disturbing is not just the remark itself, but the laughter and applause from those seated around him. This indicates that such attitudes are not limited to one individual — they are shared and normalized within the House itself. Those elected to represent us and protect our rights are trivialising an issue that has caused irreparable harm to millions of girls in this country.

We therefore urge you to take this matter seriously. As Speaker, you have both the authority and the responsibility to:

1. Expunge the unparliamentary words from the Assembly proceedings.
2. Issue a strong warning and initiate disciplinary action against the concerned member.
3. Consider suspension if necessary.
4. Refer the matter to the Privileges or Ethics Committee.
5. Direct him to issue a public and unconditional apology to the women of Rajasthan.

As the guardian of the dignity and decorum of the House, we believe it is your constitutional and moral responsibility to

ensure accountability. A legislature that does not hold its members accountable for misogynistic speech cannot claim to represent half its population. If such statements are left unaddressed, it will set a dangerous precedent where women's dignity becomes collateral damage in political rhetoric. When those sworn to uphold the Constitution violate its spirit, silence from the Chair becomes equally serious.

The dignity of the Assembly is paramount. It is a place where policies are made, people's voices are raised, and governments are held accountable. If derogatory language against women is used within the House, it sends a message that those at the centre of power are not committed to gender equality. This undermines democracy and discourages women's participation in politics.

We also believe that in the current and previous sessions, the dignity of women has been overlooked and objectionable behaviour has occurred. Therefore, it is essential that the Rajasthan Legislative Assembly develop gender guidelines and implement them at the earliest. Legislators should be oriented about these guidelines before entering the House. This will help prevent misogynistic speech and promote appropriate conduct toward women.

We would also like to remind you that under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), the constitution of an Internal Complaints Committee is mandatory. While such a mechanism exists for Assembly staff, women legislators and women visitors to the Assembly fall outside its scope. This is inconsistent with the spirit of the 2013 law. We hope this issue will also receive due attention.

We hope that this Assembly will become one of the first in the country where even strong political differences between ruling and opposition parties do not result in any form of verbal, non-verbal, written, or other indignity toward women.

We expect prompt action on both issues. If no action is taken, we wish to state that we will be compelled to protest publicly. The people of this state will not remain silent when their elected representatives make such remarks without consequences.

In a democracy, dignity is not optional — it is essential. We look forward to your response.

(18 February, 2026)

REPORT OF THE PUCL DELHI LAWYERS' ROUNDTABLE ON LEGAL RESPONSES TO HATE SPEECH AND HATE CRIMES

SECRETARY, PUCL DELHI

At a time when constitutional values are increasingly strained by rising communal polarisation, hate speech, and targeted

violence, the People's Union for Civil Liberties (PUCL) Delhi convened a Lawyers' Roundtable on 13 February 2026 to

deliberate on the role of the legal fraternity in safeguarding India's secular and democratic framework.

The Roundtable brought together former judges, senior advocates, independent practitioners, law students, and representatives of lawyers' collectives to reflect upon both ideological and institutional responses required to address hate crimes and communal division. The deliberations were firmly anchored in a shared commitment to constitutional morality, the rule of law, and the urgent necessity of translating constitutional promises into lived realities.

Approximately 90 participants attended the meeting, nearly 90 per cent of whom were practising lawyers. The gathering witnessed participation not only from Delhi but also from members of the Bar across regions, including Jalaun, Bareilly, Dehradun (Uttarakhand), and Allahabad—reflecting a wide and committed engagement with the issues at hand.

Opening Remarks:

The meeting commenced with Mr. T.S. Ahuja, speaking on behalf of the Executive Committee of PUCL Delhi, who presented the concept paper framing the discussion. He outlined the central theme: the responsibility of lawyers in promoting communal harmony and combating hate crimes and hate speech.

Mr. Ahuja started the discussion within PUCL Delhi's longstanding engagement in defending civil liberties and intervening in matters involving state excesses, discrimination, and constitutional violations. He emphasised that lawyers are not merely courtroom actors but constitutional functionaries entrusted with upholding justice beyond

litigation. In the present climate, he noted, neutrality in the face of injustice effectively amounts to abdication. The legal community must therefore respond collectively, institutionally, and ethically to the growing normalisation of divisive rhetoric and communal targeting.

