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## Encounter Jurisprudence: Curbing Police Lawlessness

V. Suresh

For the last 30-40 years, the Indian police has become infamous for carrying out what has come to be euphemistically called 'encounter' deaths occurring due to police using fire arms against alleged 'dreaded criminals' or terrorists or extremists or anti-social elements. The policemen would claim in most such encounters that as the killed persons attacked and fired at them first and they were therefore forced to use firearms in self-defence. Invariably no FIR would be filed and there would be no investigation as to the genuineness of the encounter incident and whether police firing was in fact, justified. In many such cases the police officers would be given gallantry awards, promotions and other rewards. Despite numerous Fact Finding Reports of human rights groups as also investigative reports of media highlighting that the police claims appeared to be false the police officials remained immune from accountability. The impunity the policemen enjoyed emboldened them resulted in killing of hundreds of people all across India.

After many years of legal struggle, the first judicial step forward to make policemen accountable was achieved in the 1997 case of '*K.G Kannabiran vs. Chief Secretary, Government of AP*'. In this case the AP police claimed they had to shoot down T. Madhusudhanraj Yadav in Hyderabad in self defence as he had shot at them first. Noting that curiously the policemen had not sustained any injuries by firearms, the AP High Court noted that "it will neither be correct nor proper at the outset to ignore altogether the act of commission of offence and not to register a case at all of a homicide at the hands of the police personnel". The HC pointed out that the plea of self-defence was at best a defence available to the policemen at the time of trial and could not be used as an excuse to deny registration of a FIR in each such case of encounter.

The alarming incidence of encounter killings led the Supreme Court pointing out in '*Om Prakash vs State of Jharkhand*' (2011) that "It is not the duty of the police officers to kill the accused merely because he is a dreaded criminal ... this court has repeatedly admonished trigger-happy police personnel who liquidate criminals and project the incident as an encounter. Such killings must be deprecated. They are not recognised as legal by our criminal justice administration system. They amount to state-sponsored terrorism". In Prakash Kadam case (2011) the SC pointed out that 'encounter philosophy is a criminal philosophy'.

On 23<sup>rd</sup> September, 2014, the SC of India delivered a landmark ruling in '*People's Union for Civi Liberties vs State of Maharashtra*' holding that in

all such encounter cases a FIR needed to be registered and investigation should be conducted by an independent agency unconnected with the policemen involved with the encounter. We carry two articles in this issue explaining the important features of this ruling which definitely has expanded the field of 'encounter jurisprudence'.

The SC in the PUCL case points to the wide ranging problem of police non-accountability and impunity. The judgment examines the National Crimes Record Bureau Report for 2013 which reports 51,120 complaints against the police personnel of which 14,928 were dealt with departmentally, 53 cases ended in conviction, 544 persons were dismissed and 3,980 were awarded major punishment. The SC

expressed its doubts about the correctness of the NCRB figures relating to police encounters which showed only 2 encounter case all over India!

Of greater concern, therefore, is the wider issue of transparency and accountability of the police and curbing impunity. Despite clear recommendations of the National Police Commissions and various Expert Committees set up the apex court itself, most State Governments are reluctant to initiate wide ranging police reforms which includes separation of police functionaries in terms of bandobust and security functions from crime detection and investigative police, ensuring independence in functioning and non-interference from political executive, increased accountability of police officials, creating an

independent Security Commission to which citizens can complain about police excesses, forming local committees of citizens to oversee local police functioning and so on. Over time a mafia of vested interests including corrupt officials, politicians, moneyed interests, dominant community leaders and the police has emerged which block urgently needed democratisation of police functioning and institution wide police reforms. Civil society will have to raise their combined voices to demand these changes. It is only an alert, aware and awakened society which can be an effective deterrence to police lawlessness. This is the larger unfinished task before the human rights movement.

**V. Suresh**, General Secretary, PUCL National ☐

## 16 changes the SC recommends to Prevent Fake Police Encounter Killings

The Supreme Court cracked down on the rise in fake encounter killings by the police, ruling in a writ petition filed by the People's Union for Civil Liberties (PUCL).

PUCL had questioned the genuineness of 99 encounters by the Mumbai police resulting in the death of about 135 persons between 1995 and 1997.

The Supreme Court bench of Chief Justice of India (CJI) RM Lodha and Justice Rohinton Nariman, issued a 16-point guideline "to be followed in the matters of investigating police encounters in the cases of death as the standard procedure for thorough, effective and independent investigation".

Notably, the court said that investigations into any police killings with guns must be undertaken by experienced state CID or another police station, and magistrate and state Human Rights Commission or the National Human Rights Commission must be alerted in any such case.

The guidelines are as follows:

1. Tip-offs about criminal activities must be recorded either in writing or electronic form
2. If pursuant to a tip-off the police uses firearms and this results in death of a person, then an FIR initiating proper criminal investigation must be registered
3. Investigation into such death will be done by an independent CID team which has to fulfil eight minimum investigation requirements
4. Mandatory magisterial inquiry into all cases of encounter deaths
5. The NHRC or State commission must be immediately informed of the encounter death
6. Medical aid to injured victim/criminal and a magistrate should record his statement
7. Ensure forwarding FIR and police diary entries to court without delay
8. Expeditious and proper trial
9. Informing next of kin of the dead alleged criminal
10. Bi-annual statements of all encounter killings to be sent to the

NHRC and state commissions by a set date in a set format

11. Disciplinary action against and suspension of a police officer found guilty of wrongful encounter
  12. Compensation scheme under the CrPC to be followed for awarding it to kin of dead victim
  13. Police officers must surrender their weapons for investigation, subject to rights under Article 20 of the Constitution
  14. Also intimate family of accused police officer and offer services of lawyer/counsellor
  15. No out of turn gallantry awards for the officers involved in encounter killings
  16. The family of the victim can complain to the Sessions judge if it feels that these guidelines have not been followed. The judge will take cognizance.
- Link. <<http://www.legallyindia.com/201409235082/Bar-Bench-Litigation/sc-guidelines-to-prevent-fake-encounter-killings>>  
Tuesday, 23 September 2014 ☐

Sanjay Parikh's article on SC Guidelines to Prevent Fake Encounters - Published in 'Indian Currents': It is very informative and explains the background of the case and PUCL's role in the whole case:

## Rule of Law Rules Sanjay Parikh\*

The Supreme Court, in a petition filed by People's Union for Civil Liberties (PUCL), has laid down as many as 16 Guidelines which have to be treated as law declared under Article 141 of the Constitution. The Order dated 23rd September, 2014 of the Apex Court is applauded as well as criticised.

The occasion to lay down the guidelines arose out of a writ petition filed by the PUCL in the Bombay High Court questioning the 99 Police encounters which had taken place between 1995 and 1997 in Mumbai resulting in death of 135 persons. The High Court, after finding that the police failed to act in accordance with law and there were lapses and laxity on the part of police, formulated 10 mandatory directions to be followed by the Police. The High Court significantly observed that it will be for the competent court and not for the police to decide whether the act of encounter was in self-defence. The High Court also made it clear that the police shall not close any case on the alleged ground of self-defence.

Therefore, before the Supreme Court, the directions given by the High Court already existed; in addition, the guidelines framed by the National Human Rights Commission were also available. First set of guidelines were issued by the NHRC (Justice Rangnath Misra being its Chairperson) on 5.11.1996. The need to frame the guidelines arose in the context of the Andhra Pradesh Civil Liberties Committee (APCLC) challenging 285 police encounters, as fake. The NHRC had taken up sample 5 cases to determine whether prima facie the allegations of APCLC were correct. The State of Andhra Pradesh was duly represented by its Advocate General. Mr. K.G. Kannabiran (former president of PUCL and a

senior advocate) had appeared for APCLC. The Commission after examining the entire material had opined that prima facie the version of the complainant- APCLC appeared to be nearer truth, namely, that prima-facie all 5 cases appeared to be fake police encounters. It was during this enquiry that startling admission was made by the Advocate General of Andhra Pradesh: that in these cases, the practice observed in the State was that when an encounter death takes place, an entry was made in the police station of the said fact and FIR was drawn up showing the deceased as an accused and then closing the case as having abated on account of death of the accused person. It was admitted that no investigation was ordinarily undertaken and that the Police itself used to decide that it acted in the right of private defence, based on their own knowledge, and thereafter, closing the matter.

The NHRC found this practice totally unacceptable and commented that scheme of criminal law prevailing in India made no distinction between an ordinary person and a policeman. The argument of inconvenience to the police was rejected by referring to the constitutional framework and that hardship of the State cannot take away or abridge Article 21 of the Constitution. The doctrine of necessity was rejected as it cannot apply as a cover against the Fundamental Rights. The Commission opined that if the procedure of registering the FIR and conducting investigation as per law is not followed, "it would give licence to the police to kill with impunity any citizen in the name of an encounter by just stating that he acted 'in the right of private defence' or under Section 46 of the Code. A procedure that brings about the unjust, unfair

and unreasonable consequences cannot be countenanced as being within Article 21 of the Constitution." The NHRC categorically held that the practice which was followed in Andhra Pradesh by the Police was unjust, unfair, unreasonable and violative of Article 21 of the Constitution.

