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Editorial:

Abrogation of Article 370 Not Possible **No moral, political or logical justification for BJP to keep up the noise** **Rajindar Sachar**

BJP president Rajnath Singh has called for a debate on why Article 370 of the Constitution should not be abrogated. One wishes he had sought this enlightenment before including the provocative item of abrogation of Article 370 in the BJP election manifesto.

Apart from the legal angle, Togadia's hate speech against Muslims and a politically dishonest attempt by BJP and RSS leaders to paper it over should be a justification enough for the retention of Article 370 for the Muslim majority state of J & K.

On August 15, 1947, when India became independent, J&K was not a part of its territory. It was only by the Instrument of Accession, dated 27.10.47, signed by the Maharaja of J&K that the state acceded to the Dominion of India. By clause 3 the Maharaja accepted that the matters specified in the schedule are the matters with respect to which the dominion legislature may make laws for the state of J & K. The instrument further provided that the terms of instrument shall not be varied by an amendment to the Act or the Indian Independence Act, unless such amendment was accepted by the Maharaja. The instrument also clearly laid down that nothing in the instrument shall be deemed to commit the state in any way to the acceptance of any future Constitution of India.

This instrument accepted only a limited number of matters -- Defence, External Affairs, Communications -- with respect to which the Indian legislature could make laws for J&K. This special relationship of J&K found its reflection in Article 370 of the Indian Constitution which laid down that notwithstanding anything in the Constitution, the powers of Parliament to make laws for the state shall be limited to those matters in the Union List and the Concurrent List, which, in consultation with the government of the state, are declared by the President to correspond to matters specified in the Instrument of Accession, and such other matters in the said lists with the concurrence of the state the President may by order specify.

Thus by virtue of Article 370 Parliament can legislate for J&K on matters other than those mentioned in the instrument but only after obtaining the concurrence of the state of J&K (emphasis supplied). Thus J&K has special status, unlike the other states in India where Parliament can legislate on its own on subjects mentioned in the Union and concurrent lists.

It is no doubt true that Article 370(3) provides that the President may by notification declare that this article shall cease to be operative, but the proviso clearly lays down a limitation that the recommendation of the Constituent Assembly of the state shall be necessary before the President issues such a notification. It is not disputed that the Constituent Assembly of J&K has never given any such recommendation. In that view Article 370 cannot be withdrawn by Parliament purporting to exercise the power of amendment given by Article 368. That the power to amend the Constitution is not totally unfettered admits of no disputes vide the famous case of *KeshvanandBharthi*, (1973) in which the Supreme Court held that a "Constitution like ours contains certain features which are so essential that they cannot be changed or destroyed".

There is also nothing very special in laying this limitation in Article 370. Even Article 368 limits the power of Parliament to make any amendment to the Constitution which would result in a change in any of the lists in the Seventh Schedule; such amendment shall also require to be ratified by the legislatures of not less than half of the states.

Under our Constitution the Governors are only formal heads of state and have no powers at all in the administration of the state which

is vested in the Cabinet. But yet by the Constitution Amendment Act 1956, Article 371 provides for a special responsibility of the Governor for the establishment of separate development boards for Saurashtra and Kutch (in Gujarat) and Vidharba in Maharashtra for an equitable allocation of funds for the development of the area. No objection by the BJP has been raised which curtails the power of Gujarat Chief Minister Modi, while there is not such limitation on the chief ministers in other states.

Article 371G, introduced by the 55th Constitution Amendment Act 1986, provides that no Act of Parliament in respect of the ownership and transfer of land shall apply to the state of Mizoram unless the legislative assembly of Mizoram by a resolution so decides. This provision is identical to Article 370 of the Constitution regarding J & K. The BJP was a party to the above amendment. Why does the BJP apply double standards in the case of the Muslim majority state of J & K?

Even in the USA such is the width of state autonomy that an advocate getting his law degree from Washington University cannot as a matter of right practice in the state of New York. No one has suggested that this is endangering the unity of the USA.

Recently in the election fever even

the Congress seems to have got entrapped when it gave an election promise to separate Ladakh from the territory of J&K and even give it a separate legislative assembly. This is the most provocative suggestion, which can only inflame the sentiments of people of J&K against India, apart from the fact that it is not legally possible because the J&K legislature will never give its consent, as provided by Article 370. It needs to be appreciated that the retention of Article 370 is a matter of self-respect and honour and an assertion of their distinct identity for the people of J&K. Can't the BJP leaders, even when most of the parties in J&K are desirous of finding a lasting solution, be statesmen enough to give up their opposition to Article 370, which no Kashmiri can possibly agree to abrogate because it is a matter of preserving his special identity?

Faced with this reality, politicians must realise that all talk of abrogation of Article 370 is moonshine and a non-issue. It is also a very sensitive matter touching the credibility of our secular professions and the justifiable fears of the minorities. With all this, when it is also patent that the abrogation of Article 370 is not legally and constitutionally possible, is there any moral, political or logical justification to keep up this empty noise? I submit there is none. □

Elections, Education and Indian Democracy

Prof. Vinay K Kantha*

The campaign and the verdict of Lok Sabha elections 2014 raise important issues about the majoritarian design of Indian democracy which will need to be carefully analysed and understood, if its essence and character are to be preserved. The passions generated, or the intolerance of language displayed in exchange of accusations and counter accusations, may not be altogether new, but this time it was apparently more pervasive and crude. While mobilization along caste

lines or on community identity or other primordial sentiments has always been there but it was palpably more brazen and strident. In all probability more money was spent on electioneering, new technology was deployed on a wider scale and advertising companies were reportedly engaged on huge payments to make it look like a high voltage marketing propaganda. Political debates and education, which were the staple of early elections in India, were conspicuously

missing. In place of serious analysis or dissemination of ideas, personal attacks or aggrandizements of individuals dominated the political drama. Hence the common voter is hardly more enlightened about the larger issues before the nation or society, or the ways in which different parties plan to tackle the problems. The rights discourse, which was somewhat incoherently picked up by Aam Aadmi Party in previous round of assembly elections, was also lost in the din of the voting bazaar and

disenchantment from their reluctance to accept responsibility. There was a vague talk of development or some development models, but no reference to human development or development as a human right issue. Of course, the idea of human rights is like a red rag to the bull for most of the political parties, mainstream or regional, because misunderstood security concerns colour their thinking alike. Democracy as empowerment of citizenry or spread of consciousness of rights, as hardly mentioned during the campaign. It is natural, as internal democracy is lacking in all parties and indeed they are almost all dominated by individuals or families. The only right, which people were exhorted to exercise, was the right to vote, as if it was panacea for the ills of the system, while exercise of mind was in a way actively discouraged by all, directly or impliedly. What they persuaded people to believe that Mr X or Mr Y or party A or party B has all the solutions, and for the voter, the only meaningful role is to give him the reins of power. It is during an election period that the setting of social discourse most resembles a market. Electioneering and slogan making finds a ready parallel with the raucous advertisements in the electronic and print media, candidates are placed in the electoral fray, as commodities are launched in the market. So it is hardly surprising that major political parties commissioned well-established ad agencies to promote their campaigns. Market seeks to know what sells, and similarly, through their manifestoes or otherwise, during the election times political parties try to gauge and influence the mind and mood of people. Of course at the second level, some kind of social engineering is attempted, but there too, the offers to different social constituencies are carefully calibrated. That is why election times are more suited to read people's mind through the prism of elections and their results. Either way, that is, from political parties or leadership on one side, to voters and people on the other side, market principles seem to catch up with Indian politics in 2014. Much like manipulation of consumer preference through aggressive marketing

techniques, we can take note of the ways, a new style of politics with its own ideologies is being shaped in our country. Revulsion to corruption, mismanagement of economy and poor governance are very much in evidence, but it possibly comes along with a slackening of our constitutional commitment to justice, equality, freedom or fraternity, which were neglected by political parties of all hues and shades. Even with regard to issues like corruption or governance, there are no clear blueprints being given by major parties. Either pious claims are made, or the other party is put in the dock, pretending that everything is hunky dory with institutions or processes. There is little being offered as a right to the people, and less being promised for their capability expansion.

Education and health are two sectors of economy, or governance, which contribute directly to capacity increase and quality of life, and these are in urgent need of reforms but neither the party manifestoes, nor promises in election rallies give any idea about policies which parties intend to design or execute. Usually there are some rhetorical or general statements in the manifestoes, which do not add up to a policy statement. Or else, there is a market-dependent thinking which is implicit in some of the documents or speeches. A sample revealing the style and scope of politics may be gleaned by a look on promises of parties in a specific sector. Let us take education as an example.