He also informed participants that PUCL Delhi has initiated outreach programmes aimed at educating young people across university campuses on combating hate speech and hate crimes, and defending constitutional values. This initiative forms part of a broader effort to strengthen constitutional awareness and civic responsibility among youth.

Keynote Address: (Retd.) Chief Justice Rajiv Shakdher (Himachal High Court):

Justice Rajiv Shakdher delivered the keynote address, setting the tone for the deliberations. Referring to recent judicial developments, including the case concerning Deepak, he reflected on the increasing invocation of stringent anti-conversion laws.

He underscored that Articles 25 to 28 of the Constitution of India guarantee freedom of conscience and the right to freely profess, practise, and propagate religion. However, he expressed concern that contemporary legislative trends appear to criminalise propagation if accompanied by alleged inducement, in some instances prescribing severe punishments, including life imprisonment. Such measures, he cautioned, raise serious constitutional questions.

Justice Shakdher emphasised that constitutional ideals must not

remain confined to judicial pronouncements. They must be carried to the grassroots. The Constitution, he remarked, is not self-executing; its vitality depends upon citizens and institutions who internalise and defend it. The broader the social participation in this endeavour, the stronger its impact.

Address by (Retd.) Chief Justice Iqbal Ahmed Ansari (Patna High Court)

Justice Iqbal Ahmed Ansari expanded the discussion by emphasising that combating communalism requires, at the very least, a broad understanding of the foundational principles of major religions practised in India. Genuine engagement, he suggested, demands intellectual humility and interfaith literacy.

Invoking the ideas that "My Allah is also the creator of everyone else" and "kan kan mein bas hain Ram," he highlighted the shared spiritual universality embedded within India's religious traditions. He observed that Hinduism, historically grounded in pluralism, has accommodated believers of diverse philosophies—including those who worship Ram, those who worship Ravan, and those who profess no belief at all.

Justice Ansari stressed that India is a constitutional democracy, not a theocratic state. In a democracy, power is not royal prerogative; it is structured and limited by law. No arbitrariness can be sanctioned under the Constitution. He posed a critical normative question: whether society chooses to be guided by the Constitution, with its guarantees of equality and non-discrimination, or by hierarchical codes inconsistent with

constitutional morality.

He also cautioned against incendiary public statements that generate fear and social panic, noting that such rhetoric corrodes democratic institutions and deepens communal fault lines.

The Roundtable was chaired by Senior Advocate Sanjay Parekh, who reflected on PUCL's recent intervention before the Supreme Court on hate speech—an initiative that remains ongoing. He emphasised that the struggle against hate must extend beyond the courtroom and involve introspection within and among ourselves. Drawing upon the teachings of Gandhi and Ramakrishna Paramhans, he underscored the need for ethical self-examination in public life. He also stressed the importance of verifying inflammatory claims through authentic religious texts and proposed the formation of a multidisciplinary advisory body comprising historians, academicians, and subject-matter experts.

Discussion Initiated by Senior Advocate Sanjay Hegde

Senior Advocate Sanjay Hegde initiated the broader discussion by calling for a reaffirmation of "Project India," grounded in constitutional nationalism rather than sectarian or exclusionary identity politics. India, he noted, is a conglomeration of multiple identities, languages, and nationalities bound together by a constitutional compact.

Recalling observations by Fali S. Nariman regarding the Constituent Assembly, he emphasised that despite being largely composed of orthodox Hindus and presided over by Dr.

Rajendra Prasad, the Assembly consciously adopted equality and secularism as foundational commitments—reflecting lessons drawn from the global experience of fascism.

He observed that constitutions are living documents that must be defended in spirit as well as in text. He described the defence of constitutional values as dependent upon a triad: the street (*sadak*), society (*samaj*), and the Supreme Court.

Critiquing what he termed "jugaad jurisprudence," he warned against legal reasoning driven by expediency rather than constitutional ethos. Referring to the Ayodhya judgment and subsequent litigation trends under the Places of Worship Act, he expressed concern over judicial observations that may open floodgates for destabilising claims.