Thereafter by letter dated 29th March 1997, the guidelines laid down for Andhra Pradesh were sent to the Chief Ministers of all the States by the NHRC (during the tenure of Justice M.N. Venkatachaliah as the Chairperson). On 2nd December, 2003, the NHRC (under the Chairmanship of Justice A.S. Anand), while reiterating the earlier guidelines of the Commission, added that the experience of the Commission in the past 6 years was not very encouraging and that most of the States were not following the guidelines in the true spirit. In view of this experience, some modifications were made and as many as 8 guidelines were issued to all the States/UTs. The modified guidelines included submission of 6 monthly statements of all cases of deaths in police action to the NHRC by the 15th day of January and July respectively. Justice G.P. Mathur, acting Chairperson of NHRC, later added that all cases of deaths in police action should be reported within 48 hrs. of such death and that the second report should be sent within 3 months. The proceedings of the NHRC thus clearly show that police encounters were perceived as cases of gross human rights violations.

The data collected by the NHRC from 1993 to 31.3.2010, show that 1590 cases of encounter were based on the information, out of which 1560 were concerned with police, 19 with defence and 11 with

para-military forces. Out of these cases, 861 were closed. Similarly, the number of encounter received through complaints were 1366: 1311 of Police, 20 of defence and 35 of Para-military; out of which, 968 were closed. During this entire period, the NHRC had given compensation only in 27 cases. The said data is based on the information given by the States/UTs, but no data of police encounter is available where no information was recorded, where all incriminating evidence was removed and where nobody dared to complain against the police.

Fake police encounters do happen in the name of fighting terrorism. PUCL had filed a petition before the Supreme Court in the Year 1992 (decided in 1997 in PUCL Vs UOI &Ors.) regarding killing of two persons in Manipur in a fake encounter, whom the police was charging as members of a terrorist organisation. The Supreme Court had asked the District and Sessions Judge to enquire into it and submit a report. In the enquiry report, the Sessions Judge found that there was no encounter; the two Manipuri persons were shot dead by the police while in police custody. The Supreme Court awarded compensation to the families of these two persons. It, however, added that even while dealing with terrorists, the proper course was to deal with them according to law, "administrative liquidation" was not

a course open to the police.

The Universal Declaration of Human Rights and Covenant on the Civil and Political Rights emphasise on right to life and that it cannot be taken away arbitrarily. Our Constitution provides for the sanctity of life, a fair procedure and equal treatment of all the citizens. Indian law does not make any distinction between a policeman and an ordinary person if a serious crime resulting in death takes place. The Criminal Procedure Code envisages registration of FIR in all the cognizable offences followed by a fair and independent investigation and submission of a charge sheet before the court. It also envisages magisterial enquiry in the causes of death. The Indian Penal Code provides exceptions where a person can claim that he acted in the right of private defence and has not committed an offence. Section 105 of the Evidence Act says that burden of proving the fact that the act falls under any of the general exceptions provided in the IPC is on the person who claims it, otherwise the court shall presume the absence of such circumstances. The police like an ordinary person can therefore, claim the benefit of these exceptions only in defence and cannot take advantage of it by either not registering the FIR or not investigating it impartially and fairly. Similarly, Section 46 (3) of Cr.P.C gives power to the police to arrest a

person and does not empower the police to cause death if the offence alleged is not punishable with death or life imprisonment. But if death occurs, the facts are required to be examined by court during trial; the police cannot decide for itself. If the Constitution and the laws framed by the Parliament provide for a procedure to be followed in all cases of death, there is no reason why the police can claim an exception and assert its right to cause death without proper investigation and trial in accordance with law.

Another elaborate judgment of full bench of the Andhra Pradesh High Court dated 6.2.2009 also recognised that a FIR is required to be registered and investigated in all cases where a police officer causes death of a person, acting or purporting to act in discharge of his official duty or in self-defence, as the case may be.

The criticism of the judgment is not justified. The Supreme Court has reaffirmed the existing law and its implementation by the police authorities. The Supreme Court has emphasised that every person has to act within the Rule of Law and that administrative liquidation under the cover of difficult circumstances is not permissible.

*\*The writer is advocate, Supreme Court and National Vice President, PUCL (Published in Indian Currents on 6th October 2014, Issue No. 41) □*

Press release: 10th October, 2014

## **PUCL Condemns Vizag Police for Illegally Detaining Civil Liberties Activists**

The *People's Union for Civil Liberties* strongly condemns the arbitrary and illegal detention of civil liberties activists and human rights defenders in Vishakhapatnam, Andhra Pradesh on 9<sup>th</sup> October 2014 when they were trying to hold a Press Conference at the Civil Library, Vishakhapatnam to announce a meeting that was proposed to be held on 12<sup>th</sup> October

protesting Operation Green Hunt. That the hostile and intimidatory actions of the police was supported by the highest levels in government was exposed when the Vizag police arrested five other human rights activists who had gone to the Camp Office of the DIG, Vishakhapatnam Range to bring to his notice the illegal arrests of their colleagues. The fact that the Andhra police

released the activists subsequently does not mitigate from the fact that the government and police's action constitutes a serious threat to constitutionalism, rule of law and fundamental right to free speech and expression, assembly and dissent

Those detained and subsequently released are Vishakhapatnam District Civil Liberties Committee

President T Sriram Murthy, Anti-Privatisation Committee Member PV Ramana, fishermen' community leader and Advocate KS Chalam, Stree Shakti activist B Lalitha, Indian Atheists' Association members S Ramaraju and Nooka Raju; State Secretary of the Organisation for Protection of Democratic Rights (OPDR) C Bhaskara Rao, civil liberties activists N Srimannarayana, Gudimell Raghuram and SurlaVenkataRamana; and Advocate Palleti Appa Rao.

What is equally deplorable is that the police did not permit the media to meet the detained activists at the Civil Library. This constitutes a serious curtailment of freedom of the press to freely and independently function and is violative of the Indian Constitution. PUCL condemns the violent and draconian police action of detaining / arresting human rights activists while holding a press meeting as an unconstitutional act and abuse of power. It amounts to suppression of fundamental right to freedom of speech and expression. It is an attempt to stifle critical discussion of undemocratic state policies and

is calculated to intimidate, threaten and silence members of civil society from questioning the unacceptable police action. The activists arrested were well within their constitutional and legal rights to hold press meeting as also to announce arrangements for a public discussion. The Supreme Court has repeatedly stressed that dissent and oppositional views are essential part of democratic process and the government has to learn to respect all views and not use its brute powers to stifle dissent.

"Operation Green Hunt" being carried out in Central India over the last few years supposedly as a counterinsurgency operation against Maoists, has come under criticism from Civil Liberties and Human Rights organisations owing to repeated incidents of civilian casualties in encounters, complaints of widespread arbitrary and capricious arrests of ordinary adivasis who are languishing in jail for long years, and complaints of motivated implications in false criminal cases of political opponents. The draconian measures sought to be taken by the

Andhra Pradesh Government to prevent a public debate on these issues which are vital to the Constitutional Rights to Life and Liberty, particularly of the indigenous populations of Central India, are thus doubly reprehensible.

The actions of the Andhra Pradesh Government also reflect the short sighted and undemocratic attitude of labeling all dissent/ criticism as illegal or extremist, and even peaceful association, expression or protest as "support" to banned organisations. This attitude was severely castigated by the Hon'ble Apex Court in the 5<sup>th</sup> July 2013 Judgment in the *Nandini Sundar* case.

The PUCL demands that the Government of Andhra Pradesh respects the fundamental rights of citizens to free speech and expression, assembly and human rights and immediately stops the undemocratic and unconstitutional abuse / misuse of its police powers to stifle free speech and dissent.

Sd/-

**Prof. Prabhakar Sinha**, President, PUCL National; **Dr. V. Suresh**, Gen. Secretary, PUCL National □

## Balraj Puri Is No More

Balraj Puri passed away at GMC hospital Jammu & Kashmir on August 30, 2014. He was the Convener of Jammu & Kashmir PUCL. He delivered the Twenty-Sixth JP Memorial Lecture (Topic: Jayaprakash Narayan's Role in Jammu and Kashmir) in Delhi on 23rd March 2006 in Delhi.

Puri was conferred the Padma Bhushan in 2005, one of India's highest civilian honors, in Literature and Education. On 31 October 2009 he was honoured with Indira Gandhi Award for National Integration at Delhi by Prime Minister Manmohan Singh.

The whole PUCL family pays its respects to him and convey their heartfelt condolences to the bereaved family and friends and its respectful tributes to the memory of Balraj Puri.. - **General Secretary, PUCL** □

**Gujarat PUCL:** Press Release: 29 September 2014

- The affected villagers of proposed 6000 MW Nuclear Power Plant at Mithi Viridi - Jaspara are planning to organise a protest at Mithi Viridi, Dist: Bhavnagar, Gujarat on 28 September 2014 at 5.00 p.m. during the USA visit of Mr. Modi, the Prime Minister of India.
- People's struggle against proposed 6000 MW Nuclear Power Plant at Mithi Viridi planned with American company -Westinghouse Electric Corporation.
- People are telling Mr. Modi, the Prime Minister of India not to mortgage rights of the Indian villagers to Westinghouse.

**Rohit Prajapati** □

## 1000 Unlawful Police Detention Cases in India Every Year, UP and Delhi Lead

India laps up movie fare such as *Singham*, but the reality of policing hits harder home than a Rs.100-crore plus flick. Such bitter reality hit students of the Jadavpur University during the early hours of Wednesday.

The Kolkata Police entered the university, allegedly dragged and injured students including girls, and detained many as they raged against the alleged sexual assault on a student after a college fest.

The city's police chief claims his officers exercised restraint. The students believe otherwise and want the police punished. The students believe the police action was yet another instance of abuse of power.

In India, reel-life *Singhams* win popularity contests, those in real are on shaky ground. Here is a look at statistics, which give an inside view.

