

PUCL Editorial: Emerging labour resistance in India: A wake up call for the Indian state

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EMERGING LABOUR RESISTANCE IN INDIA: A WAKE UP CALL FOR THE INDIAN STATE

On 12th February 2026, all Central Trade Unions except the Bharatiya Mazdoor Sangh - which is affiliated with the ruling party, had declared a general strike against the Four Wage Codes notified in November 2025. While this year, it was evident that the numerous mass meetings and protest demonstrations that occurred across the country were much larger, and displayed greater outrage against the anti-labour nature of the Wage Codes than had been previously seen, very few industries saw actual strikes. It tells us how small a proportion of the working class is unionized, even in the industrial sector.

But what made employers and governments sit up was the wave on wave of massive spontaneous strikes of contractual workers in industrial establishments that burst upon the country in February, March and April of 2026.

Starting at the Barauni Refinery of Indian Oil Corporation Ltd (IOCL) at Begusarai Bihar on 2nd February, this wave spread to the Gauhati Refinery of IOCL at Assam on 12th February. A serious workplace accident on 21st February that killed two workers and injured a third worker so badly that his leg had to be amputated was the trigger point for workers at the Panipat Refinery of the IOCL. Thirty to forty thousand workers struck work on 23rd February and an FIR was filed against 2500 workers. Videos of the Panipat workers strike went viral. Workers of the IOCL Bottling Plant in Salem, Tamil Nadu protested in solidarity with the Panipat workers. Agitation began in the Vadodara Refinery of IOCL in Gujarat on 12th March.

On 26th February more than 5000 contract workers of L&T, a contractor for an Arcelor Mittal Nippon Steel Plant in Surat, Gujarat struck work; and on 27th February, migrant contractor workers of Asian Paints in Dahej, Bharuch, Gujarat followed suit.

On 2nd April, contract workers of the Honda Company in Manesar, Haryana began protesting and soon they were joined in large numbers by workers in other companies in the industrial belt of Manesar-Gurgaon. Workers of Munjal Showa, Satyam Auto, Roop Polymers, Modelama, RichaCo, Richa Global, Pricol, Forza, Sarita Handa, Syrma SGS etc. The social media amplified the news of these series of widespread protests. On 7th April, prohibitory orders were promulgated to prevent gatherings in Gurgaon and on 9th April,

the Government of Haryana notified an enhanced minimum wage of Rs. 15,220/-.

This (paltry) increase in wages, further reinforced the instinctive understanding of workers at large that only protests and strikes could yield the results that representations and applications had not achieved so far. Protests began in the garment factories of Noida, Uttar Pradesh demanding a minimum wage of Rs. 20,000/- Thousands of workers from Richa Global Export Company, Samvardhana Motherson International Ltd., Paramount Products Pvt. Ltd., Anubhav Apparels etc. gathered and with each passing day the administration reacted with even more vicious repression. On 12th April the District Magistrate of Gautam Buddha Nagar, Noida did also issue some general directions to industries, carefully skirting the basic issue of a raise in the minimum wages. It was finally the Government of Uttar Pradesh that once again enhanced the minimum wage from Rs. 11,313/- to Rs. 13,690/-.

One important lesson to understand from these spontaneous strikes and agitations is that contractual workers today, even in the industrial sector, are battling highly exploitative and precarious conditions of work, literally at starvation wages. Today 60-90% of the industrial workforce in different industries is contractual, a large proportion of them migrant workers. They live in hovels, bereft of sanitation, their children get neither proper nutrition, nor schooling nor basic healthcare. The dark underbelly of “Viksit Bharat” and “the five trillion economy” has finally been revealed. The last straw was the unavailability or unaffordability of LPG gas cylinders that created an almost Covid-like situation of a panic return to the villages. With the new Code on Industrial Relations virtually abolishing permanent workers through the device of a fixed term contract increases the precarity of the workers. If one adds the growing crisis in agriculture, then there will be an increase in migration.

What were the demands? The first was a decent minimum wage – a fair wage – one that could really provide a decent human existence to a family. The basic minimum wage requires to be revised every five years. In practice Haryana had not revised its minimum wages in 11 years and Uttar Pradesh in 14 years. The new Code of Wages prescribe a national floor wage which is bound to suppress wages all over the country, which might well see capital deserting State Governments which notify higher wages.

The second was an 8-hour day and overtime at double the rate. Today in most industrial areas across the country and in security establishments, 12 hours has become the norm. Part of the reason is that the wages of 8 hours are simply insufficient for survival, but a 12 hour day effectively rules out unionization which would be the pre-requisite for a struggle for increased wages or reduced work hours.

But the response of the State and in particular the response of the State police of Haryana, NOIDA, Delhi NCR and various national investigative agencies – has been shocking and incredibly brutal. All across the media, videos and stills of “violence” of the workers have been exaggerated, hiding the misery that has forced the workers to revolt. Workers have been labelled “terrorists”, instigated by the “Pakistani Hand” and the spontaneous strikes and protests have been called “conspiracies” to destabilize the great Indian growth story. Hundreds of ordinary workers are missing and families are running from pillar to post trying to find them. The “conspiracy playbook” of misusing WhatsApp chats has resulted in independent trade unionists, students, labour researchers and social activists being named in ludicrous FIRs, being arrested and even tortured in the most gruesome ways. It has also been found that police personnel of UP were, in fact, posting provocative WhatsApp posts themselves, to evoke reactions which could later be criminalised.

Six members of the Inquilabi Mazdoor Kendra – Shyamveer, Ajit, Pintu Yadav, Harish, Raju and Aakash were arrested in Haryana on the night of 12th April on charges of being master minds of criminal conspiracy, inciting riots, arson and destruction of properties. They have been referred to as “outside elements” whereas all are well known local labour activists. Ajit and Pintu are terminated workers of the Belsonica company – a supplier to Maruti, Aakash is a workers’ representative of Munjal Showa and Shyamveer is a legal advisor to many unions. Two activists from the CITU – Jai Bhagwan and Vinod Kumar – were served notices for solidarity with the workers and placed under house arrest. 61 workers

were arrested under FIRs filed by Modelma Exports and Richa Global Exports Pvt Ltd., 20 of them were women.

In NOIDA, four activists of Mazdoor Bigul were arrested on 11th April – Rupesh, Aakriti, Srishti and Manisha. The next day, in an unheard-of swoop, two lawyers who were trying to get them bail – Prateek Kumar and Mohammed Tanveer Ali were literally abducted from the Surajpur Court premises and illegally detained. This enraged the workers even more. On 13th April poet Katyayani, biographer of Bhagat Singh – Satyam Verma and journalist Sanjay Shrivastava – all well known and long-standing progressive activists were arrested in Lucknow.

Finally on the night of 13th April, 2026, ironically on the anniversary of Jallianwala Bagh, the Labour Minister of Uttar Pradesh – Anil Rajbhar said investigation was going on as to whether there was a larger conspiracy to generate unrest by Pakistan linked elements!! Chief Minister Yogi meanwhile declared that this was an attempt to revive Naxalism (which had been eliminated in Bastar on 31st March 2026 by Home Minister Amit Shah.) The same night an interim hike from Rs. 11,313/- to Rs. 13,690/- was made in the minimum wages. By this time more than 300 workers had been arrested in NOIDA under 7 FIRs.

On 14th April, hundreds of domestic workers protested outside Cleo County - luxury residential apartments in Noida - demanding wage increases and were covered widely by the alternative press. On 15th April 40 women gig workers demonstrated outside the Urban Company training centre in Sector 60, NOIDA.