He further noted with alarm that certain district bar associations have witnessed overt rejection of secular constitutional values. As officers of the court and creatures of the Constitution, lawyers, he stressed, are duty-bound to act in accordance with justice and constitutional morality.

Open Discussion and Key Proposals

The floor was opened to law students, young practitioners, and representatives of lawyers' organisations. Senior Advocate Ashok Panda, a founding member of PUCL, along with Advocate Arun Maji, President of PUCL Delhi, proposed that ahead of forthcoming elections—including the West Bengal elections—a formal charter be

addressed to political parties urging explicit commitments in their manifestos to combat communalism, hate speech, and hate crimes.

Veteran advocates Som Dutt Sharma and Poonam Kaushik expressed unequivocal support for PUCL Delhi's initiative. Advocate N D Pancholi former president of PUCL Delhi presented the stellar work being undertaken by PUCL Delhi in spreading the idea of communal harmony in the atmosphere of hate.

Participants also volunteered to contribute to the proposed legal cell. Mobilising informed opinion within the legal fraternity was identified as a critical agenda.

Key Agendas

1. Engagement with Educational Institutions
Systematic outreach to college campuses to promote constitutional literacy and counter communal narratives.
2. Use of Technology and Data
Documentation Creation of structured databases for documenting hate speech and hate crimes to strengthen evidence-based advocacy and litigation.
3. Establishment of a Coordinated Legal Cell

Proposed functions include:

- Collection and documentation of hate speech material
- Fact-checking and dissemination of accurate religious information
- Strategic case selection

15 young Advocates and law students volunteered to be members of the PUCL Delhi legal cell, Advocate Harsh Kumar

Gautam was appointed Convenor.

A multidisciplinary advisory group comprising historians, academicians, and subject experts was also proposed.

Three-Level Strategy:

1. Ideational Intervention: Engagement in educational spaces to nurture constitutional values and interfaith understanding.
2. Legal and Institutional Intervention: Creation of coordinated mechanisms for

legal assistance, strategic litigation, documentation, and mobilisation within the Bar.

3. Institutionalisation: Spreading the message of communal harmony: combating hate crimes and hate speech amongst the legal fraternity in Delhi and for the same holding meetings and forming legal cells in different district courts, High Court and Supreme Court.

Conclusion

The Roundtable concluded with a collective resolve to institution-

alise these initiatives. The deliberations reaffirmed that communal harmony, equality, and secularism are not optional aspirations but constitutional mandates. The legal fraternity, as a central pillar of democratic governance, bears a distinct responsibility to defend these values—through advocacy, education, mobilisation, and sustained collective action.

RE-READING K. BALAGOPAL

ANAND TELTUMBDE

Originally published in *The Wire*

Human Rights Forum, which the late K. Balagopal (1952-2009) helped found after ending his long association with the Andhra Pradesh Civil Liberties Committee (APCLC), has recently reissued the book being reviewed in this article – *Ear to the Ground: Writings on Class and Caste* by K. Balagopal – expanding the earlier edition published by Navayana in 2011 with additional papers. The volume is organised into seven sections and contains forty-four essays, written over three decades (1980s to 2000s), largely engaging questions of caste, class, the Left movement, and contemporary populist politics.

They are ably introduced by V. Geetha, a distinguished scholar of these issues in her own right. Most of these writings originally appeared in *Economic and Political Weekly* and some in other periodicals. Together they weave granular field observation,

political economy, and radical democratic imagination into a critique of Indian society that refuses the abstractions of both naïve class analysis and caste denialism. Taken together, they constitute a substantial volume of 536 pages – an apt tribute to Balagopal's intellectual range, political integrity, and analytical brilliance.

The book is a rare intellectual artefact – a lived testament of a Mathematician turned civil rights activist who became an incisive political theorist. Balagopal maps Indian society with unflinching clarity, showing caste and class not as discrete variables but as interwoven infrastructures of power. What he offers is not consolation but analytical precision: an account of how inequality is produced, reproduced, and politically weaponised at the very core of India's so-called democratic institutions. Each essay in the book bears the mark of his distinctive intellectual capacity to pierce the surface of events and

theorise their underlying logic, transforming empirical immediacy into enduring political insights. This review just offers a glimpse to them.