Right to Education Forum, a national collective of persons and organizations working for a pro-people implementation of the Right to Education Act, 2009 has tabulated the position-statements of four political party, namely, Congress, BJP, CPI-M and AAP. Based on their table, supplemented by significant phrases used in the campaign, some observations are made below in respect of the education sector:

a. Except the Congress all parties have made a promise of spending at least 6 per cent of GDP on education. It is pertinent to recall that besides the two policy frameworks on education

announced in 1968 and 1986, the commitment of 6% public expenditure has always been mentioned in various documents including the more recent UPA's Common Minimum Program. Yet it never even reached five percent. The fact remains that it has almost always hovered between a lowly 3 % to 4 % only. NDA, when it was in power last time followed the same pattern and continued spending within the same range as before. Hence, it seems quite improbable that new party in power will enhance the level of public expenditure to the promised level. In any case, BJP includes in its manifesto, apart from some vague promises like 'priority to be given to quality of education and research' or 'effective implementation of RTE Act' and so on. No specific commitments or programmes find place in the manifestoes, and education was a peripheral issue in election speeches.

b. While the Congress manifesto lays stress on quality issues- as 'the centre of development agenda', 'shreshthashiksha', quality in teacher training etc, BJP manifesto proposes to introduce, besides strengthening and expansion, 'mechanisms for performance audit of the SSA'. Further, BJP promises review and revision of salary structure, and reworking work culture of teachers. The differences are subtle, but significant, and promises vague and uncertain. Civil society organizations, generally skeptical and not exactly satisfied with the RTE Act seek categorical assurance regarding compliance with RTE norms with qualified and trained regular teachers, a simple demand not addressed clearly by either major parties. Quality in any case is a term fraught with risks. It could push our education system towards a concept designed by market or private schools, or admit of a multi-layered system. When BJP proposes setting up of a National Commission on Education, and a National Educational Policy, one is reminded of the controversies generated by National Curriculum Framework 2000 and text books prepared under BJP regimes, which were palpably biased against certain groups. The ideologies likely to be promoted in the country in days to

come may run counter to the promises made in the preamble of India constitution, or even international documents like Universal Declaration of Human Rights (1948) or subsequent covenants.

c. Another trend which seems to be favoured by both major national parties is increasing preference for privatization in the education and health sectors. In the education sector, while it is already instituted in respect of higher and professional education, it is gradually being pushed down to the secondary and elementary levels. This virtually amounts to State abdicating its constitutional and moral responsibility. Further, the manner in which there is strong lobbying for skill development makes education a marketable commodity, but the more damaging part of unfolding policy is its expansion at the cost of humanities, social sciences, fundamental sciences and general education, which contribute to the

society in more indirect ways. The deeper purpose of education is lost. It is true that skill development has been neglected thus far and this lopsidedness needs to be corrected, but the need for pursuit of knowledge, and quest for social transformation is even more important now than it was in the days of Radhakrishnan Report or Kothari Report.

d. The agenda of inclusion was strewn here and there in manifestoes or rallies, but it does not seem to go beyond lip service, and occasionally, may be fraught with risks. If Congress makes a mention of children with special needs or focus on discrimination against students from J & K or North East or SC/ST, it sounds hollow. BJP on the other hand talks about modernization of madrasas, which may be a loaded exercise. While AAP promises non-discrimination within schools and access to higher education facilities, in the same breath it hopes to create world class universities. The real intent and priority cannot be

understood.

Much more can be recounted about their perspectives on education, or health, for that matter, but unmistakably the social sector institutions are passing under the control of market. People's real interests are addressed either in a populist mode or just rhetorical. Ideological issues take a back seat in politics, and peripheral, or sometimes divisive agenda seem to be pursued far more vigorously. Sadly enough conscious citizenry, social activists working at the community levels, or political groups working for the poor are getting marginalized. Education in the broader sense is an urgent requirement of Indian society, so that a transformative politics can be revitalized. Youth is in a hurry, seeking action and results, which can be an asset for democracy, or a mere distraction. Let us hope for the best for India and her democracy.

**Vinay K Kantha, former President of Bihar PUCL teaches in Patna University. □*

Human Security is True 'Development

M.G. Devasahayam

Sriperumbudur Parliamentary constituency in Tamil Nadu adjoining Chennai is a 'developed' one if the neo-liberal 'development' criteria are adopted. This is the home of some of the state-of-the art 'infrastructure' projects, Special Economic Zones and giant MNCs-Motorola, Samsung, Dell, Ford, Hyundai, BMW, Nokia, Saint Gobain, Nissan, Caterpillar to mention a few. But as pre-election surveys show, the locals are left wondering as to what the 'development' is all about! For them the roads are bad, bus services are poor, power cuts are frequent, environment has sharply degraded, water sources are drying up and pollution is on the increase. What is worse, there are hardly any job or income opportunities for the poor. Bereft of 'human security' they fall back on the freebies and charity handed down by the state government.

To propitiate such 'development' central and state governments extend

massive concessions and facilities to these MNCs who in turn pay fabulous salaries to their expatriate managers and are earning profits in billions, most of which is repatriated to their home countries. This is 'neo-liberal' development at work! This is true, perhaps in a larger measure to Gurgaon, adjoining Delhi that has morphed in to a 'monstrous city'.

At the height of globalisation rampage, late Caroline Thomas, Professor of Global Politics at the University of Southampton wrote a Book 'Global Governance, Development and Human Security'(Pluto Press-2000). It was well before the warped concepts, ideologies and methodologies that dominated Liberalisation, Privatisation and Globalisation (LPG) made an unrelenting onslaught on the Indian economy due to the predatory policies and practices unleashed by UPA II supposedly under an 'economist' Prime Minister. These policies, perceived mostly in a macro

and material context related to structural reforms, allocation of natural resources, big-ticket projects, Foreign Investment, GDP growth and world trade. Poverty alleviation was expected to take place as a 'trickle down' and spin-off.

The Book dealt with the "growing inequality and widespread poverty that characterises the era of 'neo-liberal' development" and 'uneven distribution of the benefits of the globalisation process, and the general failure of that process to attend to the human security of the majority of humanity.' The UPA triumvirate of Sonia Gandhi, Manmohan Singh and Palaniappan Chidambaram had no use for this Book or what is written in it. In the event, by their LPG policies they have created an India of 'growing inequality, widespread poverty, galloping prices and increasing unemployment.' For the overwhelming majority prosperity never came, only poverty

accelerated. At the hustings they are going to pay for it very dearly.

At the global level UNDP Report, 1997 describes the 'uneven distribution of the benefits of the globalisation process'. It depicts a global society bereft of conscience or concern for human suffering and deprivation. While one third of the human race was reeling in poverty and penury, microscopic minority of global population wallowed in opulent wealth and splendour. Subsequently things got worse as 'global governance' tightened its grip on the hapless third world nations. In an inhuman system where over one third of world's population does not have a secure life, harping merely on 'GDP growth' and 'unrestricted world trade' as the central theme of LPG is indeed perverse and blinkered. This is precisely what happened in India during the last ten years resulting in nearly two-third of the population living in near poverty and penury.

With a new government coming in there is need for a realistic and holistic approach to evaluate the LPG regime of 'development' and the system of Governance that went with it and provide a talisman that could measure its effectiveness. 'Human security' could be the talisman with individual dignity and poverty reductions as the core theme.

The 'human security' talisman makes a fine distinction between 'income poverty' and 'human poverty'. The neo-liberal reforms under LPG regime seek to address only the 'income poverty' while virtually ignoring 'human poverty'. This is what has led to the skewed, unsustainable 'development' that has taken place in India. 'Human security' is much more than 'material growth and sufficiency' [income security] and is described as "a condition of existence in which basic material needs are met and in which human dignity, including meaningful participation in the life of the community, can be met.

While material sufficiency lies at the core of human security, in addition the concept encompasses non-material dimension to form a qualitative whole. Human security is oriented towards an active and substantive notion of

democracy, and is directly engaged with discussions of democracy at all levels, from the local to the global. This is fresh and positive thinking, harnessing four vital elements-material sufficiency, human dignity, democracy and participatory governance- that constitute the core of a civilised human society. One without the other is incomplete and unsustainable.

In the Indian context a fifth dimension could be added. While the economy is expanding and getting globalised, politics is shrinking and descending from national, regional and state levels to communal/caste/tribal outfits causing tensions and conflicts that never existed before. This phenomenon is taking place primarily because of a growing perception that global and national governance, as being practiced today does not provide adequate human dignity, identity and security.

It is time 'human security' replaced 'threat' centered 'security', which is the obsession of all countries, big and small. This makes sense because for most people today, a feeling of insecurity arises more from worries about daily life than from the dread of war or any cataclysmic event. Job security, income security, health security, environmental security, security from crime, safety for women-these are the emerging concerns of human security.

LPG/neo-liberal model of development will never be able to achieve such security because by nature it is exploitative with its very roots in crony capitalism-an economy that is nominally free-market, but works on preferential regulation and other favorable government intervention based on money-power and personal relationships. This is what has been in practice in India ever since the LPG era of early nineties.

The blatant manifestation of this crony capitalism was described the other day by former West Bengal Governor Gopalakrishna Gandhi while delivering the 15th D.P. Kohli Memorial Lecture at the conclusion of the CBI's year-long Golden Jubilee celebrations: "Corporate greed has

crossed all bounds.... We used to talk of black money as a parallel economy and so it continues to be. But Reliance is a parallel State. I do not know of any country where one single firm exercises such power so brazenly, over the natural resources, financial resources, professional resources and, ultimately, over human resources as the company of the Ambanis. From Ambedkar who spoke of economic democracy, to Ambani who represents a techno-commercial monopoly of unprecedented scale, is a far cry indeed."

This is the kind of 'parallel state' that has facilitated one person living in a Rs. 5000 crore mind-boggling mansion in Mumbai with all security money can buy while millions sleep on pavements and in abandoned pipes deprived of even basic safety and dignity.

Substituting Ambani with Adani is not the solution. India needs to go back to the basics-the economic idea of India envisaged by the Founding Fathers of our Republic. In this 'idea', 'development' of Independent India would be sui generis, a society unlike any other, in a class of its own that would not follow the Western pattern of mega industrialisation, urbanisation and individuation. India's would be a people's economy that would chart out a distinct course in economic development. India would pursue need-based, human-scale, balanced development while conserving nature and livelihoods. In a self-respecting nation every citizen should get the strength, resource and opportunity to stand on their feet and earn his/her livelihood with honour and dignity instead of endlessly depending on corporate trickle-downs and government freebies and charity. God-given resources - land, water, jungle and minerals-belong to the people and these must be managed as such. Only then there would be human security.

The election manifestos unveiled by the political parties come nowhere near this 'idea'. Congress party talks of 'internal security', 'law & order' and 'modernising the police'. It also talks of 'securing from external threats' and

modernisation of Armed Forces with imported weapons. BJP in addition talks of 'food security' and 'energy security'.

There is hardly any holistic approach. However General VK Singh, former Chief of Army Staff who joined BJP and contested Parliament elections

comes nearer to the 'idea' when he said in an interview to Rediff.com: "If you look at national security, it is not just external challenges. National security is external, internal, environmental, economic-anything that affects the health of the nation is national security."