On 18th April, the police arrested Aditya Anand, a B. Tech from Jamshedpur, from Tiruchirapalli railway station in Tamil Nadu and claimed the next day that” he had confessed” to “his role in the conspiracy” in the Noida protest. They also alleged that two X accounts - @Proudiandiannavi and @Mir_Ilyas_INC – were being operated from Pakistan to instigate violence during the protest.

The brutality of repression has been unprecedented. Scores of workers have suffered grievous injuries in lathicharges in Manesar- Gurgaon and NOIDA. At one point the police of twelve districts and 6 companies of para military force were brought and stationed at NOIDA. Lawyers and activists have held press conferences about the treatment of labour activists in custody including stripping, torture and electrocution to force confessions out of them.

What do we as a nation learn from these past months? Will the workers stop? Clearly not. The agitations have spread to Bhiwadi, Neemrana, Kahrani, Khushkheda, Tapukara in Rajasthan; and to Pantnagar in Uttarakhand. The condition of the working class can no longer sustain them.

The answer is not to implement the new Labour Codes which do away with so many hard won rights including unionization and therefore collective bargaining. But to roll them back. The government must implement anew the abolition of exploitative arrangements of contractualization; implement not just a minimum wage but a living wage that accurately reflects real living standards in different parts of the country. The answer lies in listening to the workers, and their representatives – activists and union leaders; not to pretend they are Pakistani or terrorist -linked conspirators.

And let us never forget this May Day, the martyrs of Haymarket Square who went to the gallows for a 8 hour day in Chicago in 1886. Do the workers of India not deserve a working day of 8 hours and a living wage even today in 2026?

(The Editorial of this month's Edition is written by Sudha Bharadwaj.)

COMPLAINT TO NATIONAL HUMAN RIGHTS COMMISSION REG ILLEGAL DETENTION AND TORTURE OF ACTIVISTS IN DELHI

PUCL NATIONAL

To,
Chairperson, NHRC and Other Members,
Manav Adhikar Bhawan,
Block-C, GPO Complex,
INA, New Delhi - 110023.

Sub: Complaint regarding illegal detention and brutal torture and sexual violence against 11 youth activists in Delhi between 12th to 14th March, 2026.

Ref.: Our Complaint to NHRC, Case No. 4621/30/8/2025 dtd 31.07.2025

Dear Sir,

We are writing to you from the PUCL to express our shock and grave concern regarding the incident of illegal abduction, detention and torture of eleven students by the Special Cell of Delhi Police from the 12th to 14th March, 2026. The students have testified to the fact that the police have inflicted brutal torture of a sexualised nature and severe psychological violence on the students. Most of the students have also participated in a public online programme organised by the PUCL in which they have shared testimonies of these grave violations. The recording is available [in this link](#).

What is particularly disturbing about this entire episode of illegal detention is the deeply sexualised nature of the torture inflicted on the young students which included beatings on the private parts, stripping them naked, threats of rape, photographing the students naked as well as the shocking attempts to get some of the students to perform oral sex on each other. The fact that this form of shocking illegalities are being perpetrated in the capital of India, by the Delhi Police should be a matter of grave concern to all of us. The fact that the Delhi Police are targeting young students aged between 20 to 25, indicates a level of brazen and callous contempt both for the Constitution as well as any norms of decency which should govern the functioning of a constitutional authority.

It is even more disturbing that this is the second such incident within a year, as the Special Cell of the Delhi Police and the Anti-Terrorism Squad had made such illegal detentions of eight students and youth in July 2025. Four of the eight students who were subjected to such torture last year are among the eleven detainees in this case.

We wish to remind you that PUCL had filed a complaint with the NHRC (See Annexure 12, registered as Case No. 4621/30/8/2025) and had also written to the Commissioner of Police, Delhi. Despite both these communications being acknowledged by authorities, there has been no action taken against the police officials who tortured the students last year.

Brief facts of the case:

- 12th March, 2026: Shiv Kumar and Ilakkiya were abducted around 1:30 PM and Manjeet was abducted around 7 – 8 PM and taken to the Special Cell Office of the Delhi Police in New Friends Colony.
- 13th March, 2026: Seven students and youth activists had gathered in the Bhagat Singh Chhatra Ekta Manch office in Vijay Nagar. Around 7:30 PM, Delhi Police officials barged in to the room, threatening, verbally abusing and beating some of the youth activists. Gaurav, Akshay, Ehtmam, Rudra and Avinash were abducted from Vijay Nagar around 10 PM and taken to the Special Office, and Drishti and Baadal were illegally confined to the room, with four police officials present.

- 14th March, 2026: Drishti and Baadal were taken to the Special Cell Office in New Friends Colony at 5 AM. Aman, a friend of Manjeet's, who had accompanied Manjeet's mother to Delhi to file the habeas corpus petition, was abducted near his village in Haryana and also brought to the Special Cell Office in New Friends Colony, New Delhi.
- On 14th March, 2026, around 9 PM or 9:30 PM, the police made all detained activists sign notices indicating that they were called for investigation and that they came of their own accord. Thereafter, between 11:45 PM and 12:30 AM, while 10 of the activists were released, Rudrabikram alone, was released only by late afternoon on 15th March after the matter came up at the special hearing constituted by the Delhi High Court.

Methods of torture inflicted on many of the activists:

- Brutally slapped, kicked and beaten with rubber batons, lathis and metal chains
- Stripping them naked and taking photographs of them
- Forcing them to touch each other's private parts and photographing them
- Beating them on their private parts with belts and metal chains
- Pulling their hair and banging their head against the wall
- Forcing them to perform oral sex on each other
- Forcing them to slap each other
- Verbally threatening to file false UAPA cases against them and encountering them
- One of them was forced to stare at a brightly lit wall for a prolonged period of time
- One of them was made to sit with a foul-smelling soaked towel around her face for hours together
- Verbally threatening to rape them and make them rape each other
- Denial of food and water, and denial of privacy even while using the bathroom
- Casteist remarks, atrocities and torture was inflicted on an activist from the SC community:
 - Forced to strip naked and clean 3 rooms using his own clothes, while being photographed by police officials
 - Made to rub his nose on the floor
- Forced under the threat of beatings, to lie about information and sign documents with false information that might be used to implicate them in cases
- Remarks that referred to their gender identity, sexual orientation and religion were constantly made to humiliate them.
- Repeated warnings were given by the officials to the activists to leave Delhi and never return, if they want to live

All of these shocking violations of law are testified to by the students in the affidavits which they have filed before the Magistrate's Court.

This form of depravity masquerading as investigation cannot become the norm among India's law enforcement authorities. The actions of the Special Cell of the Delhi Police amount to clear violations of rights of citizens guaranteed by the Constitution and various statutes.

It is imperative that the NHRC examine this complaint as it is within its core mandate under the Protection of Human Rights Act, 1993. The Act empowers the NHRC to look into violations of human rights. Human rights is defined under Section 2(d) as 'the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India'. Thus as per Section 2(d) not only are the rights under the Indian Constitution to be protected by the NHRC but also the rights 'embodied in the International Covenants'. Under Section 2 (f), 'International Covenants' means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights'. As per Article 7 of the ICCPR Article 7, 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.'

Thus, the NHRC is empowered by the law to examine in particular the question of torture as torture is defined as rights violations under the ICCPR which comes within the definition of human rights in the

Protection of Human Rights Act, 1993.

The violations which the NHRC must take note of include:

Illegal Detention without following `Due Process of Law`

The student activists were picked up without any arrest warrant, notice, or explanation, and in complete secrecy. No attempt was made to inform their family members or provide access to legal counsel. This is a blatant violation of Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. As spelt out in the famous D.K. Basu case (1997), and in a plethora of other rulings, the Supreme Court has held that no arrest/detention can be justified without following the due procedure.