A model of a scholar-activist

The unique insights arise from a dialectical unity of theory and practice, sustained by an uncompromising commitment to the vision of a just society. I had a good fortune to know Balagopal over the years as a fellow traveller in a fraternal organisation. As general secretary of the Andhra Pradesh Civil Liberties Committee, Balagopal embodied an ethic of relentless presence: He would rush with his shoulder bag by any available means, walking long distances to sites of police violence, sustaining himself on cups of tea, and copiously documenting encounters, custodial killings, mass arrests, and torture. In this near-ascetic commitment, he functioned as a one-man army, forcing the realities of counter-insurgency in

Andhra Pradesh into national consciousness and exposing the state and society that normalised coercion in the name of order. These were years of near-permanent emergency, marked by the resurgence of the Naxalite movement in Andhra Pradesh and constant threats to his life; Balagopal was repeatedly arrested and assaulted.

Yet, repression neither pushed him into dogma nor partisan silence. Over time, he grew increasingly critical of Naxalite violence, insisting that a civil liberties platform must retain autonomy from armed politics and condemn violence irrespective of its source – a position that drew criticism from those, who argued that state violence and people's violence in defence could not be judged on the same scale. Balagopal understood this asymmetry better than most: he recognised that insurgent violence was rooted in the state's brutality and denial of democratic redress, and that its scale was incomparably smaller. But he also saw how the rhetoric of armed revolution alienated potential allies and foreclosed wider democratic support. His distinction was precise: the state, as a constitutional entity, bears a qualitatively different responsibility, and its systematic violations constitute structural domination rather than error; yet this does not exempt insurgent violence from ethical scrutiny.

What set Balagopal apart was this refusal of both false equivalence and false exemption. Civil liberties, for him, were a non-negotiable democratic principle, tested most severely in moments of conflict – a balance that unsettled both the state and

its armed opponents, and gives his work its enduring credibility.

Framing the post-colonial state

In the first section of the book – Balagopal offers a structural reading of the postcolonial Indian state in which nation-building appears not as a neutral or moral project but as a necessary by-product of ruling-class enrichment. After Independence, he argues, the Indian ruling classes confronted a dual task: securing mass loyalty and constructing the industrial and infrastructural base for accumulation. Both were accomplished through an etatist state that functioned as the chief mobiliser and distributor of surplus. In industry, the state absorbed risks, undertook unprofitable investments, shielded private capital from imperial competition, and financed it without ceding control; in agriculture, it protected and reconstituted landlord classes, diluted land ceilings, invested in irrigation and electrification, supplied Green Revolution technology, and deployed coercive force against rural resistance, while leaving relations of domination intact.

The result was a paradoxical formation in which the state became the single largest capitalist, while private capital remained structurally dependent on it – what Balagopal identifies as bureaucratic capital. This material restructuring was accompanied by a powerful ideological consensus – socialism, self-reliance, secularism, liberal democracy, and anti-imperialism – which, though not merely cynical, enabled real achievements:

industrial growth, infrastructural expansion, agricultural increase, relative political stability, and mass loyalty through limited patronage and selective coercion.

Yet this apparent stability concealed deep contradictions. By the mid-1960s the structure had exhausted its possibilities: growth slowed, investment declined, the rupee weakened, drought and recession set in, and ideological cohesion frayed. Rejecting apocalyptic or linear accounts of collapse, Balagopal argues that social systems encounter their limits through development itself, producing not a single terminal crisis but a sequence of “crises within the crisis.” The Green Revolution exemplified this dialectic, unleashing productive forces that collided with existing social relations and intensified class conflict.

While the working masses perceived this as a crisis of the system itself and rebelled against exploitation, the propertied classes misread it as a problem of structural misalignment and demanded reconfiguration in their favour – a divergence that marked the first major manifestation of the principal contradiction of Indian political economy and shaped the subsequent trajectory of Indian politics.

Caste and class – Classical confusion

Balagopal's work remains crucial to any serious understanding of contemporary India because of his refusal to treat caste and class as analytically separate domains. Against liberal

frameworks that relegate caste to cultural identity or electoral arithmetic, and against orthodox Marxist approaches that reduce it to a residual or dissolving contradiction, Balagopal insists that caste is constitutive of class formation, political mobilisation, and state power.