Human security is much more than national security. Only when its four vital elements-material sufficiency, human dignity, democracy and participatory governance-coalesce can there be true 'development' that would spread prosperity across the board! Will such an era ever dawn on India? ☐

Intimation of Next national Executive Meeting in Bilaspur, Chhattisgarh on 21st and 22nd June, 2014

General Secretary's Letter to All office bearers & State Presidents/General Secretaries

25 April 2014

Dear Colleagues,

This is a short intimation that the next National Executive Meeting of the PUCL will take place on 21st and 22nd June, 2014 at Bilaspur, Chhattisgarh. I am told that Bilaspur is on the main railway route of all major train routes passing via Chhattisgarh. I am sending this short intimation so that all the State Presidents and General Secretaries who are members of the National Executive can attend the meeting.

We have requested that on 21st June, Saturday evening a public meeting be held since so many PUCL leaders will be in Bilaspur and also because it is close to 25th June the day Emergency was declared. It is upto the State unit to decide on this.

Continuing the trend we had started in the last year of using the occasion of a visit of national office bearers to a state to also have a discussion exclusively with the state EC, we have also asked the Chhattisgarh state unit to consider keeping aside some time for a meeting of the National Office bearers exclusively with the state executive committee so that there is a discussion and dialogue.

This meeting has had to be postponed from May, 2014 (please recollect the calendar of events for 2014 we had sent earlier this year) due to elections. We had also asked which state unit will come forward to host it. Since no unit came forward, we requested our Chhattisgarh friends who very

supportively came forward to organise the meeting. Our thanks to them.

This will be the first meeting after the LS elections and a possible change in the political regime ruling India. We need to therefore have a serious discussion on what the changes portend and also how we, as India's largest human rights group, should respond.

We request all the state units to discuss this in their state committees and to come forward with a clear cut suggestion about how to strengthen PUCL, both in the state level as also nationally. In particular we request each state unit to come prepared to:

(1) Present a Annual State Human Rights Plan of Action for their own state, giving details of how they propose to expand PUCL's activities in the coming year'.

(2) An assessment of how they think the challenges before the HR movement will be in the coming years and how they think PUCL should reorganise and strengthen itself.

We request the Office bearers of each state unit to circulate the summary of this request to all their state members and to initiate a process of discussion in their state units so that when they come for the National Executive meeting, we can have an informed discussion.

We shall be sending a detailed note later and are hurrying with this note so that train tickets and arrangements can be made.

PLEASE NOTE THAT THE NATIONAL EXECUTIVE MEETING IS OPEN ONLY TO STATE PRESIDENTS AND GENERAL SECRETARIES. WE REQUEST STATE UNITS NOT TO DEPUTE A SUBSTITUTE FOR EITHER OF THE OFFICE BEARERS. HOWEVER IN CASE OF A GENUINE DIFFICULTY PLEASE WRITE TO US IN CASE ONE OF THE OFFICE BEARERS CANNOT ATTEND. WE REQUEST YOUR COOPERATION IN THIS.

Those state units who have not had their state elections within the 2 year period are requested to do so at the earliest and inform us in case there is a change of office bearers.

Some state units have been reorganised recently. in such cases, then 2 of the convenors are requested to attend.

PLEASE NOTE THAT THE NATIONAL EXECUTIVE MEETING IS FOR 2 DAYS. MEMBERS ARE REQUESTED TO ATTEND BOTH DAYS AND NOT TO COME ONLY FOR A DAY or a portion of the meeting.

Just as much as time is of importance to each one of us, respecting other people's time commitment is equally important. Each one of us is keeping aside other commitments to attend official organisational meetings. So we request members to respect this. We are constrained to say this so harshly as we are noticing that in past meetings, members attend only part of the meetings and rush away

saying that they have other engagements. This is unfortunate as discussions are incomplete and it is also disrespecting other people who stay for the full duration.

National Council Meeting

Please also note that the next National Council meeting will be held in Delhi in August / September, 2014 when the elections to the National Office bearers will take place.

We will be sending the membership list of the state units as received at the NO this week for each State GS to verify and confirm. The NC membership will be based on the ratio of 1:50 state members based on the final list of members received by the National Office by end February, 2014.

National Convention, 2014

The last National Convention was held in Jaipur on 1/2nd December, 2012 and the 2 year term of this

Committee ends by Dec. 2014. We are keen to hold the next National Convention in time and request any of the state units to come forward to accept hosting the convention.

We request any of the State Units to volunteer to organise the next National Convention to be held by end November - early December, 2014.

Regards,

V.Suresh, General Secretary, PUCL National ☐

Press Statement:14th May 2014

PUCL Condemns Arrest of Prof. Saibaba & Demands Immediate Intervention of NHRC to ensure release of Prof. Saibaba and ensure medical treatment and care and provision of personal attendant

PUCL is shocked and strongly condemns the unprovoked and unconscionable use of force by the Gadchiroli police who blocked the car, abducted and arrested Prof. GN Saibaba in broad daylight, on 9th May, 2014 afternoon. Prof. Saibaba, an Assistant Professor of English in Ram Lal Anand College was returning home for lunch around 1 p.m. after completing the morning's work of evaluating University examination papers in North Campus. His car was forcibly stopped by the policemen, all in plainclothes (mufti), without any identification insignia, his driver Deepak pulled out forcibly, arms tied, blindfolded and taken to an undisclosed place.

Prof. Saibaba, who is wheel chair bound with 90% loco-motor disability was also treated harshly, blindfolded and whisked away by plain clothed personnel of the Maharashtra Police. It later came to light that Prof. Saibaba had been taken by air to Gadchiroli via Nagpur and remanded to custody in a case involving provisions of the Unlawful Activities Prevention Act (UAPA) carrying allegations that he was helping Maoist activities.

The harsh and violent manner of effecting the abduction and arrest of Prof. Saibaba is unacceptable and condemnable in a democracy

claiming to follow rule of law for Saibaba had always cooperated with the police authorities whenever they wanted to question him as part of the investigation. Twice before, once in September, 2013 and next in January, 2014, he made himself available for questioning in his house. In contrast, the conduct of the Gadchiroli police was utterly unlawful, breaking all the mandatory provisions relating to conduct of search and seizure.

During the present arrest also, the Gadchiroli police violated all mandatory provisions relating to arrest. In particular, sec. 41-B of the Criminal Procedure Code makes it compulsory for every police officer making arrest to (a) bear an accurate, visible and clear identification of his name which will facilitate easy identification" and (b) shall prepare a memorandum of arrest which shall be (i) attested by at least one witness, who is a member of the family of the person arrested or a respectable member of the locality where the arrest is made; and (ii) countersigned by the person arrested. Very crucially the section states that the arrested person "has a right" to have a relative or friend named by him to be informed of his arrest unless the Memorandum of Arrest is already attested by his family. (sec. 41-

B(b)(c)).

Sec. 50A Cr.P.C. makes it obligatory on the part of the police officer to inform about the arrest and the place of custody of the arrested person to (i) relative, or (ii) friend or (iii) person nominated by the arrested person. The fact of this intimation should be recorded in a register which shall be scrutinised by the remanding Magistrate.

None of these mandatory provisions were complied with making the arrest illegal.

The exceptionally harsh, inconsiderate and violent treatment and arrest of Prof. Saibaba is for the reason that he has for long been a human rights defender who has consistently opposed abuse of law by the police and security forces in the name of encounters and asserted the primacy of `rule of law' principles as the basis for state action against people and organisations dubbed `extremist', `terrorist' or `maoist'. Saibaba has also been a long term critic of counter-terrorism policy of the government which sought to counter political violence through state violence. For the police, he represented a major threat to their lawlessness and therefore have been trying to somehow implicate him in some case or the other. The present case he has been arrested

in involves various sections of the Unlawful Activities Prevention Act (UAPA) which conveniently gives carte blanche powers to the police to use the law like a weapon to crush dissent, stifle criticism and silence opposition to their abuse of law.

PUCL has consistently opposed draconian laws like the UAPA, AFSPA, anti-sedition laws and other laws on the ground that these laws were deliberately structured in such a manner as to arm the state with wide police powers to crush dissent and political opposition using the justification of countering terrorism. In effect these laws have been used for the purpose of criminalising dissent and the legitimate acts of human rights activists and organisations.

PUCL has documented numerous instances where the police action is akin to 'state terrorism' striking down hundreds of innocent people and causing unimaginable misery, all in the name of fighting terror.

The SC poignantly highlights the dangers of state terrorism in the famous case of 'D.K. Basu vs State of West Bengal' (1997) thus:

"The challenge of terrorism must be met with innovative ideas and

approach. State terrorism is no answer to combat terrorism. State terrorism would only provide legitimacy to "terrorism". That would be bad for the state, the community and above law to the rule of law". (pa. 33) (emphasis ours)

In a cruel twist to human rights movements, rights defenders who advocate the legitimacy of extending human rights protection even to those people accused by the state as terrorist, find themselves implicated in false cases as 'terrorists' themselves; similarly those who emphasise that even Maoists, are entitled to 'rule of law' and human rights, suddenly find themselves branded as Maoists and facing danger to their personal safety and well being, apart from prosecution. This is a sinister development which is aimed to silence the human rights defenders and crush the rights movement. Prof. Saibaba is the latest victim of the Maharashtra police's attempts to silence and intimidate anyone from daring to take up the human rights issues of Maoists while continually challenging state terrorism.

PUCL demands that the National Human Rights Commission (NHRC) should immediately intervene in the

matter of arrest of Prof. GN Saibaba, launch a comprehensive enquiry into the flagrant illegalities committed by the Gadchiroli police and fix accountability on the police officials who have abused and broken the law of the land.