***"In many parts of India, the police is the only visible state presence. Police say that there is pressure from the public to punish crimes. This leads to the police acting as judge and jury, beating up suspects who are presumed guilty without trial"***

**- Meenakshi Ganguly, South Asia Director, Human Rights watch**

Custodial violations include unlawful detention, illegal arrests, custodial deaths and torture. The numbers do not show the police in shining light.

Around 3,963 cases of unlawful detention were reported from 2011 till July this year. Of these cases, 3,069 have been disposed of and 894 are pending.

In the same period, 2,532 cases of illegal arrests were reported against

the police —2,127 cases have been disposed of and 405 are pending.

Surprisingly, Delhi, a relatively small state, comes second in the number of illegal arrests, unlawful detention and tortures in police custody. Uttar Pradesh, India's most populous state, tops all the charts.

***"The police in India also complain that they subjected to constant pressures from politicians or other powerful individuals who acts as patrons to criminals, and demand that the police drop action against them"***  
**- Meenakshi Ganguly, South Asia Director, Human Rights watch**

The police had 446 cases of custodial deaths registered against them in almost four years. To make matters worse, 334 or 74% of these cases are pending.

In the same period, 1,456 cases of custodial torture were also registered. Here too, pending cases amount to 74% (1,088).

***"The NHRC does not have enough investigative capacity. It often relies on the state human rights commissions, which are understaffed and ill equipped. Often there are political appointments. to be effective, these commissions should be truly independent"***  
**- Meenakshi Ganguly, South Asia Director, Human Rights watch**

The figures used in this story are reported cases and the actual number may be higher.

Moreover, custodial deaths can also be due to ill-health, suicides, accidents and homicides among other causes.

Interestingly, the system is swift

while disposing of cases of illegal arrests and unlawful detention, with a disposal rate of 84% and 77%.

ND Pancholi, President, Delhi chapter of the *People's Union for Civil Liberty (PUCL)* said, "There is no effort on the part of ruling parties to chart out police training which inculcates the feeling among police personnel that their prime responsibility is to the Constitution, rule of law and to the people".

The National Human Rights Commission (NHRC) takes note of these violations. In the period analysed, the NHRC filed 72 cases against illegal arrests and unlawful detention. It imposed a fine of Rs.53 lakh. Disciplinary action was taken in 10 cases, but did not lead to any prosecutions.

The NHRC also filed around 242 cases against the police for deaths and torture. A fine of Rs.6 crore was imposed on the police. Disciplinary action was taken in 13 cases. It led to just one prosecution.

Abuse by the police, however, is not solely an Indian problem. The US, a developed nation, has an average of 983 custodial deaths per year compared to 110 in India. China, on the other hand, is often under scrutiny over human rights.

A study by Amnesty International — more than 21,000 people in 21 countries participated in the survey — concluded that international rules against torture are implemented the least in India, along with Argentina, Mexico, Nigeria and Peru.

Interestingly, 74% respondents in India felt torture was justified to gain information.

**Story Idea and written by: Sourjya Bhowmick. □**

## Minutes of the PUCL National Executive Meeting held in Bilaspur, 21st & 22nd June, 2014

.....Continued from the previous issue

### Key points emerging from the discussions:

1. The need for systematic documentation of human rights violations in terms of random or incidental acts of violence has contrasted to systematically engineered violence around caste, community, territory, language and other identities.
2. Systematic analysis of the role of communally divisive organisations and the supportive/silent role played by the state agencies.
3. Systematic undermining of democratic institutions and democratic processes.
4. The emergence of 'developmental terrorism' i.e., the dubbing by the state of any person/group questioning developmental policies as being antinational, antidevelopment and antigrowth and thereby leading to be prosecuted under Draconian laws like UAPA, seditious laws and so on. The emasculation of statutory bodies like environmental clearance agencies by packing them up with pliant, submissive, status quo supporting officials and experts.
5. Recognizing and differentiating common characteristics of human rights violations occurring across states/nationally from unique human rights violations issues occurring in each state. (The differentiation becomes important as the strategy adopted to tackle the violation will require different planning and execution).
6. The importance of identifying and recognizing the economic basis/context of human rights violations.
7. Increasing militarization of mineral rich areas like Jharkhand, Chhattisgarh,

Madhya Pradesh, continuous army/paramilitary formations, state support for vigilante groups, state support including arms training, weapons supply and funds support to vigilante groups.

8. Systematic and independent monitoring of special security legislations and measures both in conflict and non-conflict areas.

### Test of human rights issues:

Considerable time was spent on discussing what issues PUCL may and should take up and those which will fall outside the purview of the PUCL's activities, even though they may constitute rights violations. The following four indices were identified to help determine whether a rights violation issue should be taken up by the PUCL or not:

1. If the human rights issue constitutes violation of the fundamental rights of the Indian constitution.
2. If there is a violation of democratic processes.
3. If the violation involves undermining/devaluing/subverting democratic institutions.
4. If the violations are anti-democratic.

### On the issue of the IB Report and PUCL's response

Many members referred to the media coverage of the Report of the IB sent to the PMO making allegations about different agitations and struggles, especially the role of the Greenpeace as also anti-nuclear, anti-GM and related movements.

1. The IB report will have to be seen in the backdrop of increasing violence against rights defenders as also minority community; the climate of intolerance and animosity is being generated.
2. The worrying thing is that the IB Report has created a climate of fear and insecurity. This is

generating self-censorship and silence. Corporate controlled media is determining what citizens will read and hear. The agenda for the first 6 months is that there shall not be anything critical reported about the new central government.

3. The space for democratic dissent and discussion, which has been shrinking, is further reduced.
4. This is the objective of the IB Report. If they had anything substantial to prosecute people and agitating groups they would have done so. Not having any prosecutable evidence, the IB and state is trying to malign people and create doubts in the minds of people about those agitating or fighting for rights of people – water rights, environment and ecological security, food security, anti-poverty and corruption and so on.
5. Why does the IB report target Greenpeace, an otherwise small NGO? It is because the group has been seriously challenging energy security issues by countering power projects and other projects which are environmentally and ecologically destructive. The IB report carefully targets activists working on nuclear power, coal mining and power projects.
6. IB Report reference to PUCL is to call us as a Front organisation for other protest groups. The refer to PUCL Gujarat participating in the 15/16<sup>th</sup> March, 2014 meeting in Ahmedabad critiquing the Gujarat model. The aim is to attack PUCL and other groups as being anti-national for retarding economic development.
7. It is imperative for PUCL, subject to the PUCL Constitution, to develop a support structure of human rights groups and other

people's movements to assert the primacy of democratic principles and rule of law to

- (a) Protect the rights of people;
- (b) Protect HR defenders;
- (c) We should develop relations with the media to safeguard democracy;
- (d) Create working relations with other rights based organisations;
- (e) Evolve a network of lawyers and advocates across India who will fight for the constitutional scheme and agenda.

8. There is a media blackout of struggles which we should meet with weekly reports prepared state wise with note sheets so that both the people as also media is informed of events and news.
9. We should work with the most marginalised and poorest to give them voice.
10. A fact to be noted is that there is now a new consensus amongst the middle classes and intelligentsia in the urban areas which supports a development paradigm which is highly iniquitous, unjust and destructive of people's habitats, environment and rights. This middle class consensus is what propels the development of a fascist rule. The IB report is aimed at stoking this.
11. The IB Report's targeting of environment and ecological issues is symptomatic of the fact that most industrial projects are very damaging and people's movements have emerged precisely in those areas. The attempt is to project these movements of citizens as against economic development and therefore against national interest. This is true of mining projects, big power projects, nuclear power projects and so on.
12. Different social divisions are being increased to become newer sites of conflict as for

example what happened in Pune. Communal and caste divides will be stoked. There are unacceptable rules like in Ahmedabad where Muslims are not permitted to buy property beyond the walled city.

13. There needs to be a major discussion on the economic roots or basis of human rights violations. We will need to create a new discourse uniting people in the common struggle for their human rights.

#### **Specific Issues on which decisions were made by the National Executive**

#### **Convening of the National Council meeting**

As noted in the annual calendar of events for 2014, the next National Council meeting is to be held in August/September 2014 and will also mark the end of the term of the national office bearers. So fresh elections will also have to be held. It has already been decided that the National Council will meet in Delhi.

It was decided that the next National Council meeting will be held either 6<sup>th</sup>/7<sup>th</sup> September or 13<sup>th</sup>/14<sup>th</sup> September depending on the availability of Gandhi Peace foundation. The General Secretary should verify this and intimate all state units.

#### **Finalization of National Council representatives from each state**

As part of the streamlining activities undertaken in the last two years, updated membership details should be sent by each state unit to the National Office by February 15<sup>th</sup> 2014. However, in view of the request by many state units, it was decided by the national executive that as a onetime gesture, all state units who have sent their updated memberships including a) subscription share of National Office and b) list containing names and addresses of each officer to the national office until 20<sup>th</sup> June in respect of members for 2013 will be accepted. This decision will apply for 2014 and will not be a precedent for the future.

#### **Election of National Council members:**

The national general secretary will send the finalized, updated membership list for each state showing life members and annual members to each state for verification and also indicating the total number of NC members that each state is entitled to, on the basis of the ratio of 1:50 members. Each state committee should elect the NC representatives for their state and send it to the national office latest by 23<sup>rd</sup> August 2014. Any list received after that day will not be accepted. Any exemption from this will be granted by the General Secretary in consultation with the President, for acceptable reasons, intimated prior to 23<sup>rd</sup> August 2014.