Caste, in his analysis, is not an epiphenomenon of economic relations but one of the primary social mechanisms through which those relations are organised, stabilised, and reproduced. This intervention decisively dismantles the false opposition between “class politics” and “caste politics” that has long distorted both theory and strategy on the Indian Left.

He grounds this argument in a material history of production and domination. Dominant castes, Balagopal shows, did not emerge as mere cultural elites but through the historical transformation of tribal and peasant groupings into hierarchically ranked social formations integrated into agrarian production and political control. These caste formations functioned as productive social structures, shaping access to land, labour, capital, education, and political authority. His essays on reservation politics – especially in Andhra Pradesh during the 1980s – expose how anti-reservation agitations were not principled defences of merit or efficiency but organised efforts by forward castes to defend inherited material privileges, including control over universities, state employment, licit capital, and patronage networks.

The moral outrage surrounding

reservations, he demonstrates, was carefully manufactured, revealing caste as a key mechanism for the reproduction of ruling-class advantage.

Balagopal is equally unsparing in his critique of class reductionism. By the early 1990s, he recognised that appeals to abstract class unity were unlikely to resonate with savarna lower-middle and middle-class groups who had already consolidated caste identity into emerging provincial bourgeois formations. For these groups, caste was not an obstacle to class formation but its very medium, deployed as a resource for political mobilisation and economic advancement. His insistence that caste and class struggles are coterminous is therefore not a concession to identity politics but an analytical recognition that class solidarities in India are continually fractured and reorganised through caste hierarchies, which operate as decisive vectors of political allegiance and conflict.

This integrated understanding of caste and class informs Balagopal's conception of the Indian state. Rejecting both the liberal image of the state as a neutral guarantor of rights and the crude Marxist view of it as a mere instrument of repression, he shows how the state is structurally embedded in caste – class relations, reproducing inequality through routine administrative practices – policing, selective legality, bureaucratic impunity, and the systematic denial of civil rights.

Rights, in this framework, are not benevolent concessions but contested outcomes of social struggle. By foregrounding the

everyday operations of governance rather than constitutional ideals, Balagopal dismantles the illusion that legality protects the weak or that democratic institutions automatically mediate inequality.

Although his engagement with fascism becomes more explicit in later writings, the trajectory is already visible in *Ear to the Ground*. Balagopal anticipates how right-wing politics in India transforms caste from a social hierarchy into a political technology, mobilising the anxieties of aspirational savarna classes to construct majoritarian authority. Populist politics, in his account, draws on caste's multiple social functions: stabilising upper-caste privilege, offering compensatory cultural entitlements to strata unsettled by neoliberal restructuring, and legitimising grievance and hatred as political resources under the rubric of Hindu identity. Fascistic tendencies thus emerge not from abstract ideology alone but from the concrete alignment of caste-based class interests with state power.

Central to Balagopal's legacy is his insistence that caste violence – and its routine social and institutional justification – constitutes a crime against democracy itself. His analyses of atrocities such as Chundur exposed the inseparability of caste and patriarchy and the social consent that normalises humiliation and degradation. Drawing on Ambedkar, he rejected liberal and Left tendencies to treat fascism as an external aberration, locating its social conditions within the Hindu social order and arguing that democracy must be assessed

not only electorally or constitutionally, but through administrative practices, social relations, and economic structures.

Balagopal leaves behind neither a closed theory nor a political blueprint, but a method of radical democratic realism. His work confronts state violence without euphemism, rejects unreflective utopianism, and insists that democracy cannot be inherited but must be continuously produced through struggle. In an era marked by neoliberal accumulation, majoritarian rule, surveillance, and shrinking democratic space, his writings function less as a legacy to be celebrated than as an indictment to be reckoned with; a beacon to struggle.

Constricted imagination

In "Popular Struggles: Some Questions for Communist Theory and Practice," Balagopal interrogates the long-standing communist assumption that popular struggles acquire revolutionary significance only when subsumed under communist leadership and strategy. While he recognises the need for coordination among struggles confronting a coherent structure of oppression, he insists that such coordination cannot take the form of absorption into a centralised party unless it is accompanied by genuine reciprocity – openness to theoretical renewal, organisational innovation, and responsiveness to popular aspirations as they emerge.