PUCL is shocked to know that Prof. Saibaba is being kept in solitary confinement and deprived of medicines and personal assistant. He also has been deliberately denied access to western closet causing immense discomfort and further medical complications. In view of the severe 90% locomotor disability and cardiac problem suffered by Prof. Saibaba, the NHRC should immediately intervene to get Prof. Saibaba released from prison so that he can get expert medical attention, utilise the services of a personal attendant and also be able to access toilet facilities adapted to his personal needs. Such a demand is not unreasonable as the SC itself has stressed the importance of "safeguarding the rights and dignity of the arrestee".

sd/-

V. Suresh, General Secretary, PUCL National; **Prabhakar Sinha**, President, PUCL National □

Obituary: May 15, 2014

Tribute to Mukul Sinha, Gujarat's Relentless Human Rights Defender

Saluting comrade Mukul Sinha with resolve to continue our fight for justice and truth, to uphold the values of human rights, to stand up and speak-out for the oppressed against injustice of all kinds, unafraid of all consequences

Rohit Prajapati and Trupti Shah

Comrade Mukul Sinha left us on 12 May 2014, just as the time when the state and political parties have declared war against people and people's movements are struggling against the deceptive development model - now also known as Gujarat Model. For the past eight months he was suffering from lung cancer and undergoing treatment for the same. In September 1973, Mukul joined the Physical Research Laboratory (PRL) as research scholar for his PhD. While doing his research he

also organized the PRL cafeteria employees. Reacting to injustice at the Institute, he started a union movement that invited termination of his job. Termination of his job from PRL proved a real benefit for the downtrodden masses. Later on he completed his legal training in 1989. He, along with other comrades formed a trade union 'Gujarat Federation of Trade Unions' and a human rights organisation 'Jan Sangharsh Manch' (JSM). He and his comrades also launched a

political party the 'New Socialist Movement' (NSM).

In him we lost a comrade who was at the forefront of the legal and political battle against perpetrators of 2002 carnage, state encounters, deceptive development, communalism and fascism. Through his website, truthsofgujarat.com, this relentless fighter strived for establishing the truth of the Sabarmati Train incident and the carnage in 2002. As a lawyer and advocate he was

involved in the Nanavati Commission, the other 2002 cases, fake encounter cases.

He with his dedicated team, was also at the forefront of the fight against the draconian POTA (Prevention of Terrorist Act) enacted by the NDA government.

Let us quote from one of his articles from Combat Law on the issue of labour where he rightly stated that "Globalisation is gobbling up labour laws and workers' rights besides resources-land, water, mines and minerals. Courts are setting new precedents diluting the Constitution and thereby putting both democracy and people at a grave risk." He was such a person, while arguing in the courts he never used to limit himself to the mere technicality but was able

to articulate the people's voice with ideological and philosophical input. His death is a great loss to the working masses and especially for the many victim-survivors of 2002 carnage. His legal intervention in the Nanavati Commission was consistent and he gave a tough fight to Gujarat State and Modi's Government in the commission with his dedicated team.

Even during his severe illness of last 8 months when he was unable to attend the court his presence could be felt in many cases through his fellow lawyers.

In the 1990s, amidst the pro-Narmada dam euphoria, built up by the then Chief Minister Chiman bhai Patel of Gujarat, unconditionally supported by many NGOs of

Gujarat, Dr. Mukul Sinha and his team boldly stood with oustees of the Sardar Sarovar Project.

He lived and fought against fascist and capitalist forces, our real tribute to comrade Mukul Sinha is not in mourning but in making a firm resolve to continue the struggle against such forces especially at the present time.

We activists while remembering his work took the pledge "We solemnly resolve to continue our fight for justice and truth, to uphold the values of human rights, to stand up and speak-out for the oppressed against injustice of all kinds, unafraid of all consequences."

Red Salute, comrade MukulSinha.
Rohit Prajapati and Trupti Shah
are Vadodara based activists □

PUCL UP:

Report on Bareilly PUCL District Conference

On 30th March, 2014, District Conference on topic "People's Expectation, Election and Election Reforms" was held at Nehru Yuva Kendra, Bareilly. In the second session, PUCL District Executive Committee was also elected.

The conference was convened by Shri T.D. Bhasker and presided over by Adv. Yash Pal Singh. The Chief Guest of the Conference was Chittaranjan Singh (President-PUCL, U.P.) and the Main Speaker was Vandana Mishra (General Secretary, PUCL UP). The Presidium included Bareilly District Patron Sudhir Vidyarthi, (Sahityakar), Vijendra Jauhari, (Sr. Adv.) & Dr. Javed Abdul Wajid. Dr. Javed elaborated that the Hon'ble Supreme Court after the litigation by PUCL directed the Election Commission to provide NOTA option in the Electronic Voting Machines. He said that this step by the Apex Court is still in its early stage till the Right to Recall it is not given to the Citizens of India. He also said that in reality fair electoral procedure in India is hijacked by political parties. The Citizens need

to be politically educated, then only the political parties and the system can be made answerable to the Citizens of India. Dr. Sadhna Agrawal (HOD-G.K. Degree College Pilibhit) spoke about the need of involving more and more women in elections in India so that women from the lower strata of society also represent the people in legislatures. Dr. D.K. Singh (Associate Professor- Law Dept., Bareilly College) emphasized that in India the Election ends with election slogans and no work. The ruling parties never want the people to get the benefits of development. Spreading awareness among the people about their rights is a very important responsibility of our Government. Dr. Pradeep Kumar of JAGER (Associate Professor- Law Dept., Bareilly College) said that factually in India Democracy is no more in existence. He said that it is the dictatorship rather than Democracy prevailing in India. A change in system is a must now for India. Sudhir Vidyarthi (Sahityakar) said that only the rich are reaping the fruits of development and the

poor are becoming poorer. Kamlesh Tripathi of BTUF said that there should be state funding of elections to do away with the influence of black money in elections. Krantikari Lok Adhikar Sanghatan representative Dr. Surya Prakash Gangwar said that at a time when crony capitalism is playing its sinister role in elections impartial elections cannot be held. In reality the poor people hardly get the opportunity to cast their vote independently without being influenced by money power, muscle power or distribution of freebees including liquor. Mohd. Ahmad Ajeej Khan of APCR said that the citizens before exercising their right to vote must finalize their representatives. Nitin Bhatia & Sheela Kumari (Law Student) gave their views on electoral reforms. The Main Speaker of the Conference, Vandana Mishra, General Secretary of U.P. PUCL said that our system does not want the true representatives of the people to run the Government. The political parties by using muscle power win in the elections but never fulfill their constitutional responsibilities or poll

promises. The ruling parties are always trying to suppress the valid/legal movements of the citizens. Peaceful movements and endeavours are always put down forcibly by all governments. She gave an example of Irom Sharmila who is having a peaceful movement has been criticized and suppressed by the dictatorship of Indian democracy. The Law Students of

Legal Aid Clinic, Bareilly College, Bareilly presented a small play on NOTA. The team was managed by Deepak Bhatt, a law student of Final Year and also a member of the PUCL.

In the 2nd Session, Eight members of the District Executive Committee were elected. The names of the newly elected executive members are: **President**-Yash Pal Singh,

General Secretary- T.D. Bhasker; **Vice President**-Dr. D.K. Singh; **Treasurer**- Intekhab Husain; **Executive Members**- Dr.Javed Abdul Wajid, Moh. Faisal, Deepak Bhatt, Adv. Naher Khan
Yash Pal Singh, President, PUCL-Bareilly; **T.D. Bhasker**, General Secretary, PUCL- Bareilly District Unit □

8 April 2014

Four Dalit girls raped in Haryana, State and Privileged Communities try to Silence the Victims

*The Asian Human Rights Commission (AHR) has received information concerning the kidnapping and rape of four dalit girls in the north Indian state of Haryana. The crime was committed to force dalits from exercising their legitimate right to equal treatment with dignity and the local village headman is alleged to be one of the co-conspirators.

The incident took place on 23 March 2014 in Bhagana village in Hisar district of Haryana. It has taken two days for the state police to register a crime, subject the victims to medical examination, and facilitate testimony. The five accused have been arrested. But, victims and their families allege that the investigation is stalled and will suffer due to bias against them. *

Case Narrative:

On 23 March, at about 8 p.m., when 4 dalit girls of Bhagana Village, Hisar District, Haryana, went out into the fields to fetch water, five men kidnapped them. The men arrived in a car. They forced the girls into the vehicle, drugged them, and then proceeded to rape them. The girls were ultimately dumped at the Bhatinda Railway Station, an estimated 170 kilometres away.

On 24 March, the four fathers of the victims visited the village headman, Rakesh, to inform him about their missing children. Rakesh informed the girls' fathers that he and his

uncle, Virendra, were waiting for the fathers to approach them and seek help.

The fathers sought Rakesh's help to lodge a police complaint. The headman initially refused to do so. When the fathers said that if Rakesh would not help they would go on their own to the local police station to file a missing persons' complaint, Rakesh agreed to help. Rakesh, then, to the utter surprise of the fathers said that he knew where the girls were. He said the girls were at Bhatinda Railway Station. And that he and Virendra would accompany the fathers to pick up their daughters from the station.

Immediately, the victim's family, along with Rakesh and Virendra, travelled to the railway station. There, as informed by Rakesh, they found the four girls. The girls were in a state of torment and totally disoriented. On the way back to the village, Rakesh threatened the girls not to lodge a complaint or speak to the police about what had happened to them.

The girls and their families refused to succumb to this threat. They collectively decided to lodge a complaint about the incident. On 25 March, at about 10 a.m., the girls along and their family members approached the Hisar General Hospital for the girls to undergo a medical examination. They had also, before going to the

hospital, met with local police through the office of the Superintendent of Police, Hisar, Ms. Manisha Chaudhury.

Unfortunately, hospital authorities ignored the victims for a long time. As late as 11:30 p.m. on the same day, the doctor at the hospital had examined but one of the four victims. By the time the examination of all the girls were completed it was 1:30 a.m., 26 March. The victims' families allege that police officers, instead of helping the girls, contributed to the delay and threatened the girls from proceeding with the case.

After medical examination, a police officer took the girls to their residence of the local magistrate at PLA Hisar, Bungalow number 781, where the magistrate recorded the girls' statement at 2:30 a.m. Once the statement was recorded, the officer left the girls outside the magistrate's house, reportedly during a heavy downpour.