Non-Production Before Magistrate Within 24 Hours – Violation of Article 22(2)

As per Article 22(2) of the Constitution, every person who is arrested must be produced before a magistrate within 24 hours. None of the students were produced before a magistrate during their illegal custody. This is a gross breach of constitutional safeguards and also contravenes the mandates laid down by the Supreme Court in `DK Basu v. State of West Bengal` (1997), where detailed guidelines were issued for arrest and detention to prevent custodial abuse.

Custodial Torture and Inhuman Treatment – Violation of Right to Life with Dignity

The activists reported incidents of physical assault, sexual threats, remarks attacking their caste, religion and gender identity. This constitutes a clear violation of Article 21, which encompasses not just right to life, but life with dignity. The jurisprudence of the Supreme Court has recognised that torture is a violation of Article 21 in a catena of cases right from Khatri v State of Bihar (1981 SCC (1) 627) which was the infamous blinding of prisoners by the Bihar police onwards. The Supreme Court in Mehmood Nayyar Azam v. State of Chhattisgarh` (2012 (8) SCC 1) reiterated that custodial torture undermines dignity and is anathema to a civilized legal order. The use of third-degree methods, as reported, is prohibited and liable for strict action. Court further observed that any treatment meted out to an accused while he is in custody which causes humiliation and mental trauma corrodes the concept of human dignity. It is the sacrosanct duty of the police authorities to remember that a citizen while in custody is not denuded of his fundamental right under Article 21 of the Constitution.

Forced Extraction of Signatures – Fabrication of Records and threat of false prosecution

It is alleged that signatures were forcibly taken from detainees on notices covering the days they were illegally held, falsely showing that they were called and released daily. Additionally, signatures were taken on blank sheets, creating the possibility of misuse or false implications in the future. Such acts are not only criminal in nature but also violate Article 20(3), which protects against self- incrimination. Coercing individuals to sign documents under duress or without legal representation is a direct affront to justice and due process and a gross violation of the fundamental rights of the persons concerned.

Arbitrary and Unconstitutional Direction to Leave Delhi

The directive issued to students, warning them to leave Delhi immediately and threatening consequences if they return, is not only without legal basis but a flagrant violation of Article 19(1)(d) and 19(1)(e), which guarantee the right to move freely and reside anywhere in the country. Such directions amount to extra- legal punishment without trial and are wholly impermissible under a democratic system governed by rule of law. These threats also amount to criminal intimidation under Section 506 IPC (sec. 351 of BNS 2023).

Violation of Supreme Court Guidelines on Arrest and Custody (D.K. Basu Guidelines)

The guidelines laid down by the Supreme Court in the landmark D.K. Basu judgment were specifically crafted to curb custodial abuse. These include:

- Informing a relative or friend about the arrest.
- Preparation of arrest memo.
- Right to consult a lawyer.

-
- Medical examination every 48 hours.
 - Production before a magistrate within 24 hours.

The failure to comply with each of these safeguards amounts to contempt of court and dereliction of duty, warranting strong disciplinary and legal consequences.

We would like to reiterate that the highly sexualised torture inflicted on the male and queer detainees is an alarming new pattern of custodial torture. Almost all the male and queer detained activists reported either beatings on private parts, threats of sodomy and rape, or coercion to touch each other's private parts. We would like to therefore emphasise the need for training of police personnel to ensure that the training modules equip officers to understand the modes of torture including sexual torture and to reinforce the absolute prohibition of torture.

The NHRC must take seriously this alarming new development in which the police personnel are using brutal methods of torture and sexual violence in the name of investigation. These forms of investigation are wholly illegal and a serious effort must be made to identify the extent of the practice and to stamp it out fully.

Additionally, as we have mentioned earlier, there has been no action taken by the NHRC (Case No. 4621/30/8/2025) or the Commissioner of Police, Delhi, despite our complaint against the illegal detention and torture of activists by the Special Cell and AntiTerrorism squad. It is crucial to note that this inaction is especially concerning because many of the police officials who illegally detained the students and tortured them on 12th to 14th March, 2026 were the same officials who did it 2025. As the affidavits of the activists demonstrate, the inaction against the police officials has only emboldened them, and given them impunity to repeatedly threaten students that they “they will finish what they started last year”.

One particular police official, Nishant Dahiya (Inspector, Special Cell, Delhi Police), was involved in the cold-blooded murder of an individual named Ajay, on May 16, 2024. Upon investigation, the NHRC had served a notice to the police, seeking documents and reports, related to the case of the fake encounter. The same individual, Nishant Dahiya, was involved in the torture of the activists in the July 2025 case, as well as the one in March 2026. Therefore, inaction by the NHRC, or even delayed action to hold police officials accountable for illegal detention, custodial torture and encounter deaths, directly leads to impunity and is highly dangerous.

The impunity with which the police officials have violated rule of law, tortured and threatened to kill the student activists draws the presumption that they are doing so, with the knowledge or support of senior authorities and police officials. The police also repeatedly told the activists that they were bound and determined to meet the deadline given by Union Minister Amit Shah of 31st March, 2026 to ‘end Naxalism in India’. This points to the possibility of a systematic effort by the Government of India, to target people in the name of taking action against those they accuse of being ‘Naxalites’.

As the mandate of the NHRC very well indicates, no matter what a person's ideology is, they are protected by the Constitution, and that the police are bound by rule of law. It is imperative that the NHRC in accordance with its mandate ensure strict criminal action against all officials who have played a role in aiding and performing such brutal torture in the name of investigation.

The NHRC must take strong action to ensure that the Delhi police are accountable for their illegal actions and the students are provided reparation for having had to go through a form of torture which is reminiscent of what happened in Abu Gharib or Guantanamo Bay or what happens in the most deprived dictatorships.

The NHRC must also take note of the unprecedented verdict awarding death penalty to nine police personnel from Sathankulam police station in Thoothukudi district for the custodial torture and murder of

traders P. Jayaraj (60) and his son Bennix (31) delivered on 6th April, 2026. While the PUCL is of the opinion that the death penalty should be abolished, the trial court verdict only highlights the need to treat custodial torture as a grave violation of human rights. The verdict signals a significant shift in the national perception of custodial torture as for the first time in Indian judicial history, multiple officers from a single police station have been held criminally accountable for custodial deaths.

It is this spirit of seeing custodial torture as unacceptable which must animate the work of the NHRC as it comes to grips with this growing epidemic of impunity for torture including sexualised torture. The NHRC must call for consultations with civil society to draft a robust anti-torture law in accordance with its mandate under Section 12 (d) of the Protection of Human Rights Act and Section 12 (i). Under Section 12(d), the Commission is mandated to 'review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation'. Under Section 12 (i) the NHRC is mandated to 'encourage the efforts of non-governmental organizations and institutions working in the field of human rights'

After all we still live in the world's largest democracy in which authorities including the Delhi Police have to perform their investigative duties working within the limits of the rule of law. Sexualised torture falls outside what the law and the Constitution permit.

We urge the NHRC to:

1. Initiate an enquiry into the serious allegations of illegal detention, beatings and sexualised torture and ensure legal action is initiated by the filing of an FIR.
2. To take immediate action against all police officials and police functionaries who are involved in these serious violations
3. Conduct a raid on the "safe house cum torture chambers" at New friends colony and ensure that the facility is closed.
4. Provide the victims with a copy of the FIR of July 15, 2025, on the so called disappearance of Vallika Varishi, editor of Nazariya, (perhaps lodged by her mother, Archana Verma, senior civil servant, Government of India) based on which they picked up these young people in July 2025 and now for a second time in March 2026.
5. Return the phones and other seized devices of all detained youth.
6. Ensure that the irreparable injury caused to the young students is acknowledged and they are given compensation as well as reparation.
7. Initiate an inquiry into the details and modules of training of police personnel and the NHRC must ensure that the training modules equip officers to understand the modes of torture including sexual torture and to reinforce the absolute prohibition of all forms of torture
8. Initiate a process of consultation with civil society to draft a robust anti-torture law and work towards stamping out all forms of torture in India.