PUCL office bearers joining political party will have to resign from their post from the date of joining the party. Even in case, the said office bearer resigns from that political party, he/she can no longer seek to be an office bearer of the PUCL unit for a period of 2 years from the date of joining/resigning from the political party. It was decided that this resolution will be placed before the National Council meeting in September 2014 for ratification.

#### **Guidelines for receiving donations**

Nishant Akhilesh is to prepare a detailed note and submit to national office within two weeks. The national office will in turn circulate the note to all the state units for their opinion which should be sent to the national office by the first week of September. The national office should collate the responses and place it before the NC.

#### **Accounting procedures**

The National treasures Ritu Priya has requested that all state units should be asked to submit to the National office the last 3 years annual accounts of income and expenditure of each state. Currently the NO does not know anything about the financial status of each of the state units. As part of the streamlining exercise currently underway, it will be important that both the national office and the state units follow a standard accounting format. Kavita Srivastava also emphasized that as part of our commitment to maintaining



transparency, the National unit and also the state units should also put up in our website the statement of accounts. Suresh should co-ordinate with Ritu Priya and Mr. Jagannathan in this regard. Nishant Akhilesh also came forward to assist towards this process.

### Standard operations manual

Currently, there is no Standard Operations Manual which guides office bearers and members alike about implementation of the PUCL constitution, procedures for elections, maintenance of accounts, etc. The first draft of the SOM should be prepared by the National Council meeting so that it can be discussed.

### Activities to strengthen PUCL

1. Publications-to educate, demystify, inform, inspire  
Number of applications should be thought of for PUCL
- a) Question-answer series: This will contain a list of questions normally asked of human rights activists with appropriate answers. For example, (i) Why should hardened criminals or Maoists who kill people, not be killed in encounter? (ii) Why is death penalty wrong?
- b) Thematic position papers
- c) Campaign position papers

Note: Individual members of PUCL will be requested to write these papers and send it for circulation so that an informed position can be finalized representing the organisation's view. The final view can be both published as also placed in the PUCL website.

### 2. Organizing seminars/workshops

- a) Emerging issues in Human Rights compiling a list of themes/topics along with reading papers
- b) Workshops on constitution and criminal laws, environmental laws

and other laws for general public, young lawyers, students/ law students.

### 3. Joint responsibility for strengthening or streamlining PUCL

Sudha Bharadwaj proposed that different state office bearers should volunteer to undertake different activities identified to streamline PUCL and to take it forward. This would include visiting nearby states, conducting themes specific research/ other activities, assist with internship programmes and so on. She volunteered to assist in helping to strengthen PUCL activities in Madhya Pradesh and Orissa which was accepted by the National Executive. Prabhakarji suggested that Nishant Akhilesh, who had been associated with reviving Odisha state unit earlier, should also be requested to assist in the effort to strengthen Odisha state unit also.

### The following are some decisions in this regard:

1. PUCL needs to develop a detailed list of themes of common interest on which we should bring out simple, short 'Position papers' explaining the rights context of the issue and why citizens should take a stand.
2. The position papers should be prepared keeping in mind the national context and the state context can be added by each state unit. The papers should be translated into as many languages as we have units in and circulated widely.
3. The papers should describe the issues, address the rights issues involved and also indicate a line of action which citizens can take.
4. PUCL should also highlight and undertake appropriate initiatives, campaigns and activities we should develop to assert

democracy, rule of law and the constitution.

5. Each state unit and the national unit should set up dedicated teams which will look at state specific and national laws which affect human rights as also development.
6. Each state should also explore diversifying human rights issues to a broader agenda.
7. PUCL units should also keep watch on attempts being made by governments to undermine constitutionally mandated institutions through ordinances, rules or other such means. As an illustration we can consider the way the rail fare hike was announced when Parliament is to assemble shortly thus bypassing constitutional proprieties by which the decision is first presented to the parliament when discussion can take place.
8. PUCL needs to root itself in being relevant to the common citizen. We need to think of creative campaigns aimed at increasing democratic space and expanding democratic spirit and values.
9. PUCL should also defend the rights of human and other rights defenders and should support the right of the workers, Adivasis, dalits, minorities and others to democratically struggle and launch movements for their rights.
10. PUCL should also work with lawyers and others in tackling false cases field against rights defenders.
11. A common principle is that all decisions are subject to the PUCL Constitution.

**Prepared by V. Suresh** in consultation with Prabhakar Sinha and inputs from Sudha Bharadwaj  
**(Concluded)** □

**K.G. Kannabiran Memorial Lecture** will be held on 9th November, 2014 (Sunday) 11:00 a.m. to 1:30 p.m. at Vidyodaya School Auditorium, Thirumalai Pillai Road, T-Nagar, Chennai 600017 (Landmark: Near Valluvar Kottam) to be delivered by Justice CV Wigneswaran, Chief Minister, Northern Provinces, Sri Lanka, & Former Judge, Supreme Court of Sri Lanka on '**Safeguarding Security and Sovereignty**'.

**V. Suresh**, General Secretary, PUCL National. □

# Secularism Revisited

## Justice R.A. Jahagirdar

*(Since the BJP led government has taken over at the centre, the forces of Hindutva have started raising their communal agenda. On more than one occasion, Mohan Bhagwat, the RSS supremo, has said that Hindustan (and not 'Bharat' as the Constitution calls us) means the land of the Hindus and all those living in it are Hindus. A few days after asking why all Hindustanis (Indians) should not be referred to as "Hindus," the Rashtriya Swayamsevak Sangh (RSS) Sarsanghchalak again on Sunday, 17th August, minced no words in stating that "Hindutva is the identity of India and it has the capacity to swallow other identities." "We just need to restore those capacities," he added. More than one minister in various BJP governments in the States has said that the Modi government will lead the nation towards the formation of the 'Hindu Rashtra'. The forces of intolerance have become more aggressive and the secular fabric of our multi-cultural society has come under serious threat. Hence the debate on the secular character of our country, as mandated by our Constitution, has again begun afresh. It has become all the more important for us to understand what secularism really means and how we can protect it.*

*Late Justice R.A. Jahagirdar, a leading Radical Humanist like Justice V.M. Tarkunde, both of whom valued secularism as an essential ingredient of a truly democratic society, gave three important lectures on Secularism. As part of the ongoing debate, we are going to publish all the three lectures. The following is the second part of the first one, which was delivered as the Eighth Smt. Bansari Sheth Memorial Lecture delivered under the auspices of The Asiatic Society of Bombay on Wednesday, 26th April 2000 - Editor).*

.....Continued from the previous issue

There are, however, a couple of things which may commend themselves to secularists.

First, Koran enjoins upon the Muslims to enjoy the fruits of this world which is created by God and in which man has been placed. This life and this living - one should love hundred-fold. Asceticism is not a virtue as it is ostensibly among the Jains. But Koran warns against consumerism which is equivalent to indulgence - this is something akin to environmental protection. Seek happiness and not pleasure.

Secondly, celibacy is disallowed by Ch.24/32 in Koran. Thirdly miracles are not envisaged in Islam. Mohammed refused to perform miracles when challenged to do so to confirm his prophethood by simply pointing out that the universe itself is a miracle made by Allah. Mohammed showed the necessity of charity and not its desirability.

Why secularism? That is a question that legitimately be asked. I am tempted to quote Mr. M.C. Setalvad who has in a small paragraph beautifully summarised the secularists' viewpoint:

"A different view in relation to religion is the basis of 'secularism' understood in the sense of what may be called 'a secular attitude' towards life. Many of us, Hindus, Muslims and others, are

in our way of life and outlook on most matters largely governed by ideas and practices which are connected with or are rooted in our religion. The secular attitude would wean us away from this approach so that in our relations with our fellow beings or in dealings with other social groups, we have less and less regard for religion and religious practices and base our lives and actions more on worldly considerations, restricting religion and its influence to what has been called its 'proper' sphere i.e. the advancement of the spiritual life and well-being of the individual. Secularism of this character is said to be essential to our progress as human beings and as a nation because it will enable us to shake off the narrow and restrictive outlook arising out of casteism, communalism and other like ideas which come in the way of our development.

(Patel Memorial Lecture, 1965, on Secularism quoted in S.R. Bommai, p.2000).

My view is that State as a State has to do with secular problems and therefore a secular State is necessary. Secularism has a very vital link with democracy. The State must be independent of classes and ethnic groups to make democracy real and effective. The Indian political and social scene for the last decade

tormented by the Ayodhya issue, pre- and post-demolition, demonstrates the necessity of secularism.

I am not unaware of the argument that secular State cannot be built-up by anti-secular or non-secular citizens. But this argument is belied by the American experience. U.S.A. has a secular Constitution but non-secular or anti-secular society. That is why you find in U.S.A. innumerable sects and cults. Born again Christians and Moral Majority, PTL, evangelical movements - these are prominent and stronger in America than any other country - not excluding Islamic countries. The birth of fundamentalism took place in U.S.A. in the 1920s.

U.S.A. has a secular State but not secular society; England has a non-secular State but a secular society; it is the fate of India to have neither a secular State nor a secular society. As I have mentioned earlier, secularism operates at three levels - State, society and the individual.