The police have since arrested the five accused named by the girls. They are: (i) Lalit Panghal, (ii) Sumit Panghal, (iii) Dharnwir Panghal, (iv) Sandip Panghal, all residents of Bhagana village, and (v) Parmal Panghal, resident of Kugand, Bawani Kheda village. All the accused are from Hisar district. The girls have insisted that the five accused committed the said crime, one in which the village headman

Rakesh and his uncle Virendra conspired. The police, however, have not cited Rakesh and Virendra as accused.

The victims' family insist that the omission by the police, to include the name of Rakesh and Virendra, is due to the influence of the dominant caste (Jat) to which the 5 accused, and Rakesh and Virendra, belong. Further, according to the victim's family, the attempts being made to pressure the girls and the family into silence is due to an ongoing feud between the dalits and the Jats in Bhagana village. The family also allege that the police are not investigating the case promptly and adequately. They fear that, in the end, all the accused will be acquitted.

Additional Information

The AHRC has learned that the said rape was a premeditated crime, one that was meticulously planned and executed by the five accused, in which Rakesh and his uncle Virendra were co-conspirators. Reportedly, dalits in Hisar, and those in Bhagana village in particular, have been protesting against forced eviction of dalits from Bhagana village. On 21 May 2012, dalits from

the village had marched to the national capital, New Delhi, to demand the union government's intervention, in order that the Government of Haryana would stop denying land allotment to the dalits.

The AHRC has learned that the incumbent government in Haryana, as well as the dominant castes in the state, to which Rakesh and the accused belong, have been trying to silence the dalit movement with threat and intimidation. The victims' family allege that the rape is an act of revenge and intimidation.

The victims' families are now holding a protest in New Delhi demanding an immediate and impartial investigation in the case. Civil society movements have not yet recognised their struggle. At the moment, the dalit families are isolated.

An act of rape upon the member of a Scheduled Caste or the Scheduled Tribe community by a member of any other community, constitutes, not only an offence of rape, punishable under section 376 of the Indian Penal Code, 1860, but is also a non-bailable offence under section 3(1) (xi) of The Scheduled

Castes and The Scheduled Tribes (Prevention of Atrocities) Act, 1980 (SC&ST Act).

In this case, however, the police have failed to register a case under the SC&ST Act.

The benefit of registering a case under this special Act is that it mandates that an officer not below the rank of the Deputy Superintendent of Police will investigate the crime, that the trial will be held in a special court constituted in each district under the Act, and that the prosecution will be undertaken by a special public prosecutor.

These provisions are made to ensure adequate attention to detail concerning crimes committed against dalits by members of non-dalit communities during investigation and trial. In India, however, the local police, often under undue influence of dominant communities, or due to utter disregard, fail to invoke the provisions of the special law while registering crimes committed against dalits. This case is but one example. □

Forum for Democracy and Communal Amity's Brief Report relating to communal flare-up in Muzaffarnagar and Shamli: August/Sept. 2013

Violence in Muzaffarnagar and Shamli Districts

Brief Report of the Committee of Forum for Democracy and Communal Amity relating to communal flare-up in Muzaffarnagar and Shamli districts of U.P. and its aftermath

A meeting of the Forum for Democracy and Communal Amity had taken place at the Council For Social Development 30th Dec. 2013 under the Chairmanship of Prof. Muchkund Dubey wherein following had participated: Prof. Muchkund Dubey (President FDCA); Justice (Retd.) Rajindar Sachar (Life member FDCA); Kuldip Nayar (Life member FDCA); N.D. Pancholi (Life member FDCA); Father Dr. M.D. Thomas (Social Activist); Prof. Prem

Singh (Delhi University); Prof. K.B. Saxena (CSD); Nusrat Ali (Member FDCA); Santosh Bhartiya (Journalist and Social Activist); Shafi Madani (Social Activist); Javed Jameel (Writer and Social Activist); Shariq Ansar (Social Activist); Mohammad Salim Engineer (Member FDCA).

The Forum for Democracy and Communal Amity (FDCA) was established in July 1993. The main objective of the Forum is to promote harmony and the spirit of common brotherhood among all the people of India transcending religious, linguistic, regional or sectional diversities; assist in the prevention of conflicts, riots and other acts of communal violence; and help the

victims of such conflicts or violence to rehabilitate themselves and seek redressal of their grievances.

2. The FDCA held a meeting in New Delhi on 30 December, 2013, to discuss, in general, the existential threat of communalism to Indian society and polity, and to consider, in particular, the possible role it can play to restore peace and harmony in the riot affected districts of Muzaffarnagar and Shamli districts in Uttar Pradesh. At the end of the meeting, a decision was taken to dispatch a delegation of FDCA to this area in order to study the current situation and the needs of the riot affected people.

3. Accordingly, a 7-member team of FDCA visited the riot affected areas for three days (on January 4th, 5th and 10th, 2014) and met victims, their families, community leaders and senior members of the local administration.

Team members were: N.D. Pancholi(Life Member, FDCA); Prem Singh (Delhi University); Rakhi Gupta (Social Activist); Rakesh Rana (Bundelkhand University); Shafi Madani(Social Activist); Alauddin Ahmed (Social Activist); Ashwini Kumar (Delhi University)

The background:

Before reporting the findings of the team it would be relevant to mention certain undisputed facts which led to the violent situation. On 27th August 2013, two young men, Sachin Malik and Gaurav Malik killed a muslim youth namely Shahnawaz at Kaval village which is a muslim majority village in the Muzaffarnagar district. These two young men belonged to Jat community from Malikpura Majara village which is next to Kaval village. There are differing versions of the cause of this killing. One version is that it was on account of the "eve teasing" by Shahnawaz of the sister of Sachin. However, another version as mentioned in the FIR by the father of Shahnawaz against the said Jat youths Sachin and Gaurav is that there was a fight over motorcycle. Soon after this killing both Jat youths Sachin and Gaurav were killed by the people of that area. Though such incidents whether of eve-teasing of the women or scuffle over collision of vehicles are common occurrences in the country, this incident was sought to be exploited by communal elements. A section of the Hindus raised the cry of "*Bahu Beti Bachao*" and propagated that the honour and prestige of Hindu women was at stake. A doctored three-minute video clip was circulated on the Social Media in order to inflame the

Hindus against the Muslim community. Later on, this video clip turned out of an incident which had happened in Pakistan two years back. Some minor incidents of violence of damaging some houses and stone throwing were reported on 28th August and 29th August at Kaval village involving the two communities. However no major violent incident occurred in the Kaval village or in any other place in the district of Muzaffarnagar and Shamli on those dates. But rumours and communal propaganda were in circulation and tension among the two communities was growing day-by-day.

It appears that heat of this communal propaganda was felt by the members of the Muslim community and accordingly they organized a public meeting on 30th August 2013 held at Shaheed Chowk, Muzaffarnagar, in which some prominent Muslim leaders of some of the political parties participated. One version is that fiery speeches were made by the speakers in this meeting; other version claimed by the organizers is that the meeting was called for making appeals for peace. Whatever may be the reasons, it is obvious that tension was mounting and the administration should have become alert and geared up to take precautionary measures to prevent any untoward incident. But it appears that the administration did not take the growing tension seriously. Soon after some members of the Jat community held a Panchayat on Sept. 5, 2013 in the village of Lisarh which is situated in district Shamli in which many Pradhans of the surrounding villages participated. This Panchayat declared that a Mahapanchayat of Jats would be held on 7th Sept. 2013 at village NanglaMandaur which is situated near to Kaval village in district Muzaffarnagar.

It is worthwhile to note here that this Panchayat was held in a village

which was not situated in Muzaffarnagar district where the incidents of killings of the three youths had taken place in the village Kaval. This meeting and the declaration of a Mahapanchayat made therein confirmed that tension was mounting but the administration did not wake up.

Jat Mahapanchayat at Nangala, Muzaffarnagar district

On 7th Sept. 2013 large number of jats from Muzaffarnagar, Shamli, Ghaziabad, Bijnor, Budhana, Baghpat and some other parts had reached the venue of the meeting in Nangla village in trucks, tractors trolleys and other vehicles. These Jats were armed with swords, *ballams*, *lathis*, country made pistols and other traditional weapons. The moderate estimate is that around 40 thousand persons had participated in the meeting, while some claims the number to be around 1 lakh. The fiery and venomous speeches were made by the speakers who included MLAs and other leaders of major political parties. The atmosphere in the meeting was so hotly surcharged that many saner elements who had gone to participate in the meeting felt helpless. Our team met some of such participants, who are responsible members of the Jat Mahasabha, at Sushant Lok, Meerut on 4th January, 2014 who told us that the feelings were so inflamed at the venue that if any person dared to talk senses, he would have been badly beaten or even killed. Therefore they thought it better to silently sneak out of the meeting.

These Jats, while on the way to attend the Mahapanchayat had come in tractor-trolleys and other vehicles waving swords, *ballams* (Spears), *lathis* etc. and shouting anti-Muslim slogans like "*Musalmano ke do sthan, Kabristan ya Pakistan*" (there are only two places for the muslims – either Pakistan or graveyard). A dog was seated in a trolley with a burka on it

and was being beaten with shoes. Many Muslim dominated villages were situated on the way where these Jats shouted slogans against the Muslims and challenged them. Some minor scuffles took place on the way. In the Mahapanchayat the fiery speeches had further inflamed them and while returning from the meeting they were in a highly agitated and aggressive mood. They were more vehement in shouting provocative, insulting and defamatory slogans against the Muslims. On the other hand, by that time the Muslims in the Muslim dominated villages situated on the return path of the Jat procession had readied themselves and made sufficient preparations to deal with the aggressive Jats. These Muslim dominated villages were equally powerful and were ready to fight back. Violent confrontation took place at Bassikala and Purbalian villages where Jats encountered formidable resistance and around 5-6 members of the procession were killed. The district officials whom we met told us that sufficient police was not available to control the Jats. The administration had received information that if the Jat processionists took the same route on their return to their respective villages there was likelihood of violent clashes because the Muslim dominated villages on the way had organized themselves to face any confrontation with the Jats. Therefore the officials advised the processionists not to proceed further ahead of Purbalian village. Fortunately the discretion seemed to be better part of the valour and the Jats did not proceed further and had to change their routes. Most of them had to spend night in some friendly villages and towns and were able to reach their respective villages next day in the morning.