PUCL-TAMIL NADU WELCOMES THE VERDICT HOLDING POLICE OFFICIALS ACCOUNTABLE FOR CUSTODIAL TORTURE LEADING TO DEATH OF JAYARAJ AND BENNIKS

PUCL TAMIL NADU & PUDUCHERRY

The Tamil Nadu & Puducherry PUCL welcomes the Madurai Additional District & Sessions Court verdict in the father and son duo custodial death case. The Verdict has delivered a great blow to the sense of impunity – being gleefully cherished by the so-called custodians of the law. Besides the verdict has contributed immensely towards the evolution of Anti – Torture Jurisprudence. It has fixed constitutional and criminal accountability of the culprits in Khaki uniform.

Background of the case

The father and son namely Jayaraj and Benniks, the former was running a Timber business and the

latter a Mobile Business in the rear and front portion of the premises respectively in Sathankulam in Thoothukudi district in Southern Tamil Nadu. During the lockdown period of Covid – 19 in 2020, the father Jayaraj was taken into police custody for an alleged violation of Covid curfew. The power already inherent coupled with emergency powers make the cantankerous men in uniform commit heinous crimes that match the famous quote “Power Corrupts and absolute power corrupts absolutely”. On hearing the father’s police custody the son Jeyaraj went to the police station to question his father’s custody. Following this the son was also forcefully taken into police custody. Both the father and son were physically and sexually tortured in an discriminate and brazen manner between 7.45 p.m of 19.06.2020 and 3.00 am of 20.06.2020 in the police station and were subsequently remanded to judicial custody in Kovilpatti sub jail which is about 90 kms away from Sathankulam. Benniks succumbed to the brutal injuries on 22.06.2020 and Jayaraj the father on 23.06.2020. The FIR No. 312/2020 was registered against them Under Sec. 188,269, 294 B and 506 (i) and 353 of IPC after they had been subjected to brutal torture.

The Tamil Nadu Government transferred the case to CBCID and then to the CBI which filed the charge sheet. The court found all the accused police officials guilty under

Sec 302 of IPC (Murder)

Sec 342 of IPC (Wrongful confinement)

Sec 211 of IPC(False charge)

Sec 218 of IPC (Framing incorrect record by police servant)

Sec 109 of IPC (Abetment) Read with 34 of IPC (Common intention)

The verdict has imposed death sentence to all the 9 accused and monetary compensation of Rs.1.40 crores to be paid by the 9 accused. The 10th accused died during the Trial. We PUCL in letter and spirit is opposed to the death penalty. We are of the view that life sentence till last breath could be a substitute for death penalty.

The crucial evidence that led to conviction in this case

The evidence of Revathy (Pw.47) Head constable : Her courageous and conscientious evidence played a crucial role in this case. The following is an example: She deposed “that Sridhar (A1) The Inspector of Police, said to the other delinquent police personnel “ Beating a person on his prone lying position that too on a table, indeed, is a new method in the torture culture. Shall we go for another round of beating? and further said to the co accused Murugan “ Let them (father and son) sit in the custodial room without dress in stark naked”.

Emergence of internal whistle blowing of this kind from the place of occurrence would definitely prove a deterrent to custodial violence. If honest police officials like Revathy come forward to testify against superior police officers, it bound to restrict custodial torture.

The evidence of Beulah Selvarani (Pw-44), who is the writer in the police station, is noteworthy. She scolded Pw47 Revathy for her signing in the medical memo at the command of A1 Sridhar, the police Inspector.

The evidence of Velmurugan (Pw33) the scavenger in the police station who is physically deaf and dumb deposed about the cleaning of the blood strewn on the floor, wall and table of the police station at the சென்ட்ரல் command of A1 Sridhar, the police inspector. The evidence of Pw26 – the Jeep driver of A1 Sridhar also corroborated the evidence of Revathy.

Magisterial Enquiry under CrPC 176 (1) (A) by the Kovilpatti Judicial Magistrate Bharathidasan:

He made an impeccable enquiry covering all aspects of the case that laid a strong foundation for conviction in this case. The suo motu cognizance and supervision of the case by the Madurai Branch of the Madras High Court bench comprising Justice P.N.Prakash and Justice Pugazhenthii played a significant role. Further Inquest report, Postmortem report and forensic evidence proved clinching in this

case.

Other Government officials who facilitated the crime:

Dr. Vanila who was a doctor in Sathankulam Government Hospital, gave a doctored certificate as “fit for remand” of Jayaraj and Benniks in tune with the evil design of the delinquent police personnel. It is pertinent to mention here that, Indian Courts often quote to highlight the “total and paramount obligation of doctors to protect life under Article 21 of the Indian Constitution”. This is emphasized in the Supreme Court Judgement “Jacob Mathew Vs State of Punjab (2005) “.

Sathankulam Judicial Magistrate Saravanan: Without verification and evaluation of the police report he ordered for mechanical remand of the father and son duo. He made remand order completely disregarding the directions given in the Supreme Court Judgment “Arnesh Kumar Vs State of Bihar (02.07.2014)

The Superintendent of Kovilpatti Sub Jail Mr. Sankar: Even though the injuries on the bodies of Jayaraj and Benniks were registered in the admission register, the father and son were not sent for immediate emergent treatment. It is a criminal negligence on the part of the Superintendent of Kovilpatti Sub Jail. This is an example of systemic failure.

No action has been taken on the “command and responsibility principle” against the DSP of Sathankulam whose office is hardly 100 meters away from the Sathankulam Police Station.

Important observations in the judgment from human rights perspective

Page 596 (345) “There is a difference between an individual committing offences and a government official committing offences. The right to life and liberty with dignity is conferred and guaranteed by Article 21 of the Constitution on every citizen. Disregarding this fundamental right, undressing son before father and undressing father before son and cruelly torturing thereby causing death to them shocks the conscience of the justice and the society at large. They were tortured as if they were “worms and insects”.

Page 593 : (340) “All the accused in this case are learned and have been in Government official position. They are legally bound to be the protectors of public. Like the proverb “Fence grazing the crops”, those who entrusted the duty of safe guarding citizen have themselves committed this crime and kept the father and son stand naked and assaulting them physically, sexually in an indiscriminate and brazen manner. Going through the videos and photos of the postmortem makes one’s heart wrench to the core. In no way the agony – the wife of Jeyaraj and the mother of Benniks, could be healed. In the annals of India this is not the first case and it is not going to be the final case. This is not only prevalent in India but all over the world. Barely a month before this cruelty on 25.05.2020 in USA the torture death of George Floyd occurred. After Santhankulam tragedy, custodial death of Ajith Kumar has occurred in Madappuram in Sivagangai District”.

The Evolution of Anti – Torture Jurisprudence

There is catena of Supreme Court Judgments towards the development of Anti – Torture Jurisprudence. Nilabato Behra Vs State of Orissa on 24.03.1993 which held that, state is liable for custodial death and mandated compensation to the affected family.

D.K. Basu Vs State of West Bengal on 18.12.1996 which has issued guidelines on the rights of the arrested persons and upheld the right to dignity, equality and life under Article 21. Indeed Article 21, 20 (3) and 22 of the Constitution collectively guarantee fundamental safeguards for the arrestees and detenuous. The guidelines have been incorporated in the Cr.PC 1973 by the code of criminal procedure (Amendment Act 2008) (w.e.f. 1.11.2010).