A secular State can be established by law but the process of secularisation cannot be promoted by legislation. For this you need inculcation of secular moral values. The process can be helped by legislation and by the conduct of men at the top. The President, the Governors, Ministers at different levels making pilgrimages

at the expense of the State and conspicuously taking part in public religious ceremonies do not set a good example for the citizens. Nor are they giving heed to their fundamental duty "to develop the scientific temper, humanism and the spirit of inquiry and reform". [Art. 51A (h) of the Constitution]

The provision in the Representation of Peoples Act prohibiting appeal to the electorate in the name of religion is a welcome measure. Its validity has been upheld by the Supreme Court in *Dr. Ramesh Yashwant Prabhu v. Prabhakar Kunte*, cited above. The restriction thus placed upon the fundamental right of freedom of speech and expression was held to be a restriction permissible on the ground of decency and morality. Seeking of votes, the Judges said, on the ground of the candidate's religion in a secular State is against the norms of decency and propriety of the society.

The long-term approach to make India a truly secular State and society is to make the Indians secular in their outlook and temperament. This can be done by demonstrating that the religions which grip their minds are of no cultural value and also of no practical value, if they believe in them. Secularism is the product of a process by which society has moved away from control by the Church so that science, education art and politics were freed from conformity to theological dogma and priesthood. The secular spirit is seen in the fact that scientific knowledge and education in general are today tested by reason, by experiment and experience rather than by religious criteria. Secularisation is a historical process which is sought to be reversed by fundamentalists everywhere, though Copernicus and Darwin have been rehabilitated by the Pope.

In the West, secularism has faced several threats. Immediately after the Second World War, Vatican-sponsored Christian political parties were established and have played no

insignificant role in countries like France, West Germany and Italy. After the Second Vatican Council, the process of dialogue with non-Catholics and even non-Christians was envisaged. Despite this, in the U.S. there is an informal alliance between the Catholics and Protestants to assail secular approach to such issues as abortion, prayers and teaching religions in schools.

What is the future of India which we envisage? There are several religions in India whose followers try to cling to their identities as followers of those religions. These identities are brought to their notice and also to the notice of others at every step. Some eminent thinkers have opined that secularism is not suited to the temperament of the people of South Asia in general and Indians in particular - that is the opinion of Prof. T.N. Madon who is the leading proponent of this view point. Social Scientist Ashish Nandy has taken a stand that secularism is not desirable at all. This latter point is broadly answered by what I have said about the birth and growth of secularism.

Is secularism incompatible with the genius of Indian people? My answer is that the Indians are no more religious than the Americans, who are being accused of materialism and non-spiritual values. The American Colonies were founded by the religious people. At least the early life of the Americans was steeped in religiosity. That was the time when the Amendment regarding establishment of religion was passed. From time to time, different religious movements have taken place in America. Apart from the traditional Churches, there are other Churches or groups founded by one or the other self-styled preachers. The world's first fundamentalist movement was born in America in the 1920s. From time to time there have been calls for re-amendment of the Constitution to allow for religious teaching in aided schools. The Supreme Court of the United States has consistently upheld the interpretation placed by Thomas

Jefferson on the First Amendment. There is no basic structure concept of the American Constitution. Yet the American legislators have not thought it fit to suitably amend the First amendment. This is because the country has realised the importance of keeping the Church and the State separate in the context of the existence of several sects in that country.

Why is it not suited to Indian polity? The schisms between the different religions in India are not narrower than those among the different denominations of Christianity in America. The need for a secular Constitution is greater in India than in America. I do not envisage the rise of secularism in India in the French manner; I do not desire secularism to be established in Kamal Pasha's manner. The only way in which secularism can be introduced in India is by way of total separation of religion and the State in the Constitution. And there are certain areas where secular laws without impinging upon the religious autonomy of the people can be enacted. One prominent example is the law of adoption. Today thousands of children are given in bogus adoption. A non-religious, non-communal adoption law should be a good beginning. Adoption is always optimal - depending upon the willingness of the adopter and the consent of the person giving in adoption. Yet this simple piece of legislation has not found its way to the statute book by obstruction of obscurantists. Instead of showing secularism its place, show religion its place.

Ultimately secularism has to be inculcated in the minds of men. Secularism at the political level should be brought about by law and Constitution; secularism at the individual level can come out by enlightenment. Then secularism can take root in the society.

The secularism I am speaking of will not render Indian society into a stew. The Indian society can remain a bowl of salads. **(Concluded)** □

**Press Statement:** September 29, 2014

Justice Rajindar Sachar, Former President, PUCL has issued the following statement:

There are three Holidays in the country which are not religious oriented - 15th August - Independence Day & 26th January - Republic day.

And then most important 2nd October, (Gandhi Birthday) - this day reminds one in concentrated form the sacrifices and the morality in politics in the fight for independence of the country. Any tinkering with grandeur and sobriety of 2nd October is sacrilege. But this is what

Modi Government is doing by emphasizing the day as a day of cleanliness. What cheek - That Gandhi believed in cleanliness is no reason for the mischievous act to lessen the sobriety of Gandhi's birthday. The programmes associated with the birthday must not be diluted by this so called fad of cleanliness day. Cleanliness has to be actually maintained and not by unnecessarily calling to duty all the government servants and make them go through the hypocrisy of arranged photo opportunity item.

I would therefore strongly demand that government should observe

Gandhiji's birthday in the same sober, respectful manner as before. And as government servants and Ministers have been called let them repeat what was Gandhiji's main philosophy which he expressed in 1921 and again repeated in 1947, thus; "I would say that Hindus and Muslims are the two eyes of mother India just as the trouble in one eye affects the other too, similarly the whole of India suffer when either Hindu or Muslim suffer." This sober reiteration would alone symbolize the real significance of Gandhiji's philosophy - a proper tribute to his memory. □

**Gujarat PUCL:** 14th October 2014

## **CAG Report should be tabled in the Legislative Assembly with the Scope for Full Discussions on it. Govt. should Submit Action Taken Report to the CAG**

CAG Report is the mirror to transparently reflect functioning of any Government. It is a constitutional body for monitoring whether implementation of Government schemes have been properly done or not and although its conclusions or recommendations may be in the nature of proposal or suggestions, it commands great significance and weightage.

Unfortunately in Gujarat, the CAG report has been relegated as a very weak or fragile organ. The sectors which have the rights to implement the conclusions or recommendations of the CAG report have been rendered meaningless or spineless and as a result, importance of CAG Report is eroding in the State, from day to day. Discussions are not held in the Legislative Assembly on the CAG Report for past many years. Hence, various civic organizations, voluntary organizations and enlightened citizens had taken a decision for holding 'Lok Darbar' (public debate/discussions) on the findings of the CAG Report with the aim of educating and sensitizing the public about such reports.

In accordance with this decision,

**Gujarat Sarvodaya Mandal, Gujarat Social Watch and People's Union for Civil Liberties (Gujarat)** had organized people's discussions to deliberate on the CAG report, on 11<sup>th</sup> October 2014 at Ahmedabad to coincide with the birth anniversary of Shri Jay Prakash Narayan. In this public discussions held under the **chairmanship of Prof. Rohit Shukla**, more than 100 delegates from all over Gujarat had remained present. In this function, **former Chief Minister Suresh Mehta**, subject experts, **Mahendra Jethamalani, Mahesh Pandya, Prof. Hemantkumar Shah, Rohit Prajapati** etc. had presented their views on the subject and given detailed information. Although invitations were sent to the President of the State Unit of BJP, Chief Whip and officers of the Legislative Assembly they had not remained present. Whereas, on behalf of Congress Party, M.P. Pravin Rashtrapal, and on behalf of 'AAP', Sukhdev Patel had participated in the discussions. All the expert speakers have informed in their speeches that the report of the CAG should be made public / transparent and it should be linked to the people. Looking at the report presented in Gujarat, there

does not appear any good governance in the State. CAG report has pointed out laxity in recovery of taxes than what had been assessed, reduction in penalty / fine in an arbitrary way and large scale negligence or laxity in the functioning of Finance and Revenue Departments. As a matter of fact, CAG Report is scrutinizing only 10 % of the transactions of the Govt. From the Report of this year, it has been revealed that large sums of money have been debited under the account heads of "Other Expenditures" or "Miscellaneous Expenditures" and 21 % of the expenditure was incurred or accounted for during the last days of month of March. Lack of vigil has also been observed in the matter of border security. A mention has been made in the CAG Report about digging of underground tunnel inside the jail premises. Representatives also discussed on many crucial points on this Report.

While talking to the journalists and representatives of the T.V. media (after completion of the Lok Darbar) **Prof. Hemant Kumar Shah, Mahesh Pandya and Gautam Thaker** informed that instead of partial audit

of merely 10 %, complete audit of entire functioning of all the departments of the Govt. should be made. Govt. should ensure that this report is tabled in the Legislative Assembly and discussions / debate is held on the same. Govt. should make available all the documents and accounts as may be demanded by the CAG for audit purpose without any

hesitation or reservation. A method should be evolved for imposing fine or punishment on those who fail to provide the needed documents. Main and important point is that aspects on which the CAG has given its findings on the financial transactions or where there is no proper implementation of the Govt. schemes, implementation should be made as per advice of the

CAG and Action Taken Report (ATR) should be presented to the CAG with immediate effect. Moreover, wherever there has been mismanagement, same should be rectified and report should be submitted on the actions taken in the matter.

**Gautam Thaker**, General Secretary, PUCL Gujarat ☐

## From Chief Justice of India to Governor of a State- A bad precedent

**Rajindar Sachar**

Ever since news appeared that Union Government is contemplating appointing former Chief Justice Sadasivam as Governor of Kerala, spate of comments, rather adverse have appeared in the press. Questions were rightly raised as to the propriety and also the dignity of the office of CJI being compromised by accepting this appointment.

Speaking personally I do not mind confessing that I was deeply distressed because some judgments of Justice Sadasivam a year or so before his retirement did give cause for faith in judiciary. His bold decision to direct the implementation of Election Commissions recommendation to introduce "None of the Above" in election law showed his broad look, considering that both BJP and Congress had been opposing it for over a decade.