Drawing on the Andhra Pradesh experience after the mid-1980s,

Balagopal shows that many mass movements – Dalit, women's, environmental, and rights-based – arose outside the communist fold despite being substantively anti-landlord and anti-capitalist. This estrangement, he argues, reflected not ideological hostility but deep disaffection with communist practice, rooted in the rigidity of the Bolshevik organisational model, which privileged discipline and militancy over creativity and inhibited the continual renewal of theory. Communist responses – ranging from doctrinaire criticism and unsolicited theoretical instruction to warnings about co-optation – often widened this distance, even as communists claimed historical credit for legitimising radical politics.

This general critique acquires concrete sharpness in Balagopal's analysis of the anti-arrack and Dalit movements in Andhra Pradesh, where he exposes the gendered and caste-bound blind spots of Left politics. In the case of the anti-arrack struggle, he shows that while Left parties correctly identified the nexus between liquor, corruption, and state power, they fundamentally misrecognised the primary victim of the arrack economy as the male worker whose wages were drained by drink. This framing ignored the reality that women and children bore the heaviest burden through deprivation and domestic violence.

The error stemmed from a deeper theoretical reduction: identifying the working class with male wage labour outside the home and treating the family as a homogeneous unit rather than a site of internal conflict. This led to

politically disastrous demands – such as lowering arrack prices – that intensified women's suffering, and later to support for prohibition without reckoning with the underlying conceptual failure. The success of the anti-arrack movement, Balagopal argues, lay precisely in rural women's autonomous reframing of the struggle around violence, dignity, and everyday survival. A parallel failure marked communist engagement with the Dalit movement, which, despite being rooted among rural landless labourers – the Left's presumed social base – developed largely outside the communist stream because caste-based self-respect and dignity were treated as secondary or "superstructural," especially in regions where feudal domination was limited but caste humiliation sharply constrained social mobility.

Balagopal situates these failures within a deeper theoretical problem in Marxist class analysis itself. Reworking the distinction between class-in-itself and class-for-itself, he insists that emancipation requires not only objective location within relations of production but subjective self-discovery – of dignity, worth, and collective agency. In the Indian context, this self-discovery occurs not primarily through abstract class identity but through caste, tribal, and gendered experiences of oppression. Communist practice, however, remained fixated on preserving the objective unity of the working class, treating identity-based self-assertion as divisive rather than as a necessary moment in the formation of political subjectivity – a blindness reinforced by the savarna social origins of much of

its leadership.

Balagopal contends that such assertions are not regressions but transformative advances, a point he illustrates through the Madiga movement for categorisation within Scheduled Caste reservations, where sectional assertion proved indispensable for dignity and agency even as it disrupted the illusion of a unified oppressed bloc. Extending this argument, he challenges Leninist vanguardism and argues for localised, self-directed struggles that federate into broader movements rather than being subsumed under a centralised party oriented toward capturing state power.

His discussion of the independent tribal land struggle in West Godavari reinforces this view: while communist-led struggles raised consciousness, autonomous mobilisation produced greater tenacity, leadership from within, and a

deeper sense of collective self-worth. Together, these arguments call for a radical rethinking of class, organisation, and political strategy in India, grounded in the lived processes through which oppressed groups become historical subjects.

While I largely share Balagopal's concern about the failure of communist parties to engage adequately with identity-based struggles – a failure rooted in the Leninist model of a vanguard party claiming exclusive revolutionary authority – the alternative cannot lie simply in a loose federation of autonomous struggles. Such movements, if they are to transcend fragmentation and achieve transformative outcomes, inevitably require a unifying principle. That unifying logic, however, need not be organisational centralism; it may emerge more coherently from a fundamental rethinking of class itself.

Class should not be treated as a narrowly economic category but as an abstraction encompassing the full range of exploitative and oppressive processes operative in any society. Under such a reconceptualisation, struggles against caste, gender, and other forms of domination would not stand alongside class struggle but would constitute it. This perspective, however, demands a thorough reworking of key Marxist categories and conceptual frameworks. And of course, creative practice to realise it.