Mehboob Basha Vs state rep by SP – 2011 7 SCC 45 which warns the policemen that custodial torture will not be tolerated. The order was directed to be circulated to the DGP office down to the level of SH officers across India.

Arnesh Kumar Vs State of Bihar, dated 02.07.2014 , which mandates issue of notice (41 A Cr.PC now BNSS 35 (3) before arrest. Police must issue a notice under Section 41 A Cr.PC for offences with less than 7 years of imprisonment rather than immediate arrest.

Paramvir Singh Vs Baljit Singh, dated 02.12.2020 in which Apex Court mandated the installation of CCTV with Audio recording in all the police stations across the country.

It is relevant to mention here that NHRC reported 2400 cases of custodial deaths in 2023 and 2739 in 2024. Even after signing the UN convention Against Torture (UNCAT) in 1997 India has not ratified the same till date.

The Union government made two attempts to introduce an Anti -torture law first in 2010 and again in 2017. But neither effort succeeded. In 2010 the then Union Home Minister P.Chidambaram introduced Prevention of Torture Bill in Loksabha where it was passed. However Rajyasabha referred it to a select committee thereby stalling the Bill. The centre should take this judgment as a wakeup call so as to ratify the UN Convention Against Torture and also enact an Anti – Torture Law.

Custodial deaths are alarmingly high in Tamil Nadu

24 custodial deaths due to police torture were recorded between 2022 to 2025 . RTI data revealed that in 2024 over 300 inmates entered puzhal prison with broken limbs . The excuse often offered by police is "slippery toilet". In the none too distant past the Madrs High court division bench publicly rebuked the police and questioned why no police officer was injured in these slippery toilets. Custodial torture has become part of the police culture in India But it is being normalised in Tamil Nadu.

The Tamil Nadu and Puducherry PUCL urges Tamil Nadu Government

- a) to give proper training to police personnel so that they can be aware of various Supreme Court Judgment relating to custodial violence and sensitize them to be compassionate.
- b) to ensure implementation of the existing laws in letter and spirit so as to eradicate systemic failures.
- c) to ensure that Magistrates and Doctors and other Government officials who facilitate police excesses by omission or commission must be held for accountability.
- d) To encourage and safeguard honest police personnel who come forward to testify against delinquent superior police officers.
- e) to ensure installation of CCTV cameras in all the police stations across India and their effective functioning without giving any space for tampering.

Death Penalty

It is pertinent to mention the study made by Amnesty International India and people's Union for Civil Liberties (Tamil Nadu and Puducherry) May 2008 under the title "Lethal Lottery: The death penalty in India - Supreme Court Judgements in death penalty cases 1956-2006". The study has adduced plausible reasons for abolition of death penalty. Most of the death sentences get commuted to life sentence. The execution of death sentences has become exceptionally low. The last execution of death sentence was in 2020 in the infamous Nirbhaya case. Death penalty has no place in reformatory justice system. It is a misconception that death penalty will deter custodial violence. It is only the imminent and certainty of punishment that alone will check police impunity.

R. Murali, President,
D. Sekar Annadurai General Secretary,
People's Union for Civil Liberties - Tamil Nadu and Puducherry
(16th April, 2026)

PUCL CONDEMNS THE GUJARAT UNIFORM CIVIL CODE

PUCL GUJARAT

The People's Union for Civil Liberties (PUCL), Gujarat, condemns the Gujarat Uniform Civil Code Bill which was passed by the Gujarat Legislative Assembly. Presented in the name of "uniformity," this initiative raises serious constitutional concerns and risks functioning as a targeted civil code which is an affront to the dignity and privacy of citizens; the implementation of which would lead to the harassment of the marginalized and minority communities.

The manner in which the UCC has been advanced reflects a troubling disregard for democratic norms and constitutional values. A reform of personal laws that genuinely seeks to promote gender justice and equality must arise from sustained dialogue, social reform movements, and broad public participation. The Government of Gujarat avoided democratic deliberation and went ahead with the drafting of the UCC Bill without the consent or participation of the communities most directly affected. The intent of the Government of Gujarat was also exposed by the fact that a comprehensive draft of the UCC Bill was not placed in the public domain for objections, critiques and modifications; instead, it was directly placed in the State Assembly and passed with the brute majority by the ruling party.

The PUCL's submission to the Justice (Retd) Ranjana Desai Committee on UCC had delineated a comprehensive view on the UCC from a gender justice framework, particularly based on the evolving stance of the women's movement over decades. It detailed out how the dominant position shifted from a singular demand for a UCC to a more nuanced approach, focusing on legal reforms and new legislation to achieve gender justice across communities. The government should have recognized this instead of framing an unconstitutional legal framework that is harmful to society.

The entire exercise of the so-called widespread consultations with communities and experts that the Committee claimed to have conducted has turned out to be futile, as it does not have any added thrust towards gender justice which is already not there in the progressive dimensions of the existing personal laws. It has not even made a tokenistic effort to integrate the progressive elements of the different personal laws into the UCC Bill. The exemptions made based on tradition and customary practices remain more or less intact while the Bill is nothing but a description of the bureaucratic process of registration of marriage, divorce and live-in relationships. A major part of the Bill is dedicated to Succession, as if that is the most important element of the civil code. Also, this UCC Bill has completely ignored the transgender and LGBTQIA+ communities, and their rights and justice concerns.

The UCC has been diminished into a painful bureaucratic process of registration, a process that already exists, now also ridiculously applied to live-in relationships. This not only defeats the stated purpose of UCC (gender justice) but will subject a vast majority of the population of Gujarat to mindless harassment through its absurd retrospective enforcement. The intrusive bureaucratic process is not just a violation of the dignity of citizens; but also violative of the constitutional right to privacy.

The powers given to the Registrar for investigation into any violation of Sec 4 are arbitrary and not defined accurately and in detail. Such an investigation process will elicit unwanted and dangerous attention which will definitely be used against those couples (both in marriage and live-in) who may have married or decided to live-in against the wishes of their parents, family and community, especially when they are inter-religious and inter-caste.

Needless to say, this would endanger their security, considering the violent ultra-conservative elements in society (many a time with the patronage of the party in power) that have scant regard for law. The brunt of this would be borne by the minorities and the vast majority of rural and marginalized communities that conduct their marriages and divorce as per customary law, wherein documentation would be highly limited, rendering them vulnerable to cancellation of marriages solemnized in the past and subsequent harassment during the appeal processes. The investigative powers given to the Registrar vis-à-vis live-in

relationships and the submission of details to the local police also are mala fide and is a condemnable effort of the state to criminalize live-in relationships.

The Constitution of India guarantees freedom of religion, cultural autonomy, and equality before law. Articles 25, 26, and 29 safeguard the rights of communities to practice their faith and preserve their cultural traditions. Even though the Gujarat UCC Bill may not seem to violate the above, the process of its implementation would certainly amount to a violation of their dignity and privacy; and can also be weaponized to criminalize, as a result of the arbitrary and undefined powers that it bestows on the Registrar. Hence, when this Bill becomes law it can weaken the above constitutional safeguards, thus striking at the very foundation of India's plural and secular constitutional order.

PUCL also cautions that the government has failed to demonstrate how the proposed code will genuinely advance gender justice or equality. Without addressing structural inequalities and ensuring equal rights for women across communities, the imposition of a so-called uniform code risks becoming an instrument of political polarization rather than meaningful social reform.