Justice Sadasivam also showed his humanitarian streak when he boldly commuted the death penalty of Bhullar of Punjab on the ground of inordinate delay in carrying out the sentence of hanging. The Supreme Court no doubt had been dealing with the matter but there was a mixed soup-he at least boldly took lead in clarifying the matter.

So I am disappointed when Justice Sadasivam went public seeking to justify his decision. My first reaction was to keep silent because to me judiciary is too invaluable an asset in a democracy and one should be cautious in ones criticism. But now that of Justice Sadasivam has finally accepted the assignment, it is no longer possible to remain silent

rather it is moral duty to speak. I plead in my defence, the words of Justice Holmes of USA Supreme Court, who said "I trust that no one will understand me to be speaking with disrespect of the law because I criticize it so freely.....But one may criticize even what one reveres....and I should show less than devotion, if I did not do what in me lies to improve it."

Congress in its opposition has crossed all decent limits. It accused the BJP government returning a favour in exchange to having received a favourable decision in the case of Amit Shah. Chief Justice Sadasivam was appointed Chief Justice during Congress UPA regime. Does the Congress suggest that it appointed Sadasivam because it hoped to get favourable orders from him. How disgusting the conclusion. The opposition to Sadasivam being appointed Governor is on larger ground of public interest of separation of Executive and Judiciary. But the hypocrisy of the Congress in putting on saint like attitude is hypocritical when in reality it must bear the blame of original sin.

Examples of polluting judiciary by Congress are galore. In 1949 Chief Justice of Punjab was Dewan Ram Lal. He was a personal friend of Nehru. Immediately on his retirement, Nehru appointed him as Indian Ambassador to Rome (Italy). At that time healthy precedents were yet to be established. It was considered such a routine that when Chief Justice S.R.Das who was taking over from Chief Justice Ram

Lal in Punjab High Court met Pandit Nehru at Delhi before proceeding to Simla where at that time High Court was situated. Pt. Nehru told him without any embarrassment to tell Ram Lal C.J. that he need not worry because the orders for his appointment as ambassador would be issued soon. The distance that rightly should prevail between executive and judiciary had not been established. May he at that time Pt. Nehru's personality was such that the bonafides of the government were not easily doubted. But since then one has to face the low level the maneuvering in politics is resorted too. So without any embarrassment Congress appointed Bibi Fatima Begum (from Kerala) who retired as a Supreme Court judge and appointed as Governor of Tamil Nadu. Congress also followed the partisan practice when it nominated Chief Justice of India Ranganath Mishra to Rajya Sabha- it never offered any explanation for breaching the distance between executive and judiciary. But of course that in no way justifies BJP of breaching the accepted convention world over.

I feel that CJI (Sadasivam) should have declined the appointment. A high office carries within itself certain compulsions.

In sensitivity to public opinion and correct precedents, let me give an example. In mid fifties a politician was appointed Governor of Andhra Pradesh. Nizam of Hyderabad though bereft of political power was still holding his domain of private properties, trusts. Nizam's

exclusiveness was such that had refused to receive Pt. Nehru at airport when he went to Hyderabad immediately after the takeover of Hyderabad by Indian Government. So Nizam never called on the Governor during his tenure of 5 years. The Governor also never called on the Nizam. The Governor, after retirement in 1962 came back home. Thereafter he received a letter at his home from Nizam on his personal letter paper inviting him to be a trustee of some of the Nizam's several trusts "for the benefit of the members of my family and for other religious charitable purpose". He offered membership of one of the trusts to Governor with effect from

1st June of 1963 "on a monthly allowance of Rs. 3,000/- plus traveling expenses for visiting Hyderabad for meeting of the trust." (Rs. 3000/- was not a small amount at that time, it was the monthly salary of a judge of High Court). The Nizam wrote "I am making this offer on my own accord as I was much impressed by your popularity as Governor of Andhra Pradesh, and the manner in which you maintained the dignity of that office." The Governor declined the offer because according to him if he accepted the offer it might give rise to gossiping that he got the trusteeship by being unduly friendly to the Nizam.

I am giving this example because even if Governor had accepted this offer, it was no big deal. But a healthy convention of public morality would have been lost. I feel Chief Justice Sadasivam would have to bear cross for permitting judiciary to be slandered by small time politicians who are engaged in their petty maneuvering.

Congress had distorted judiciaries face many a time by supersessions - re- the case of Chief Justice A.N. Ray which can never be lived down. Let the BJP not learn this bad lessons. For democracy, a healthy distance between the executive and judiciary is essential. □

### XIII PUCL National Convention, Patna

The 13<sup>th</sup> National PUCL Convention is being hosted by Bihar PUCL at Patna on December 6- 7<sup>th</sup>, 2014 (Saturday-Sunday). The organizing committee headed by the State President, Prof Daisy Narain, extends a warm welcome to all the members planning to attend the Convention.

The committee seeks cooperation of all state units regarding some essential information as to:

- a) The number of participants from each state.
- b) The date and time of their arrival and departure and the mode of travel, whether by Air or Rail.
- c) Advance information regarding materials that the state units would like to put on display and amount of space required.
- d) A plan to put up a short cultural programme.

The two days National Convention will be held at **Navjoti Niketan near Kurji Hospital, Patna**. Residential facilities in the same premises has been booked. It is important to know the exact number of out-station delegates attending in order to make arrangements.

This Convention venue is centrally located and is well connected to the railway station and airport.

The temperature in Patna in the first week of December will be pleasant in the day and would be slightly cold at night.

Patna or ancient Patliputra, is a historical city and is about 100 Kms from Nalanda and Rajgir. Nalanda has been centre of higher studies from the 5<sup>th</sup> Century AD and the ruins of the University stand testimony to its importance.

Rajgir had been the capital of Magadhan empire. The hot spring in Rajgir and the ropeway that goes up to the Shanti Stupa are the two main attractions of Rajgir .

Bodh Gaya, where Gautam Buddha attained enlightenment, is an international tourist centre, visited by Buddhist devotees from various Asian Countries.

After the Convention, the organizers have planned a one day trip to some of these places for out-station delegates. For those who would like to go for the sightseeing tour, please arrange for your departure on the 9<sup>th</sup> from Patna. In order to make proper travel as also boarding arrangements all state units are requested to provide details of the exact number of their state delegates who desire to go on the tour and therefore will stay back after the Convention ends on 7<sup>th</sup> December.

On behalf of the Organizing committee, I extend a warm welcome to you. Please enquire if there is any doubt, for which numbers are given below.

**Praveen K Madhu** (General Secretary): 91 – 9835643464; **Ramashray P. Singh** (General Secretary) : 91 – 9835281394; **V. K. Kantha** (Former President) : 91 – 9431019351; **Father Manthara** (Former President) : 91 – 9430510537.

**Daisy Narain (Ms.)**, President, PUCL Bihar: 91- 9431022929

## Appeal for immediate Action regarding threat and intimidation of Human Rights Defender Harim Markam

Respected Sir

It may be noted that on 1st October, Harim Markam, S/o Hunga, Aged about 43 years, R/o Village Burgum (Nandapara), Tehsil Kuakonda, District Dantewada, Chhattisgarh; also being the Deputy Sarpanch of Vill. Burgum, led a delegation of fellow villagers to the Collector's Office in Dantewada to report that fellow villagers Joga Mandavi (30), Rajaram Sori (19) and Pandu Mandavi (21) who were arrested in early August were innocent and that the case against them is based on false testimonies. The letter submitted to the Collector is annexed hereto as Annexure A. Mr. Markam also submitted an affidavit to the collector, a copy of which is attached alongwith as Annexure B. The matter was also well reported in local newspapers. On the same day they had also earlier submitted a letter to the Station House Officer of Police Station Arampur, where the

offence had been registered against the three villagers, stating that they had relevant facts to submit and that they wanted to co-operate in the investigation. The letter to the SHO, PS Arampur is annexed hereto as Annexure C.

After this, on 5th October, a force of about 400-500 uniformed men (Cr.P.F. and police) camped in the village. On 6th October, they started looting houses in the village and beating people. The details of those who were beaten or their goods were looted have been attached alongwith as Annexure D. Specifically, in Nangapara, Bargum, where Mr. Markam resides, the forces started searching for the Deputy Sarpanch who went into hiding because of fear. The forces abused the villagers for going to the Collector and talking to the press. They also threatened that they would take the Deputy Sarpanch to the 'camp' and torture him. The

beatings continued on 7th of October and the force eventually returned on 8th of October. Ever since then Mr. Mandavi is scared about his life and liberty. The villagers of Burgum were beaten again on 16.10.2014 after human rights defender and social activist Soni Sori visited the village to do a fact finding into the incident.

Hence, it is prayed that the NHRC should take cognizance of the matter and swift and urgent action should be taken to safeguard the life and liberty of Mr. Hiram Markam. It should also be ensured that other villagers are also not further threatened, beaten or intimidated.

We would be obliged to receive early acknowledgment of this request.