Anand Teltumbde is former CEO of PIL, professor of IIT Kharagpur, and GIM, Goa. He is also a writer and civil rights activist.

(21 February, 2026)

EXTRACTS FROM **EAR TO THE GROUND**

K. BALAGOPAL

Human Rights Forum has re-published 'Ear to the Ground: Selected Writings on Class and Caste' by K. Balagopal and has made it available to the public. Below is the introduction to the volume by V. Geeta which brilliantly re-introduces the thought of Balagopal, which is even more relevant today. We believe that this volume needs to be read and discussed widely in all those interested in human rights.

V. Geeta, Introduction: How utopian can our dreams be?

Writing in the wake of the Gujarat

carnage of 2002, K. Balagopal wondered at the power of hatred and what it could achieve, and asked what was clearly not a rhetorical question: Can one teach love as easily as that? Radical-minded people feel insecure about such questions, for they could be fatal to our utopian dreams. But while dreams are all right, and probably also necessary, we should have the honesty to pare them down to realistic dimensions. If hatred is so easy to build and love so difficult, and an uneasy tolerance the most we achieve when we work for love, how utopian can our dreams afford to be?

The Thought-World of Balagopal

This volume also introduces the reader to the thought-world of Balagopal as it changed and evolved through the years, to his brilliant and witty style of expression, and finally to his abiding humanity, his clear-cut sense of what ought to be challenged and cherished, feared and respected in the human condition, such as it is.

Balagopal's engagement with the world of civil rights and politics, democracy and communication exemplifies the critical politics

that he espoused in varied ways. Intensely sensitive to the lessons of history, especially the struggles of poor and desperate people, of angry and politically organised groups, he travelled easily in and between different political and philosophical terrains. Inspired by naxalism in the late 1970s and into the 1990s, intellectually indebted to Kosambi's writings on Indian history and society, and politically and ethically attentive to the politics of feminist and dalit assertion in the 1990s, Balagopal refused dogma and shrill polemics just as he refused theory that did not heed the mess of history and practice.

During his years as secretary of the Andhra Pradesh Civil Liberties Committee, he came to know the grit and grime of class politics. This was also a time when he reposed good faith in the possibilities of radical politics and social change. Investigating so-called encounters that ended the lives of young fighters or political activists, writing against the abridgement of the right to speech under N.T. Rama Rao, former chief minister of Andhra Pradesh, enquiring into police violence in adivasi villages in the thick forests of Dandakaranya, horror-struck at the self-blinding arrogance of students resolutely opposed to reservation for the Backward Classes in Andhra Pradesh, angrily responsive to caste hatred that humiliated and murdered dalits, and troubled by the logic of the caste order that divided the poor and disenfranchised and pitted dalits against each other: he saw much and drew very important conclusions from all that he was witness to. His intimate knowledge of a dynamic, bloody and history-drenched social landscape enabled him to link geography and history, landscape and production relationships, labour and caste, and political action and cultural verities.

Such a mobile perspective is, in fact, physically palpable in the structure of his essays: often an essay begins with descriptions of roads, forests or railway tracks, or of microclimatic conditions. He literally leads the reader into a world whose boundaries are geographical and historical, part of the lay of the land, and which have

been created over a period of time. Once in that world, we see its everyday both in terms of a long historical past, as well as in terms of a particular contemporary event or situation. Key aspects of this world are then unpacked into their constituent details, and once the landscape is laid out, much like a map, we are made to see patterns, and what appeared to be disparate elements show up linked, stretching backward and forward in time. Thus, fields sown with groundnut serve Balagopal to essay a wonderful vignette on medieval Rayalaseema, to draw out a political argument on how ruling classes and castes fare in such a landscape, and to indicate the possible fallout of class war in the event of a prolonged drought. It is almost as if field notes, jotted down in a night or in the course of a gruelling fact-finding mission, become points of entry into a world of ideas and events which eventually blend together.