In light of these concerns, the People's Union for Civil Liberties demands that the Government of Gujarat:

- Immediately halt the process of Gujarat Uniform Civil Code.
- Release all draft proposals, reports, and related documents in the public domain.
- Take cognizance of all the recommendations of the Law Commission pertaining to UCC, compile existing critiques of the UCC in the public domain by eminent women's organizations and experts on gender justice
- Initiate an inclusive consultation process involving civil society organizations, women's groups, constitutional experts, and representatives of all communities.

The PUCL Gujarat is in the process of preparing a clause-by-clause critique of the UCC Bill that was passed. We will be placing this in the public domain soon.

(5th April, 2026)

"TRANS BILL IS AGAINST HUMAN DIGNITY": RITU DAS

PUCL UTTAR PRADESH AND RESISTIVE ALLIANCE FOR QUEER SOLIDARITY (RAQS)

PUCL and RAQS organized a seminar at Anjuman Ruhe Adab on the Trans Amendment Act 2026. The main speaker at the seminar, Ritu Das, founding member of Queers for Constitution, said in her address that the Trans Bill is against human dignity. Religion divides everyone on the basis of caste, religion, and food habits; the same has been done to us, that is, to trans people, this bill shows that it has been made with no compassion. Ritu said that people who feel that they should be in a different body than what they were born in have to undergo countless trials by fire like Sita, and this new and inhuman link is the Trans Bill. This bill validates all the misconceptions the society has held so far, which criminalize transgender people. She goes on to question the government for spreading wrong perceptions about trans people. The special feature of the NALSA judgment is that it underlined that gender will be determined by self-identification; this bill is snatching away that dignity. The government has put intersex and transgender in the same category, which shows their ignorance. This bill has been simply brought because of the inherent transphobia that exists in our society.

Chittajit Mitra, UP general secretary of PUCL and co-founder of RAQS, who chaired the program, said that we create stories about the community we do not know. To learn the truth of these stories, we must get to know this community. Gender is a social construct; people want to express themselves and wear clothes according to their identity. But the government is systematically taking away their rights.

Toshi who is also a co-founder of RAQS, sharing her experiences at the start of the program, said that this community is being forced into suicide because of social and governmental neglect.

Concluding the program, PUCL National secretary Seema Azad said that a fascist force is identified by being authoritarian; we all stand against it and must come together.

Many people attended the program, including Santosh Bhadauria, Anand Malviya, R P Kaithal, Padma Singh, Gayatri Ganguly, Manish Azad, Amita Shirin, Sony Azad, Anil Verma, Sandhya Navodita, Ketan Yadav, Pooja Kumari, Shivangi Goyal, Govind Nishad, Anil Verma, Sunil Maurya, Radha, Bharatendu Dubey, Sangam Sonkar, Sagar Mehrotra, Deep, Shauryashi, Anasmita, Sohini, Madhav, Pradeept Preet, Deepshikha, and many others.

(28th March, 2026)

NOIDA POLICE SHOULD RELEASE ILLEGALLY DETAINED ACTIVISTS, WORKERS AND LAWYERS

PUCL UTTAR PRADESH

Various news reports indicate that Rupesh, an activist who had joined in support of the ongoing workers' strike in the Noida industrial area demanding a wage increase, was picked up by Noida police a few evenings ago at Botanical Garden metro station while he was returning from the protest site. Three female activists who were with him (Aakriti, Srishti, Manisha) were also detained by male police officers even though no female officer was on duty with them at that time and it was already evening.

The next day, when lawyers Prateek Kumar and Mohammad Tanveer Ali arrived at the Surajpur court to secure their bail along with two other activists, the police reportedly detained them as well. At first glance, the police action does not appear to be in accordance with natural justice or the Constitution. The Indian Constitution grants every person the legal right to defend themselves, and if the police administration treats lawyers in this manner it amounts to a violation of citizens' rights. PUCL Uttar Pradesh demands that, since legal procedures were ignored throughout the incident and it appears that the rights of the activists and lawyers were violated, they should be released immediately and appropriate action should be taken against the police officers involved.

(14th April, 2026)

'OUR WAGES WERE STOLEN AND WE FORCED A CORRECTION'

ANUMEHA YADAV

Originally published in The Migration Story

At 8 am, an hour before factories would start work. Maina Devi* waited for her company bus on the sidewalk next to a large warehouse in Phase 2 of Noida's industrial area.

It had been a week since she and hundreds of workers from multiple factories on the borders of Delhi stopped work for four days protesting low wages and difficult work conditions. Several factories still had visible damages. Amid the continued police presence, fresh notices on factory gates reassuring workers of revised wages, Devi was heading to work, her thumb in a fresh bandage.

Employed at Gurudas Amardas International Private Limited, that makes wire harness for automobiles and shielded cables used in automation and data communication, the migrant worker from Muradabad in Uttar Pradesh, 160 km away from her factory, had punctured her left thumb the previous day while putting a wire on the terminal.

Despite the injury being extremely painful, Devi told The Migration Story that she had no choice but to go to work as she was supporting her three children and missing a day's work would mean losing 530 rupees.

The company had hired her on a monthly wage of 11,313 rupees, which after the strikes is set to rise to 13,690 rupees. Earlier, she had worked for two years in garment factories across the road in the NOIDA hosiery complex. “They paid even lower, only 9,000 rupees a month,” Devi said. “For two years, I stood daily at the table cutting threads in 12 hour-long shifts and the company did not increase our wages by even one rupee.”

From 2024 to 2026, she had worked three to four hours overtime nearly daily, she added. For this, the company had paid her 25 rupees for every additional hour of work after the regular eight-hour shift. This was in breach of the law that requires an employer to pay at least twice the normal wage as overtime for each extra hour. But most employers do not pay this rate, she said.

“You must stand from 8 or 9 am to 9 pm everyday. At the most, you go to the toilet as a break. But one must rush back from the toilet to the station. Otherwise, production targets, handling 40 to 50 pieces an hour, pile up and become impossible,” she recalled.

As per the Minimum Wages Act, state governments are mandated to revise the minimum wages at least every five years. But both Uttar Pradesh and Haryana governments, where workers in the industrial areas around the national capital went on large strikes earlier this month, had not revised the minimum wages in over 10 years.

These years of quietly working in low-paying jobs were disrupted when Devi and her co-workers joined hundreds of other workers in the industrial complex 30 km from Delhi to protest against poor wages, long working hours, and extremely low overtime pay. Videos posted by the firm’s young workers record their colleagues in large numbers picketing the factory gate, peacefully, while policemen in riot gear approached them carrying batons.

The protests resulted in the Uttar Pradesh government revising the base or minimum wage rate, the wages of most workers such as Devi were set to rise from 11,313 rupees, now after the strikes, to 13,690 rupees.

“Ho gaya sahi. Clear ho gaya sab (It got corrected. It was sorted),” said younger women workers who had gathered around Devi.

A DECADE OF STAGNANT WAGES

In Noida Phase-II, the protests began on April 9 and from there it spread across industrial belts in more than eight sites in NCR. As per labour activists’ estimates, the protests involved around 50,000 factory workers in Noida alone. It further spread even among domestic workers and gig workers.

Uttar Pradesh, where Noida is located, had not increased minimum wages since 2012. The law requires that minimum wage be revised at least every five years.

Yogesh Kumar, an activist with Inqilabi Mazdoor Kendra, a non-registered organisation which aims to act as a labour collective for registered unions, recounted that the recent series of protests in NOIDA had followed a series of similar wage hike demands by workers of Honda automobile manufacturing plant in Haryana’s Manesar on April 2, 70 km from Noida.