Sincerely,

**Sudha Bharadwaj**, General Secretary, People's Union for Civil Liberties, Chhattisgarh Branch. Mob.: 09926603877 ☐

### Annexure D

#### List of People beaten up or from whom things were stolen in Bargum

1. Bima s/o Ganga, r/o Remanpara, Bargum, 18-20 years old. He was beaten mercilessly.
2. Nanda s/o Bhima, r/o Remanpara, Bargum. The forces stole 5 of his hens and he was beaten up.
3. Ganga s/o Dua, r/o Dorapara, Bargum. He was beaten up.
4. Podiya s/o Harme, r/o Gaitapara, Bargum. He was beaten up.
5. Nandi w/o Nanga, r/o Gaitapara, Bargum, 60 years old. She was beaten up.
6. Jogi w/o Podey, r/o Gaitapara, Bargum, 35 years old. Forces stole 3 hens and Rs. 13000 from his house. He was also beaten up.
7. Nanda Ram s/o Deva, r/o Gaitapara, Bargum. The forces stole Rs 2000, a tata watch worth Rs. 2250 and a jacket worth Rs. 2000 from his house. They also beat him up.
8. JogaMarkam s/o Hinga, r/o Gaitapara, Bargum. The forces stole Rs. 2000, 4 hens, 3 pigeons, about 50 quintals of rice and 5 bottles of alcohol from his house.
9. Deva w/o Ganga, r/o Gaitapara, Bargum, 20 years old. She was beaten up.
10. Deve w/o Deva, r/o Bhojapara, Bargum, 80 years old. She was beaten a lot.
11. Hunga s/o Joga, r/o Ramenpara, Bargum, 20 years old. He was beaten up.
12. Sahdi w/o Podiya, r/o Gaitapara, Bargum, 40 years old. She was beaten up.
13. Bhima s/o Kosa, r/o Gaitapara, Bargum. The forces stole one hen from him.
14. Hunga s/o Deve, r/o Ramenpara, Bargum. The forces stole 4 hens and Rs. 200 from his house. They also ransacked his house and broke stuff in it.
15. Hinga s/o Gaya, r/o Ramenpara, Bargum. The forces stole one hen from his house. He was also beaten up.
16. Aayta s/o Bandi, r/o Ramenpara, Bargum. His brother had died. So he had gone to the forest to get material for the death rites. The forces beat him up there.
17. Joga s/o Nandu, r/o Remanpara, Bargum. The forces stole two hens. They also beat him up.
18. Unga s/o Busda, r/o Permapara, Bargum. He was beaten up.
19. Dua s/o Ganga, r/o Permapara, Bargum. He was beaten up.
20. Boda s/o Dua, r/o Permapara, Bargum, He was grazing his cows when they started beating him up.
21. Bandi s/o Konu, r/o Permapara, Bargum. The forces stole three hens from him.
22. Ganda s/o Podey, r/o Permapara, Bargum. The forces stole six hens from him.

**Gujarat PUCL:** Press Release on 11 October 2014

1. PUCL, Vadodara submitted the fact finding report to the National Human Right Commission, Home Department Gujarat and DIG Gujarat for immediate action.
2. All those who believe in Democracy, Human Rights and Communal Harmony need to act urgently and sending a clear message that crime against humanity will never pay. -PUCL, Vadodara □

A Report by People's Union for Civil Liberties (PUCL), Gujarat:

## **Fuelling Enmities, Continuing Impunity: Fact-finding into the Violence in Vadodara, September 2014**

### **The Background**

Communal violence once again engulfed the city of Vadodara from 25 September to 30 September 2014. The city, hardly new to communal unrest, witnessed what was surely its most schizophrenic moment, as the walled or old city neighborhoods were engulfed by violence, while the rest of the city continued dancing unfazed to the tunes of garba in the Navratri season.. The immediate trigger for the recent round of violence in Vadodara was were controversial and provocative images being uploaded on social media messaging platforms like, Whatsapp and Facebook on 25 September 2014. But as crime data shows this was in no way a sudden eruption of communal tension in the city.

As per the report in the Times of India<sup>1</sup>, based on National Crime Records Bureau (NCRB) data there were 151 incidents of riots during the year 2013 in Vadodara where the rate is 5.1 (number of riot per 1,00,000 population), is more than Ahmedabad, Surat and Rajkot. All these incidents include clashes of all kinds in which more than 4 people are involved.

The isolated incidents of violent outbursts continued in 2014 before the May 2014 general elections but they did not constitute what is considered a law and order problem. After the general elections, it was clear that Vadodara was poised to go to the polls again following the elected representative Mr. Narendra Modi's resignation

favouring his Varanasi seat over Vadodara.

The communal tensions began to intensify from the month of May in the run up to the by polls for Vadodara Lok Sabha seat. Between May and July, at least 10 incidents of communal riots in three months from took place in Vadodara. Incidents of vehicle collisions, arguments at food stalls (lari) etc, became reasons for clashes between mobs of Hindu and Muslim communities. However, these skirmishes remained localised, and lasted for a few hours at the most, and did not escalate in magnitude to warrant police action. But they did fuel a momentum that aggravated communal tensions in the sensitive areas up to the by-election that took place on 13 September 2014.

Campaign for communal harmony by groups like Sahiyar (Stree Sangathan) in sensitive areas, small group meetings and distribution of leaflet to appeal people that accidents, arguments between individuals of two communities are individual issues and should not be converted in to issues between communities by creating mobs of supporters, had limited impact in face of rising communal feelings.

As elsewhere, the blatantly provocative campaign around communal and patriarchal issues like "Love Jihad" and call for restricting Muslim youth from Garba venues acted as spark to this aggravated communal feelings in subsequent months.

In August and early September just before the by-election, leaflets

warning Hindu girls against potential abductions by Muslim youth and creating fear among parents were circulated physically and also through social media. Hate messages against Muslims were also circulating on social media. This was widely reported in the local Gujarati press and also in national media in early September just before the by-election but no action was taken. (See Annexure-1 for English and Annexure-2 for Gujarati News Reports)<sup>2</sup>

With no effective action being taken against them, these forces became emboldened and on 18 September they went to give memorandum to the Commissioner of Police of Vadodara to prevent Muslim youth from participating in Garba. (See Annexure-3 and Annexure-4)<sup>3</sup>

A day before the beginning of Navratri (24 September), several women's organisations and social organisations of Gujarat wrote an open letter to the Chief Minister and Home Department to stop this hate propaganda. The Home Department of the Government of Gujarat officially declared that, 'no one can be prevented from participating in Navaratri in a progressive state like Gujarat', but did not take any action against those who were pressurising Garba organisers to have various screening processes to exclude Muslims and also spreading hate messages through various media. The letter clearly stated that if there are any incidents of violence or exploitation of women, the perpetrators must be punished by the government instead of



communalising the situation. The propaganda in the name of "Love Jihad" is not about safety of women but treating women as property of their community and increasing patriarchal control on women.

(See Annexure-5 and Annexure-6)<sup>4</sup>. Despite this pre-emptive action was taken by the Gujarat government and Police department to prevent hate propaganda through social and other media.

#### **25<sup>th</sup> to 30 September 2014**

On Thursday, the first day of Navratri on 25 September, a controversial morphed image was uploaded on social media by a Hindu owner of private tuition class which offended the feelings of his Muslim students and they objected and filed a complaint to the Police Commissioner. These youth while coming back from the office of Police Commissioner had a minor accident with a lawyer near the District court. This escalated into a clash between some lawyers and the Muslim youth. The repercussions were in the area of Fatehpura and Hathikana where the tuition class was located. The building of the tuition class in Panjrigar Mohalla was ransacked and houses of other Hindu people in nearby areas were also attacked by a mob. There was stone throwing by mobs of both the communities from Fatehpura, Kumbarwas, Koyali falia, and Ranavas.. Vehicles were put on fire and shops were attacked and looted.

Violence escalated on the second day, 26 September. The slightest provocation became reason for mobs in the streets of the old city to throw stones and attack individual people from the other community. There were incidents of stabbing of individuals, from both communities. Stabbing of a Muslim youth took place hardly 100 m away from the Mandvi gate where there is heavy police deployment. Both Hindu and Muslim people, mostly poor or lower middle class, were affected by this

violence. In all, 11 were injured, 11 rounds of bullets and 50 tear gas cells were fired by the police to quell mobs.

The Bar Association of Vadodara upped the ante by objecting to the statement by the Police Commissioner that the violence escalated after the attack by lawyers on the vehicle of a young person from the minority community. They called for a strike in the district court and asked for the resignation of the Police Commissioner.

The nature of violence changed after first two days and many other factors rather than spontaneous clashes between mobs were visible. As per people's perception, inaction slow or late actions by police were one of the major reasons for the spread of violence. On the other hand indiscriminate arrest of innocent youth in large numbers from both the communities eroded the trust of people on the law and order machinery.

On 28 September the Police Commissioner suspended mobile data, bulk sms as well as wireless internet service across the city till 30 September.. However the violence continued up to the 30<sup>th</sup>, proving that a ban on social media and internet for all is not the solution. The government should have investigated from where messages on social media were emanating and taken action against individuals who spread rumors or hate messages which they did not. This led to violence spreading to newer areas outside the walled city areas like Nagarwada, Navapura, Ayurvedic Cross road, Memon colony etc. Many stabbings incidents also had other dimensions of personal revenge and in the low income area of Nawapura Mali Mohalla were also related to land issues with a section of the builder lobby involved in the violence.

Women from Yakutpura area called women activists to report about

police atrocities and requested them to visit the area.

#### **Yakutpura area**

On 27-09-2014 a team of activists associated with PUCL visited the Yakutpura area.