However, some killings took place. One photographer, a Muslim namely Israr from village Kandla was killed near the Maha-Panchayat. Two

people were killed including a journalist at Khalapar in Muzaffarnagar. One Ansar, driver, who had driven a bus of Jats to Mahapanchayat was beaten to death. During return journey there were clashes at Purbalian. Three young men of Jat community of Kakada village were killed by stoning. Another person who received head injuries died in the hospital. Near Jolly Kenal Bridge under P.S. Bhopa there were killings of six persons -four Jats and two Muslims.

Rumours:

Throughout intervening night 7/8 Sept. 2013 the rumours ran high. Though there were not more than 10 or 11 killings during this period, rumours raised the number of killings to hundreds and thousands. Indermani Tripathi, the Additional District Magistrate, Muzaffarnagar, told us that local newspapers lent support to wild rumours and mentioned the number of killings into hundreds and thousands in the forthcoming daily edition. As soon as the administration came to know of this, they immediately swung into action and confiscated all newspapers at distribution points itself and did not allow even a single newspaper to be distributed in Muzaffarnagar and Shamli districts. He told us that had the newspapers been allowed to be distributed, the highly aggravated false reports of killings would have led to large scale violence. It is an undisputed fact that no newspaper was allowed to be distributed in those districts on 8th Sept. 2013.

8th Sept. 2013: Violent incidents

The Jats who had attended the Mahapanchayat at Nangla, returned to their villages in the morning of 8th Sept. They were stopped from using the same route by which they had come to attend the Mahapanchayat, they had to spend night here or there and had to change the route for return journey. Few of them were in

a highly agitated mood, felt humiliated and were itching for a fight with the Muslims. In their villages they found soft targets of the Muslims who were in minority on whom they poured their anger. Such Muslims generally belonged to poorer sections such a carpenters, artisans, small type mechanics, barbans, daily wagers etc. and were not in a position to resist. Such violent incidents were confined to only nine villages where killings, arson, looting, burning of houses was resorted. Eight Muslims were killed in Kutaba village in Muzaffarnagar district. 13 Muslims were killed in Lisad village in Shamli district. In all there were killings of about 65 persons in which around 12/13 were Hindu Jats and rest were Muslims. However almost all the Muslim residents of these nine villages had to escape for safety and took refuge in safer places and later on were accommodated in relief camps which cropped up later. Besides these nine villages, Muslim residents of about 125 villages, who were in minority, also escaped from their villages out of fear, though there were no incidence of killing, arson, looting etc. in those villages but rumours were so strong that Muslims of those villages did not take want to take any chance.

Meeting with the Pradhan of Purbalian village, Muzaffarnagar Dist.

The team members visited the village Purbalian in District Muzaffarnagar on 4th January 2014 where the violent incidents took place on the night of 7th Sept. 2013 while the procession of the Jats was returning after the Mahapanchayat at Nangla. The team members met Shakir Ali, the Pradhan of the village Panchayat and some of his colleagues. He told us that large number of Jats had passed his village on trucks, tractors, cars and motorcycles to participate in the Mahapanchayat at Nangla. They were carrying arms like swords,

kirpans, ballam, pistols, rifles and bricks. They were in highly agitated moods and were shouting provocative anti-muslim slogans like "Musalmano ka ek hi sthan, Pakistan ya Kabristan". They had effigies of the Muslims with caps and towels and were burning them. He further told us that some of the Jats made objectionable gestures towards the Muslim women during procession while proceeding to attend the MahaPanchayat. Purbalian is a Muslim dominated village and the provocative slogans and shouting had spread alarm and apprehension among the villagers. They started taking defensive strategy. When the Jats returned after attending Mahapanchayat the same night, they were very aggressive and had started abusing, manhandling and attacking those who appeared to them as Muslims. When they came to Purbalian village they were shouting the same provocative slogans and started throwing bricks on the houses of Muslims. They also set fires to some of the houses in which 22 houses were burnt. It enraged the members of the Muslim community, especially the young, and there could have been large scale violence if the Muslim tried to retaliate but they were restrained by their elders. The police personnel were also present on the spot. He further told us that false report has been made against him and his name is also included as one of the accused in the FIR which was lodged for violent incidents at Purbalian in which total 32 persons have been made accused. He said that SP (Samajwadi Party) and BJP (Bhartiya Janata Party) parties were in collusion and he said that administration should not have allowed the procession to move when the processionists were openly flaunting their deadly weapons and shouting inflammatory and provocative slogans against the Muslim community for the whole day.

Meeting with the Sarpanch and other members of the villages namely Kankada, Muzaffarnagar Dist.

After meeting Shakir Ali, the *Pradhan* of the Purbalian village, the team members met Shri Ravinder who is Sarpanch of village Kankada which is situated near Purbalian village. Three residents of this village belonging to Jat community were killed at Purbalian on the night of 7th Sept. 2013 in the communal violence. Surprising aspect is that though three Jats of this village were killed at Purbalian village, there was no killing of the Muslims in retaliation, though it is Jat dominated village and Muslims were in helpless minority. *Pradhan* Ravinder Kumar told the team that anger was running high in the village on receipt of the news of killings of their three residents, but he alongwith other elders saw to it that no untoward incident take place in retaliation. They were able to prevent violent incidents but since there was lot of tension and rumours were wild, they were not able to prevent the exodus of the Muslims from the village, in fact they also helped in the safe passage of the fleeing families numbering about 300. However two Muslim families did not flee and were still residing in the village. He told us that he phoned the police and other administrative officials but there was no response and no official help came on 7th or 8th Sept. 2013. He said that he was in contact with members of the Muslim families in the relief camps and he and other elders were trying their utmost to persuade them to return to the village but the government is not helping in the effort. About 265 Muslim families of the village had received compensation of Rs. Five lakhs each from the government till that time and the families are reluctant to return because there is condition of the compensation that if any family return to the village, the compensation paid will have to be

returned back to the government. He said that he and other members of the village sincerely want the displaced families to return to the village and the Jats were ready to take any step in this direction. He told us that the Jats of the village were taking care of the houses and other property of the displaced families and providing protection. He further told that his name was falsely included in a FIR as one of the accused but later on his name was removed.

The Kutuba village, Muzaffarnagar district

The team members visited Kutuba village where 8 persons belonging to the Muslim community were killed and met some of the residents. We could not meet the *Sarpanch*. We were told that as soon as the Jats, after attending the Maha Panchayat on 7th Sept. returned to the village on the morning of 8th Sept 2013, they started attacking the Muslim families and perpetrated the acts of killings and arson. All the Muslim families fled. Mostly these families were doing artisan jobs and rendering other menial services for the Jat landlords and as result of the total exodus of such artisans, the village was terribly suffering for want of such services. The resident of the village had to travel to several miles to other villages in search of such artisans to avail the required services. Such artisans generally happen to be Muslims and perform required services at handsome price. During our visit to the village, we found that an artisan, who was a Muslim and who had been brought by the Jats from a remote village, was busy in fixing iron heels to the oxen, buffalos etc. of the village and for doing around 30 such jobs had earned around Rs.4000/- in a single day.

The village Kutuba is adjoined by another village, namely Kutubi. Both the villages are joint by walls. We were told that the inhabitant Jats of Kutuba village are very hot headed

and are prone to violence on slightest opportunity while the Jats of Kutubivillage have sober temperament. For this reason there was no killing in Kutubi village, while there were eight killings in the adjoining Kutuba. However the Muslim residents of both the villages had to flee. We were told of the instances where Jat women had provided their 'dhotees'/'sarees' to Muslim women to enable them to flee in Hindu attire. We were also told of an elderly Jat woman of the Kutuba village who was very upset and was making periodic visits to the relief camps to meet her Muslim neighbours.

Meeting with the Sarpanch and other members of Lisad village, Shamli District

The team members met Ajit Singh, the Sarpanch of Lisad village in Shamli district where about 13 killings, maximum killings in a village, had taken place. During meeting with him large numbers of Panchayat members numbering around 100 had collected in 'Choupa' (verandah) near the Sarpanch's house and there was very lively discussion. We told them that the main purpose of our visit was to find out whether it was possible for the displaced persons of this village to return to their village. All in one opinion replied that they themselves wanted them to return but the administration was not taking any step in this direction. Sarpanch told us that he had visited the relief camps alongwith other residents of the village and had requested the displaced families to return. But such efforts have not been fruitful. In fact his grievance was that the amount of compensation of Rs. Five lakhs promised to the each displaced family was the main obstacle because the displaced family were not returning as they were afraid that they may be asked to return the said amount of compensation if they return. One youngman murmured, 'UNKE

JAANE SE TO HAMARE GAON KI TO RAUNAK HI CHALI GAYEE, DEKHO GAON KITNA SOONA SOONA SALAGTA HAI!' (After their departure all the shine of our village has disappeared, you see how empty our village appears!). Another murmured if there is even a puncture in the tyre of a bike, one has to travel several miles to get it repaired. Sarpanch told us that the houses of the displaced persons were being properly protected and there was nothing to be afraid of. He further told that displaced persons were in fact coming and visiting their houses to collect some of the necessary items from their houses. In fact many of them were visiting the bank branch located in the village to operate their accounts.

Two aspects of the problem:

The team was able to find two aspects relating to displaced villagers. The administration has divided the affected persons in two segments:

One relating to those who were displaced from the villages where incidents of large scale violence, killings, burnings etc. took place. The number of such villages has been determined nine. The second segment is of those villages numbering about 125 where physical violence resulting into casualties etc. did not take place but the members of the Muslim community fled from their homes out of fear.