“From Honda, it spread to Munjal Showa Limited plant on April 4, which is behind Honda, then to Satyam Auto, Roop Polymers by April 6, and from there to garment companies such as Richa Global and Modelama by April 8,” said Kumar. “Workers came out of Richa Global’s three of six factories in Manesar. After they won a wage hike on April 9, workers of Richa Global factories in Noida – the same firm runs five factories in Noida – and workers of Mothersons Sumi Wiring (an automobiles sector firm) started asking for their similar wage increase. This intensified April 13 onwards.”

Haryana announced a revision on April 9, 2026, after workers did a series of strikes and protests that spread from factory to factory in automobile, ancillary, and garment exports units in Industrial Model Town Manesar near Gurugram.

The Haryana wage revision was after nearly 11 years.

Even these revisions may not adequately address rising costs. For instance, accounting for price rise, as per the All India Consumer Price Index Numbers (for Industrial Workers), if a worker earned 10,000 rupees minimum wages per month in 2015, then to keep pace with inflation, the worker would need to earn 15,466 rupees per month in 2026.

But most Indian workers, even despite contributing to the so-called formal or organised sector, earn rock-bottom wages. An analysis in the Azim Premji University's State of Working India Report shows that even in 2015, 92% women and 82% men earned less than 10,000 rupees a month.

The Uttar Pradesh minimum wage for unskilled work in 2015, was just 9,078 rupees. Thus, the base minimum wages on which revisions occur are already very low. This is half of what the Seventh Central Pay Commission had recommended 10 years ago as a living wage.

Following large scale protests that went on for over three days, and impacted vehicle movement on National Highway 9, Uttar Pradesh finally increased the minimum wages, to 13,690 for "unskilled" category, that includes workers employed as helpers and thread-cutters.

Women workers who gathered spoke of minor relief after the mass strikes last week: "They have increased our overtime pay from 30 rupees to 40 rupees an hour," said Diksha, a young woman worker in a refrigeration factory.

Most were hopeful that some improvement may follow by next month. "I worked for 10,000 rupees last year. Now, they are saying the company will pay us 13,000 rupees, let us see," said Kakoli, a worker from Kolkata, who works in Richa Global, one of Delhi-NCR's biggest garment export factories with an annual turnover of over 2,000 crore rupees, which works with global brands such as Zara and Marks and Spencer.

The Centre of Indian Trade Unions (CITU), a national union affiliated with the Communist Party of India (Marxist) issued a statement on April 14 critiquing the government's actions as too little, too late.

"The so-called wage increase is a sham – far below survival levels," it noted. "Workers in Uttar Pradesh and Haryana are paid significantly less than in Delhi despite identical living costs. In the face of soaring inflation, the demand for a minimum wage of ₹26,000 per month is not merely a demand but a necessity."

On April 17, Elamaram Kareem who is general secretary of CITU, questioned the Uttar Pradesh police for arresting labour activists who had gone to meet the district magistrate of Gautam Buddha Nagar where Noida is located. NOIDA police have arrested over 300 persons, including activists. "It is a shocking repression," he stated. "CITU Delhi State General Secretary Aniyam P.V., President Virender Gaur, were illegally detained by the police on April 17. Earlier, in the early hours of 16 April our district secretary, Ram Swarath, was similarly illegally detained."

Diksha Singh, Assistant Commissioner of Police of Gautam Buddha Nagar, refused to comment on the arrests to The Migration Story. "All I can say is that the protests began at the hosiery complex and spread to other areas." Diksha Singh said that the protests were instigated by a handful of labour activists on WhatsApp.

'WE CLEARED OUR OWN PATH'

On April 17, a large number of police and industrial area security continued to monitor road junctions. Several factories' glass facades remained broken in several places from stone pelting. Almost every factory gate now displayed prominent notices about wage increase in each grade of skills and for different categories of workers.

Sukhvarsha Projects Private limited, a garment unit employs over 100 workers and runs 24 hours in three shifts, starting at 6 am. Its workers said the intensity of the protests and the repression that followed may have come as a surprise to other city residents, but that the conditions were building up for weeks.

"Why did the Uttar Pradesh government not increase the wage rate before the bawaal (chaos) ensued?" said Sushil Verma, a worker supervisor at the factory from Agra. "Why did the government take so many days after the Haryana government's wage announcement? It is after the workers gathered, after the tod-phod (damage to factories) that the government took any initiative at all on our wages."

Outside Noida Electronics Company Limited, a worker from Agra who works as a driver, waited for the employers at the factory gate. "Even movement on a road slows down when there are potholes in the path," he said, referring to structural reasons behind the protests. "For some time now, there have been problems and wage theft has been going on. Workers slowed down work, thousands came out and finally agitated only to ask to correct this theft. This had to happen."

WORKERS' NAMES HAVE BEEN CHANGED ON REQUEST

Anumeha Yadav is a freelance journalist. Her reportage focuses on the rights and social security of lower income workers, primarily migrants to India's metropolises

(22nd April, 2026)

CONSTITUTIONAL MORALITY AND THE FUTURE OF MINORITY RIGHTS IN INDIA

ARVIND NARRAIN

The nine judge bench hearing the reference from the Sabrimala review decision is likely to have a significant impact on rights of all those at the receiving end of a majoritarian morality. This is because one of the questions which the Bench is tasked to answer is the 'scope and extent of the word 'morality' under Articles 25 and 26 of the Constitution' and 'whether it is meant to include constitutional morality?'

The argument of the Union of India seems to be that the term constitutional morality is inherently subjective and should not be the basis of understanding the notion of public morality. To the Union of India, public morality as a term of law is preferable to constitutional morality a term which it characterises as too vague. Taking up from this supposed vagueness of constitutional morality the Solicitor General argues that 'All judgments which use the expression "morality" to mean "constitutional morality" are per incuriam and are required to be declared to be per incuriam.' This includes the decision on the decriminalization of same sex relations (Navtej Singh Johar), the decision on the decriminalization of adultery (Joseph Shine) as well as the Sabrimala decision.

The argument of the Solicitor General is that the edifice on constitutional morality is based on an erroneous understanding of Dr. Ambedkar's speech in the Constituent Assembly. As per the Solicitor General, Ambedkar references constitutional morality only as a response to the question as why the Draft Constitution borrows from the Government of India Act. The reason according to Ambedkar is because the Government of India Act has many details of administration which are essential to put down in a country in which according to him, there is no 'diffusion of Constitutional morality'. In Ambedkar's

very important words, 'Constitution morality is not a natural sentiment. It has to be cultivated. We must realize that our people have yet to learn it. Democracy in India is only a top-dressing on an Indian soil, which is essentially undemocratic.'

However Ambedkar should be read as putting forth not only an answer as to why large parts of the Government of India Act were reproduced but as seeking to put forth his constitutional philosophy. Ambedkar in the closing speech which he delivered on 25th November, 1949 expresses a gratitude to the rebels in the Constituent Assembly for raising points which were 'mostly ideological'. To Ambedkar the value of the dissenting opinion of the rebels was that it gave him the opportunity for 'expounding the principles underlying the Constitution which was more important than the mere mechanical work of passing the Constitution.' We should read Ambedkar as expounding a constitutional philosophy which was integral to his life and work when he references constitutional morality. What was that philosophy?

In a speech in the Parliament on the Constitution (Fourth Amendment) Bill, 1954, he notes, 'But as soon as Swaraj presented itself, everybody thought- that there was the prospect of political authority passing into the hands of a majority, which did not possess what might constitutionally be called 'Constitutional Morality'. Their official doctrine was inequality of classes. Though there is inequality in every community or whatever be the word, that inequality is a matter of practice. It is not an official dogma. But with a majority in this country, inequality as embodied in their 'Chaturvarna' is an official doctrine. Secondly their caste system is a sword of political and administrative discrimination.'