Significantly, Balagopal paid close attention to cultural developments in the terrains he chose to study. Once again, we see him utilising the insights garnered from attending to rights violations to outline astonishing and wonderful arguments about class and culture. His analysis of the rise of the 'yellow' press in Andhra Pradesh is a case in point: everyday ethnography, class and caste analysis and his keen and perceptive marking of political will and dynamism-howsoever these may work in practice- allow him to move beyond dismissive marxist arguments about the yellowpress being an expression of petit-bourgeois outrage. Likewise, his references to religious faith, gods and puranic lore in contexts where you would least expect to find them allow us to see how religious sensibility reinvents itself in secular contexts, and often in the most tangential ways.

Consider, for instance, the opening paragraph of his essay on the murder of dalits in Karamchedu, 1985: a description of a loudspeaker's blare comprising chants from the Bhagavad Gita-is not merely 'atmospheric' but actually deftly sets the ideological context for an inquiry into murderous caste violence. An essay on fascism

begins with a seemingly innocuous description of an anti-fascist convention, meanders into reflections on the worship of Ayyappa, and you slowly begin to see connections between religious cults, plebeian discontent, cultural desperation and political hope, and the manner in which fascism could potentially integrate these incongruous elements into a political programme. An appraisal of Indira Gandhi's tenure as prime minister morphs into a theoretical meditation on the importance of the superstructure, of cultural and literary expression in times of class warfare.

While much of what he said in the 1980s and until the mid-1990s owed a great deal to the politics and practice of naxalism, he also consistently looked beyond it. This was a decade that witnessed, in the wake of the disintegration of the Soviet Union and the dismantling of state socialisms, a relentless questioning of socialist theory, especially of class struggle and the relevance of the organised working class in countries like India. Questions of revolutionary agency were raised by those in movements that mobilised across and beyond class identities and by scholars who sought to theorise these 'new social' movements. Feminist and dalit critiques of marxism insisted on the relative autonomy of patriarchy and the caste order as systems of oppression. Balagopal lent his keen ear to these developments, and responded to them with verve and from a vantage point gained from a close knowledge of the naxalite groups in Andhra Pradesh. His sardonic and witty style allowed him to both fend off as well as engage with critics of naxalism with grace and brilliance. Yet, in almost every critical instance, he reassembled ideas that he found useful, but which were not strictly part of his political and intellectual heritage, to rethink his own position with greater rigour.

This is particularly evident in his debate with Gail Omvedt on farmers' movements and the caste question: while agreeing with Omvedt that caste divided rural society in important ways, he refused to define the

sensibility that pitted shudra peasant against dalit labourer as an instance of 'casteism'.

He did not agree that 'caste feeling' was merely that and could be addressed without creating new political contexts for dalits and shudras to come together. He did not, therefore, rush to assimilate caste differences to class antagonisms, as many leftist thinkers in the pre-Mandai world were wont to do. Instead, he argued, through the late 1980s, and even when he was not responding to Omvedt's ideas, that caste identities have to be precisely and historically understood. He pointed out that however stable they appeared, such identities were neither given nor immutable; that casteism had not always united the so-called shudras, and communist struggles in Andhra Pradesh had witnessed reddy fighting reddy and so on in innumerable instances. At the same time, he conceded that caste identities could be effectively mobilised and rendered provisionally immutable for diverse reasons-to countermand dalit labourers' demands and communist organising; when a dominant caste

chose to defend its class interests by drawing to itself caste men and women through persuasive politics; when there did not exist political contexts and arguments that would help unite the poor shudra peasant and the dalit labourer.

In the post-Mandal decade, he refined his arguments even more: he declared that the caste order merited critical political attention on its own terms, and observed that it denied civil status to a considerable number of people, thereby depriving them of that identity which would help them challenge injustice in a democratic society. He argued too that casteism, like racism, must be considered a crime against humanity but did not ask for it to be assimilated into the latter. Rather he insisted on the uniqueness of caste-based discrimination, pointing to the divine sanction that continues to be claimed for it, and the hierarchy of differences and inequalities that sustains it. These years also saw him rethink the relationship between class and caste, as well as caste and gender, as we shall see.

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Regd. Office :

332, Ground Floor, Patparganj
 Opp. Anandlok Apartments
 Mayur Vihar-I, Delhi-110091
E-mail : puclnat@gmail.com
 pucl.natgensec@gmail.com
Website : www.pucl.org

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I, V. Suresh, hereby declare that the particulars given above are true to the best of my knowledge and belief.

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