All the relief camps in Muzaffarnagar district have been dismantled. Similarly all the relief camps in Shamli district except the two were found dismantled at the time of the visit of the team.

The issue of nine villages:

The displaced persons of these villages are not prepared to return to their respective villages for the following reasons:

Killings of the close relatives, arson, looting, beating and other physical violence had taken place in these

villages and they are afraid to return. They have also filed F.I.R.s against the assailants and large number of those assailants have not yet been arrested and are roaming freely in the area.

The State Govt. has given compensation to the victims of killings amounting to Rs. 10 lakhs to the family for one death. Besides small amount of compensation has been decided to be given to each family for damages due to burning or looting as per assessment. Further it has been decided to give a compensation of Rs. 5 lakhs to each family to enable them to rehabilitate elsewhere as such families are finding it difficult to return to their villages. The administration has taken an affidavit from each of such families to the effect that they would not make any claim from the Govt. on account of any loss of their moveable or immovable properties which had been left in the village and that they would not return to their villages. Such compensation has been given to large number of families of these nine villages and the claims of others are in process. Those who have taken this amount have been told that if they return to their villages, they will have to refund the said amount of Rs. 5 Lakhs. In view of this condition even if some may be persuaded to return to their respective villages, they are not willing to go back lest they should to return the amount of compensation. Many of such villagers have bought lands in groups and have started building their houses. We visited two of such places in Muzaffarnagar district, one in Bassi Kalan and another nearby. Many have taken accommodation on rent. But they are not willing to return to their villages.

The issue of 125 villages:

It appears that many displaced persons belonging to 125 villages have returned back, but still there are stated to be large number who

have taken accommodation on rent or residing with their relatives. The administration has decided not to give any compensation to such villagers. In the relief camp of Malakpur, Shamli district there are about 700 families. We could not ascertain the number of families in the adjoining camp. The villagers in the camp said that they were not willing to return to their homes.

Meeting with District officials

The team members met Indermani Tripathi, ADM (E), Rajesh Kumar Srivastava, A.D.M. (Finance) both of Muzaffarnagar district, and Ram Niwas Sharma, S.D.M. (UP Jila Adhikari) of Shamli District. From their discussion it transpired that the administrative officials had tried to do their best in the circumstances, but because of the lack of police forces they could not succeed in checking the violence on 7th and 8th Sept. 2013. There were total about 65 killings, including 12/13 of Hindu Jats and rest were Muslims. Till 10th January 2014, 225 accused had been arrested and 39 surrendered. However about 99% of such arrested persons were able to secure bail. According to them the administration is busy in taking steps to rehabilitate the displaced persons and solving their problems. The administration was making arrangement for teaching of the students whose education has suffered and getting examination and admission rules relaxed in their favour. They were also searching the whereabouts of those displaced families who have not returned to their villages (except those of affected nine villages). Tripathi told us that every information is available on the website of the administration.

Silver Lining:

It appears that the main design of the communal forces who instigated this violence was to engulf the entire western UP region in large scale communal conflagration to polarize two communities. They had

circulated venomous rumours and a doctored video clip to inflame passions among the Hindu community. But the serious violence of killings, arson etc. remained confined to nine villages only. There are around 500 villages in Muzaffarnagar district and 300 villages in Shamli district. Out of these 800 villages, besides 9 villages where violent incidents of killing etc. took place, the exodus of Muslims took place only from 125 villages, and this was as a result of fear, though no violent incidents of killing, burning or looting of houses etc. is stated to have taken place in those villages. We heard many stories of help and protection given to respective communities in large number of villages and efforts made by them to maintain communal harmony. As soon as the news of violence started circulating, the members of different communities held joint meetings alongwith the administration at several places to ensure that the violence did not spread further. Meetings held at Budhana in Muzaffarnagar district and at Meerut are noteworthy in this connection. It is also worthwhile to note that among those 800 villages situated in Muzaffarnagar and Shamli districts, there are large number of villages – in hundreds, which are dominated by Muslims and in such villages the Muslims ensured that no harm was done to the members of the Hindu community. There was no exodus of any member of the Hindu community from any village. Similarly there are large number of Hindu dominated villages where the dominant sections ensured that no harm is done to the members of the Muslim community. The team members also had few discussions at roadside tea shops etc. with members of the local populace, and the general feeling entertained by them appeared to be that the violence in Muzaffarnagar and Shamli districts were orchestrated

to serve certain political interests. The team is of the opinion that such stories and acts wherein local residents of both communities did their utmost to prevent the violence spreading further and tried to maintain communal harmony need to be investigated and published and encouraged. The civil society organizations interested in the promotion and maintenance of communal harmony and democratic values would do well if in future they make repeated visits to different villages and towns of these two districts and have dialogue with local groups to strengthen feelings of communal harmony and goodwill among them. Forum for Democracy and Communal Harmony (FDCA) has already decided to take such exercise.

Demands and Recommendations:

Conditions must be created to enable those uprooted from their homes in the riot-affected villages to go back to the villages. They have the fundamental right under the Constitution to safe and peaceful stay at their homes and occupation of their properties. This will also be the most effective means of restoring communal harmony and amity in the riot affected areas of these two districts. Finally, it will restore confidence among the Muslim population not only in the rest of U.P. but also in India.

4. The following steps should be taken in order to create the conditions conducive to the return of those displaced by the riots, to their hearths and homes:-

A suitable job should be given to a family member of deceased:

The State Government should forthwith withdraw the condition that those who have been provided compensation of Rs.5 lakhs will have to surrender this amount if they go back to their homes;

Those who have not been or are not

qualified to receive this compensation but have fled their homes out of fear, should be provided, both as a means as well as an incentive, for returning and resettling in the homes/shelters from where they have fled out of fear of life. A sum of Rs.3 lakhs per person could be the appropriate level of such assistance;

An additional incentive should be given as temporary employment until cultivation by those who have land is resumed and the landless on return are able to find jobs. For this, a fund of Rupees five Crores should be created urgently either by the State or the Central Government or by both of them jointly. The operation of the fund should be entrusted to a committee consisting of local representatives of affected people, social activists of the area concerned and a qualified officer of the State Government of reasonable seniority.

The State Government should deploy an appropriate number of personnel to liaise with the *Gram Pradhans* of the affected villages for locating and inviting those displaced to return to their villages. For this, help should be taken of the volunteers of the NGOs active in this area. The FDCA itself will be happy to designate a team for this purpose; In spite of these measures, the displaced families may not return to their villages so long as justice is not done to them and those directly involved in perpetrating the violence are freely roaming around in the affected villages. It is, therefore, essential that most of those against whom FIRs have been lodged should be arrested without delay and those involved in violence and arrested should not be released without a court order.

(By all accounts, 540 FIRs have been registered in connection with the violence in which 6000 persons

have been named. Out of this, only 208 have so far been arrested. This is hardly conducive to restoring confidence and doing justice to the riot affected people).

Immediate steps should be taken to make special arrangements for the education of the displaced children and special examinations should be conducted, if necessary, to ensure that these students do not lose their academic year.

Representations made to the Chief Minister, UP and Mulayam Singh

FDCA has also sent representations of the above demands and recommendations to Akhilesh Yadav, the Chief Minister and Mulayam Singh, the President of the S.P. and has tried to seek appointment but there has no response from the government side. Copies of those representations are enclosed. □

Statement from the AHRC: April 16, 2014

Criminal Justice Reform Duty of State, Not Court

The Asian Human Rights Commission (AHRC) appreciates the observations made by the Supreme Court of India that the Indian criminal justice process will immensely benefit from crime investigating agencies adopting scientific investigation methods. The apex court has said that the old style of conducting investigations, relying on confession statements and oral evidence in criminal trials, often results in gross miscarriage of justice. Miscarriage of justice can be corrected to a large extent if the investigation process adopts, and adapts itself to, utilizing new developments in science and technology, said the court.

The court made its opinion while deciding Criminal Appeal 369 / 2006 [in /Dharan Deo Yadav, Appellant against the State of Uttar Pradesh, Respondent/]. The case was decided against the appellant who appealed against a sentence

and conviction by the High Court of Uttar Pradesh, which the Supreme Court modified and reduced to rigorous imprisonment instead of capital punishment. The judgment was delivered on 11 April 2014.

One could spend time wondering why it has taken the Supreme Court of India so long to make such a basic observation. It is trite to argue that the criminal justice process in India has had, and continues to suffer from, serious defects. These defects are of such nature and magnitude that they often lead to acquittal of the accused. Investigation of crime depends upon oral testimonies of the accused and the witnesses that often fail to stand the test of cross-examination in trials. The over dependence on oral testimonies is due to minimal resources and training being provided to crime investigation agencies for them to conduct investigation through any other means.

In this regard, the court has failed to adequately understand and appreciate the fact that the responsibility of equipping crime investigation agencies so they may undertake scientific investigation lies with the government. At the moment, the government's policy is to maintain a /status quo,/ i.e. to keep investigating agencies of the state inept.

While it is important for the Supreme Court to urge state investigating agencies to adopt scientific investigation methods, it would be more relevant for the court to point out whose responsibility it is to equip them. It is equally significant for the court, and the people of India, to pose some questions: why is it that in a country like India, one that has financial resources aplenty, crime investigation agents are expected to operate in a state of paucity and resultant ineptitude?

And, who benefits from this?

In an earlier judgment, the court had taken the lead to declare that legislators in lawful custody and those convicted of crimes stand disqualified from contesting elections. The spirit of this judgment is to push through some reform, to begin the end of the era of criminal politicians in India. Not surprisingly, the Union government, and Indian politicians - of all colours and kinds - opposed a move that has the potential to precipitate the end of the 'criminal raj'. The Indian state failed to breathe life into this critical exercise embarked upon by the court. What remained news headlines for about a month has now lost prominence. As a result, the Indian polity remains under the grip of criminals. It is this self-same syndicate of criminal politicians, along with their business cronies / who benefit from the /status quo/ of ineptitude that persists in the place of scientific criminal investigation in India.