There are at least four other references to constitutional morality in Ambedkar's works.

In the 1954 text, Ambedkar is invoking a far broader notion of constitutional morality. The majority is seen to suffer from a lack of constitutional morality, because it functions within Chaturvarna. In this deployment of constitutional morality, Ambedkar lets go of the narrower understanding of constitutional morality as 'reverence for the constitution' and embraces a broader understanding of constitutional morality as a morality in opposition to the Chaturvarna system. Constitutional morality, thus seen draws from the constitutional trio of liberty, equality and fraternity.

In a 1952 speech titled 'Conditions Precedent for the Successful Working of Democracy' he identifies the observance of 'constitutional morality' as one of the 'conditions precedent' for the successful working of a democracy. In his judgement, the Constitution only 'contains legal provisions, only a skeleton. The flesh of the skeleton is to be found in what we call constitutional morality. However, in England it is called the conventions of the constitution and people must be ready to observe the rules of the game.'

He goes on to add that, 'there must be no tyranny of the majority over the minority. The minority must always feel safe that although the majority is carrying on the Government, the minority is not being hurt, or the minority is not being hit below the belt'. If the voice of the minority is suppressed what 'happens is that these minorities develop a contempt for parliamentary people and develop a revolutionary spirit something unconstitutional. It is therefore necessary that when democracy is working, the majority on which it is based, must not act in a tyrannical manner.' The speech also goes on to make the point about the importance of a moral order in society. Without a moral order, 'democracy will go to pieces' as in 'vast aspects of social life people are left free to carry on without interference of law'.

In this speech we find that Ambedkar is referencing two notions of constitutional morality. Constitutional morality as conventions which determine the working of the constitution as well as an understanding that constitutional morality is about challenging the morality on which the social order is based. Keeping these two ideas of constitutional morality in mind, the jurisprudence of the Supreme Court on constitutional morality needs to be evaluated.

The conventionally understood role that constitutional morality has played in the jurisprudence of the Supreme Court, is to lay down the institutional roles which have to be performed by constitutional actors.

In *Government of NCT of Delhi v. Union of India*, constitutional morality becomes a critical concept when it came to constitutionally assessing the actions of the LG. As the Court put it 'constitutional morality places responsibilities and duties on individuals who occupy constitutional institutions and offices.' The Court in this case lays down the constitutionally sanctioned modes of action of the LG.

Ambedkar's thinking on constitutional morality was however not restricted to seeing it as a norm which governed the functioning of constitutional authorities. For Ambedkar it was also about setting in place a norm which challenged the hierarchical framework mandated by caste law. This notion of a counter majoritarian constitutional morality was also explicitly taken forward by the Supreme Court.

In the span of a single month in September of 2018, the Supreme Court delivered three important judgments, all of which explicitly privileged an understanding of constitutional morality over the dictates of popular morality. The three issues adjudicated upon were all sensitive matters concerning the criminalisation of homosexuality, the criminalisation of adultery and the prohibition of women of a menstruating age from worshipping at Sabrimala. In all three cases the Supreme Court stood up for 'discrete and insular minorities' who were often at the receiving end of a majoritarian morality.

In *Navtej Singh Johar*, Justice Nariman sees Section 377 as 'the product of the Victorian era with its attendant puritanical moral values', which 'must give way to constitutional morality.' In his opinion, 'Constitutional morality is the soul of the Constitution, which is to be found in the Preamble of the Constitution, which declares its ideals and aspirations, and is also to be found in Part III of the Constitution, particularly with respect to those provisions which assure the dignity of the individual.' In Justice Nariman's opinion, 'Constitutional morality always trumps any imposition of a particular view of social morality by shifting and different majoritarian regimes.'

In *Joseph Shine, J. Chandrachud's* observed that, 'Section 497 of the IPC' embodied 'outdated parochial social mores' as the notion of a 'woman's 'purity' and a 'man's marital 'entitlement' to her exclusive sexual possession may be reflective of the antiquated social and sexual mores of the nineteenth century, but they cannot be recognized as being so today. It is not the "common morality" of the State at any time in history, but rather constitutional morality, which must guide the law.'

In *Indian Young Lawyers Association*, Justice Chandrachud sought to lay out the content of constitutional morality. He observed that, 'Constitutional morality must have a value of permanence which is not subject to the fleeting fancies of every time and age. If the vision which the founders of the Constitution adopted has to survive, constitutional morality must have a content which is firmly rooted in the fundamental postulates of human liberty, equality, fraternity and dignity. These are the means to secure justice in all its dimensions to the individual citizen.'

It is this notion of constitutional morality, which has been the very foundation for the articulation of the rights of those at the receiving end of majoritarian prejudice which hangs in the balance in the Supreme Court.

(27th April, 2026)

UMAR KHALID AND HIS WORLD

EDITED BY ANIRBAN BHATTACHARYA, BANOJYOTSNA LAHIRI AND SHUDDABRATA SENGUPTA

'Umar Khalid and His World' is a book that has been lovingly curated by the friends of Umar and brings his ideas and reflections to life for all of us. These series of reflections are both by those who knew Umar personally as well as by those who see the injustice of the incarceration. Reading it will undoubtedly strengthen our resolve to continue to work towards ensuring the release of all political prisoners in India.

PUCL organised a book discussion on this book in Bangalore on 28th April, 2026 in which eminent historians Janaki Nair and Ramachandra Guha as well as well known actor Prakash Raj shared their views.

Below we carry an excerpt from a piece by his mother, Sabiha Khannam to communicate the feelings of despair as well as the hope even as the family confronts the injustice of a continuing incarceration:

Today, after many months, I was going to meet my son in person. An unusual excitement and emotion began to rise in my heart. Though it's called a physical meeting, it's still a strange encounter - two layers of glass separate us. On one side, we stand, and on the other side is Umar. We cannot touch, not even clearly see each other. At best, his faint face appears through the glass, and we speak via intercom. (...)

First, my shoes had to pass through an X-Ray machine, then I had to undergo a body check. After these formalities, I entered through the gate. From there, it was a 15-minute walk to Jail No. 2, where the meeting would take place.

At the meeting area, a female staff member took my slip and looked at me warmly. "Oh, so you're Umar's mother! I've seen his friends come, but this is the first time I'm seeing you," she said kindly. She had me sign the register with my thumbprint and guided me to the waiting room, saying, "We'll call you when Umar arrives." Her tone was sincere and respectful. (...)

By now, everyone inside the prison knew well that Umar was innocent, a victim of state persecution. The birds chirping in the waiting area sounded lovely. In urban life, we're so deprived of these subtle gifts of nature. It felt as if the birds flying freely within these prison walls were announcing, "We are free even here." (...)

"Are you feeling okay? What are you reading these days? Is it too hot?" I bombarded him with questions. He answered everything patiently and kept asking after everyone's wellbeing. He said he regularly reads about his father's public engagements in the newspapers. "Tell him not to travel too much, and to take care of his health," he said.

We talked for what seemed like no time at all, and soon, it was time to leave. Umar moved across various windows to reach the one near the exit gate. I turned to look, but the glass prevented me from seeing clearly. Perhaps he stood there watching me leave. I walked out with a heavy heart and slow steps.

But as I returned from jail, my head was held high - proud that my son was imprisoned not for a crime, but for standing with the oppressed and challenging the cruel laws of a tyrannical state. He has revived the legacy of our ancestors, the ones who challenged British colonial laws, facing imprisonment but never bowing down. Meeting my steadfast son gave my soul a new strength.

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