Criminal justice institutional reforms fundamentally depend upon:

/(i) understanding the problems that adversely affects the performance of the criminal justice apparatus; (ii) the state having a policy to address these problems in a time-bound manner./

Unfortunately the fate of the criminal justice process in India is such that, right from the registration of a complaint, the processes and procedures followed are flawed. And, these flawed procedures are undertaken by the state police, which is infamous for its criminality, and where efficiency is unknown.

And, unfortunately, to date, investigation of crimes depend exclusively on confession statements extracted by investigators, often by the use of brute forms of torture. Torture, is not outlawed in India despite it being considered a crime against humanity globally. Moreover, even the Indian judiciary abounds with judges who believe that by torturing

the /true culprit/ an investigator commits no crime.

This must change.

Crime investigation, drawing upon advancement in technology and science, calls for the constitution of a resourceful, trained, and equipped division of forensic investigators. However, this is the lowest priority for the Indian government. Samples collected from crime scenes, and other material objects that need to be sent for forensic examinations, are often wrapped in newspapers. Contamination of scientific evidence begins at the point where such evidence is first collected. It is the responsibility of the Indian state to provide all necessary training and infrastructure to law enforcement agencies so the prevailing unscientific ineptitude can be replaced with quality investigative work.

The reason such change, essential for health of Indian society, has not been ushered in is that agencies undertaking crime investigations are used for social control rather than solving crime. It follows that arbitrary arrests, disappearances, and extrajudicial executions are common in India. Social control is achieved by misusing uniformed state agencies to gear them to use brute force - and torture, with impunity - in order to instil fear and subservience in the population. Prolonged periods of abuse of investigation agencies for social control has demoralised these agencies to such an extent that they engage in horrendous crimes committed with impunity against ordinary citizens. The Indian polity encourages and nurtures this criminal character of investigation agencies.

It is also important for the Indian judiciary to introspect, particularly when addressing the question of delay. Just as it is not within the absolute realm of the investigation agencies to find resources for equipping themselves with scientific tools in order to do their job, it is not

the judiciary's responsibility to find adequate resources to run its office. It is, once again, the Indian state that has to provide for this.

Unfortunately, other than complaining about the inordinate delay in adjudication, the Indian judiciary has failed to force the state to provide adequately for the judiciary to undertake its work. It is again trite to state that the single largest impediment for witnesses to freely testify in court is the delay the cases undergo, with decades going by before trials are completed. If one knows that one would have to visit the courts for ten years or more, forget about the reality of the lack of witness protection in India, how many witnesses to a crime would be willing to testify?

A change from the prevailing circumstances is neither the responsibility of the court nor that of the Indian police. This responsibility rests exclusively with the Indian State. It is a constitutional obligation for the government to establish a civilian policing system that is equipped and trained to undertake policing in a civilized manner. Equally, it is the responsibility of the civil society in India, which includes the media, to ensure that the unacceptable /status quo/ concerning the Indian crime investigation agencies is changed.

The Supreme Court has rightly said that the criminal justice process in India is at a crossroad. The path towards absolute demoralization based on servitude, inefficiency, corruption and criminality lies wide open, whereas the path towards reform, efficiency, and a torture free policing system is yet to be even discussed, yet to be marked. It is upon the people of India to realize what has been denied to them for so long, and to set about creating this path, failing which the internally wilted criminal justice process in the country will collapse, facade and all. □

Cancellation of Registration of GMERS Medical College, Valsad

The Secretary, Department of Health & Family Welfare, Nirman Bhawan, C-Wing, New Delhi 110001

Dear Madam/Sirs,

GMERS Medical College and Hospital Valsad is an institute managed by Gujarat Medical Education and Research Society and is affiliated to Veer Narmad South Gujarat University. It is claimed in their website that "The institute is spread over 36 Acre lush green campus situated in the beautiful city of Valsad, South Gujarat. The nearest airport is Surat Airport which is 90 kms and the nearest railway station is Valsad Railway station which is 2 kms. The nearest Hotel accommodation is in Daman. The campus houses college building, hospital building and residential quarters for the doctors, nursing staff and student's hostel."

If you visit the website and then the physical site at the ground the picture is not just contradictory but it suggests that the authorities should immediately take action against the officers who gave the permission to start the MBBS College and they should be prosecuted for such a criminal act. We are attaching the photographs for your reference. It is doubtful that the institute is meeting the MCI criteria for a teaching medical college.

The college campus is more like some heavy duty construction/ industrial site than an academic institute. Life and safety of staff, patients and students are severally compromised here.

Gujarat Medical Education and Research Society is a registered trust/society controlled by the Government of Gujarat.

It has started medical colleges at Gotri (Vadodara), Sola (Ahmedabad), Gandhinagar, Patan and Valsad in Gujarat.

In Valsad, it occupied building meant for nursing school and setting up 1st

MBBS departments (physiology, anatomy, biochemistry and college offices) to show to the medical council for getting permission for starting the first year in 2012. The existing district hospital/general hospital of Valsad was shown as attached hospital.

The actual college building was under construction - and is still under construction - and cannot be occupied. In March 2013 practically there was no space to set up 2nd MBBS department so the masterminds of the college and Government of Gujarat decided to preoccupy the half constructed new hospital building for setting up pharmacology, pathology, microbiology, community medicine and forensic medicine department and college library, reading rooms, etc. in violation of building norms and regulations without a single safety permission or basic facilities like toilet, water, lifts, fire-safety etc. Even today the reality is all most identical.

As per our information very recently the Executive Engineer of PIU Zone - 7, Valsad had categorically stated that the campus is under construction and New Hospital building, College Building, Staff Quarters (192 Flats), Boys Hostel, Girls Hostel, Intern Hostel and Resident Hostel are not handed over to GMERS authority and Medical College Building work is in progress.

There is no real medical college building in a functional state as the 1st MBBS functions from building earmarked for nursing college while 2nd MBBS departments are in the dangerous high-rise under construction place earmarked for the GMERS hospital!

While the engineers, contractors and workers move with safety gears and gadgets like helmets, safety shoes, gloves etc. the students, staff and patients are left at the mercy of the God in this campus where every square meter has some kind of ongoing construction or related

activities and free movements of mega trucks, heavy cranes and such machinery.

Due to ongoing construction and related activities in and around, there are continuous, loud and banging noises, air and diesel-sets related and other pollutions affecting not only the routine working but the health of the occupants and frequent visitors. There is no drinking water, working toilets, bathrooms due to under construction nature of this high-rise hospital building. Ways are constantly occupied by trucks, tractors, cranes, JCB machines and heavy machinery and each student and staff has to find his/her own safety and way for the movement. Dirt and filth, common to any construction site are seen almost everywhere in and around this high rise under construction hospital building.

The road to reach this prematurely occupied building is non-existent; similarly parking is not available for the occupants and visitors of this under construction high-rise building. In fact the parking space is illegally occupied by the college library.

The safety-net to catch any falling objects from the ongoing constructions on the upper floors is installed just a few days back but cement, water and other materials are still showering through this so called safety net!

Occupying such high-rise building WITHOUT proper safety and all the permissions and certificates from the builder (IVRCL infra), Project Implementation Unit (PIU of Health Department) and the town-planning and other concerned government authorities at local level is an awful, severe and unpardonable CRIME.

It is probably the Dean of the college, Dr R. D. Patel, as well as the Board of the GMERS society, who are responsible for this crime going on for the last one year. It is well known in the campus that anyone who raises voice demanding basic infrastructure, safety and facilities is

harassed in a number of ways including salary cuts and adversely affecting the service records. Asking for safety and justice is considered an unforgivable offence here. Repeated written requests by the affected for details of appeal officer (to file the appeal against wrong decisions affecting the service records and/or salary) to the Dean are not replied at all. Similar is the fate of other many applications meant for either Dean Office or Higher offices. Administrative office is twisted in every possible way to favour some while harm others those who are pointing to repeated violations of basic provisions, rules, laws, fundamental rights and standard practices in government. Asking for a computer with internet for preparing slide-show lectures for students and career enhancement can offend the local administration so much that the applicant is then harassed in varied ways with every possible twisting of the administrative mechanism.

The staff who has no other option as their offices-departments are established in this dangerous under construction high-rise building, Patients who have no other option as mostly poor people visit the government hospital for free services and most importantly the young students who are shown a very green picture on the college website (<http://gmersmcvalsad.org/>) with 3D models of college buildings but once admitted they have no choice but to endanger and risk their lives and health daily at every step to participate in the study activities even if these are going on in/near any under-construction sites in the campus) are at extreme risk. Lives as well as health of all the concerned are at risk and under constant threat here.

So there are clear violations going on in the GMERS Medical College and Hospital Campus of Valsad of universal declaration of the human rights, fundamental rights

guaranteed by the constitution of India, various laws of the land and various court orders by premature occupation of the under-construction high hospital building as well as by continuous construction-construction related activities and heavy machinery use in and around the so called college buildings and the old district hospital premises. Not providing proper college building even at the time of 3rd inspection by Medical Council of India is an unpardonable offence. Indeed we wonder on what basis has the Medical Council of India has given permission to start courses in this "college".

You are requested to personally visit the GMERS Medical College immediately or depute immediately your vigilance officer to experience each of the facts mentioned above as well as to identify the culprits who have clearly displayed their criminal negligence and has endangered lives and human rights of students and faculty.

We demand:

1. The authorities visit the site of GMERS Medical College within 10 days to assure themselves of the prima-facie violation of rights and statutory requirements and appoint a committee to investigate the matter further.
2. Cancel the registration of the GMERS Medical College of Valsad.
3. Take immediate action against the concerned authorities who gave this illegal permission to start and run the GMERS Medical College of Valsad.
4. Transfer all the student and staff to other legal medical colleges in Gujarat so that their education does not suffer.
5. Take action against the Board of the GMERS Society and the MCI for operating a medical college in violation of basic requirements.

Rohit Prajapati, S. Srinivasan - Executive Committee Members of PUCL, Gujarat □

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