The team was told that the violence was by police and not by any other community. People told them that there was no trouble in their area but police entered the area and in Minar Masjid falia, Patel falia 1 and Patel falia 2 they suddenly started breaking vehicles. They damaged each and every vehicle that was parked in these areas. About 70 vehicles including, bikes, cars, auto rickshaws were damaged by them. Police damaged vehicles, cars, auto rickshaws window panes and doors of many houses. They also beat some women with lathis. They were very abusive using the worst form of sexually explicit abuses. When the women questioned why they were indulging in violence on this scale, they pulled their dupattas and almost choked one of them. They did not spare even children; A boy from 10th standard returning from tuition classes was also beaten. They even beat up animals in their frenzy. Police also burst 20 to 25 tear gas shell and carried out 5 to 6 rounds of firing.

As per the complaint of the women they were just standing outside their houses and police came forward to beat them up. It was also reported that when they went to police station to lodge an FIR against this violence, they were viciously abused and driven out of the police station being threatened that that they are terrorists and they will be prosecuted under law.

Some 40 to 50 young men were reported to be picked up from their homes and locked up. The team met the Police Inspector in charge and he promised to release those who are not in video/photos in their possession.

People expressed the feeling that police has done this violence to

terrorise and silence the community as they wanted to report the incidence of uploading of objectionable images about their religion on internet. As per their experience, the same pattern of violence as always is going on - communal violence either by police or by police accompanied by one community, or police watching and doing nothing. As in the 2002 violence, young Muslim men were beaten mercilessly and locked up in large numbers only because they belong to a community with no evidence against them, beating and abuse of women, burning and breaking of vehicles, shops and houses. According to local people, this is done to incite violence and then propagate further violence. Initially people were very angry due to this violation by police without any provocation and wanted to take up the case of Human Rights violation through PUCL. But when some of the people along with their local leaders went to make representation about this behaviour of police to the Police Commissioner they felt that there is no point in complaining as they will not get justice. They are no more willing to take this up as a case of violation of their rights because they fear further violence by the police if they do so. The PUCL fact-finding team went to the office of the Collector and gave our memorandum of appeal for peace and for Vadodara administration to act to restore peace and then met the Commissioner of Police Mr Radhakrishnan. (Copy of the memorandum, Annexure-7) He was apprised of the violence perpetrated by the police in Yakutpura. He accepted that the crime branch police was at fault in attacking the citizens and would take appropriate action. The team requested the Commissioner to formulate a citizen police joint

committee for spreading awareness and reducing communal tension which he declined and told us to act ourselves in our own localities. He was in denial mode and said that there was almost no violence, saying that just one person throws a stone and everybody closes their shop and start spreading rumours. We told him that people close shops and don't send their family members to work because they are afraid as there is insufficient protection. In spite of the assurance by the Police Commissioner the brutal police attacks continued on the night of 27<sup>th</sup> September 2014. **Taiwada, near Sat Daragah Area** This incident did not took place in a so called border area where areas from two communities face each other but an internal area surrounded by Muslim neighborhoods. As reported by the residents of a Mohlla near Sat (Sevan) Daragah, Taiwada area to the PUCL team on the 28 September, on 27<sup>th</sup> night, at 1.00 am, a few policemen came and made a round of the Taiwada area though there was no trouble in the area. At 2:15 am, 30-35 police came in with people in civil dress and slippers, some of whom had handkerchiefs on their faces, with steel pipes and started breaking the doors and picking up 5-6 boys after beating them with pipes and rods. As reported by Ashiyana Abdul Latif to the PUCL team, Abdul Latif was not in his house as he was on night duty. In his absence, the steel bars of windows of his house were broken with instruments brought for the purpose and plain clothes policemen entered the house. Then they put on the light and broke the doors. They pushed Abdulbhai's wife Ashiana bano against the fridge. They then went to the other room where their son Abdul Raheman (Aged 19) was sleeping, caught him by his private parts and

dragged him out. When his sister cried to them to leave her brother, they turned their attention to the girls and tried to pull them even while the mother was trying to protect them. They beat the mother and the girls and tore the clothes of the daughter Amrin (aged 22). They told the mother to give them both girls if they wanted the boy free. The mother was beaten on the head near her eyes with a lathi, and the girls were also beaten with lathis. Amrin who is also a nurse in a state of shock, trauma and has started getting fits. Her situation worsened and became unconscious so she was admitted in the Sayaji General Hospital in the morning of 28-9-2014. In the hospital she mentioned about assault by police as reason for her injuries and mental shock and also registered her complaint in the Police Station of the General Hospital. But the doctor mentions assault by "opposing party" in her case paper and she is not sure what police has mentioned in the FIR/ Register. They are not given either copy of FIR. She was discharged at about 2.00 p.m. on the same day. As per the complaint of the residents, they also broke windshields of 3 to 4 rickshaws and took out petrol and applied lighter flame to the petrol and later poured water on it and said it was burned by a petrol bomb to arrest the boys. They broke doors of the house of Tahirabanu and beat her boy who is student in first year of college and took him. He has exams from 7<sup>th</sup> October. Her mother says she had sold her gold jewellery to pay tuition fees for the boy and his one year will be lost. Police entered the house of Kulsumbibi Adbdulrahim Pulaowala (aged about 50 yrs.) and beat her on thighs and broke the cupboard and broke fixtures and glass all over the house. She was so much afraid that did not go to hospital to get treatment. Only with support from

human right activists she was taken to hospital only on 29<sup>th</sup> September.

On 29<sup>th</sup> September with support from human rights and women's activists about 70-80 women from Taiwada area went to make representation to the Commissioner of Police about this brutal incident. The human rights activists wrote an open letter to the Commissioner of Police Vadodara, with a copy to the Home Department, Gujarat and National Human Rights Commission. (See Annexure-8)

### **Fatehpura, Koyali Falia and Ranavas**

As per the residents of the area the trouble started from 25<sup>th</sup> afternoon when a mob came to attack the tuition class located near their area. Along with the tuition class the houses and vehicles of other Hindu residents were also attacked by the mob. Shop keepers were forced to close their shops. Auto rickshaws, hand carts (lari), etc were also damaged. The trouble continued over the next few days. As per the complaint of the people several innocent boys were picked up by police.

### **Factors affecting riots in Vadodara**

Various factors have contributed to this new wave of communal violence in the city of Vadodara. Some of these are:

- Growing influence of BJP and right wing Hindu groups over police and administration
- Nexus between Police, Politicians and Criminals
- The ascendance of powerful builder lobbies and the related issues around land and

attempts to displace people from poor bastis.

- Disturbed Areas Act was imposed in sensitive areas of Vadodara. As per this act people cannot sell their property in those areas to person from other community without the permission of the Deputy Collector. The notification was ending on 30 September 2014. It is said that to get extension in the implementation of this act was also one of the reason for Vadodara riots. The notification was extended up to 2019 on 30<sup>th</sup> September 2014.
- Settlement of personal rivalry in cases of stabbing
- Rivalry within BJP local leaders to sustain their hold on certain areas
- The lack of enough staff within police department

### **Revisiting 2002**

As per the complaint received by human rights activists, the minority community is suffering from an added violence i.e. brutal violence by police. Many a time plainclothes police also known as D staff whose movements are not recorded officially, have entered the Muslim dominated neighborhoods after midnight and arrested young boys indiscriminately. There are reports of police abusing verbally and physically assaulting women in very similar pattern as witnessed during the 2002 riots.

It seems that on the political front the bogey of development is no more effective in keeping people under its influence and the BJP government is intent on

communalising the situation and elements like VHP and Bajrang Dal are being given a free hand. On the other hand police officers who are facing charges in cases of encounter, politicians like Dr. Maya Kodnani who are accused in 2002 riot case are out on bail giving an impression to the communal trend within police department that blatant communal behavior will not create problem for them.

Not only this incident but also growing incidents of communal violence and the apathetic role of police and administration is evident in the case of a communal clash in Ahmedabad in which one youth died on Eid ul Zuha eve and other parts of Gujarat. The growing influence of right wing Hindu groups who have taken to aggressive posturing, influencing and infiltrating police and administration ranks are actively creating an environment that is detrimental to communal harmony and peace. (See Annexure-7 for English News Reports)<sup>5</sup>

All those who believe in Democracy, Human Rights and Communal Harmony need to act urgently and sending a clear message that crimes against humanity will never pay.

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**Report Written by** -Trupti Shah, Ashok Gupta, Reshma Vohra with inputs from the fact finding team.

### **Annexure -1**

'Love Jihad' Pamphlets in Vadodara Warn Girls Against Becoming 'Prostitutes' [All India](#) | Written by [Rohit Bhan](#) | Updated: September 10, 2014:

### **A "Love Jihad" pamphlet circulated in Vadodara**

**Vadodara:** Pamphlets on "Love Jihad" being discreetly circulated in parts of Vadodara in Gujarat are being investigated by the police. The pamphlets, written in Gujarati,

name the Vishwa Hindu Parishad (VHP) as the source and have apparently been printed at a press in Rajkot.

They begin by asking - "Do you want

to Become a Prostitute? No? Then Read, Think and Behave" - and go on to list statistics that claim an increasing number of Hindu women are being lured by Muslim men into

marriage, and are living as “second, third or fourth wives.”

Hindi films are blamed for facilitating “Love Jihad”, the term used by pro-Hindu groups for what they call an Islamist strategy to seduce and convert Hindu women.

“For the last 10 years, dons like Dawood Ibrahim, Haji Mastan have spent crores in Hindi films and serials. Hindu priests and saints are shown in a bad light in these films and serials whereas Muslim clerics are shown in a good light. Hindu girls are shown romancing Muslims heroes in films, Muslims boys get influenced by this and as part of an international conspiracy they dress up well and roam around in motorbikes to trap our Hindu daughters and sisters,” the pamphlets say.

The VHP, which is affiliated to the ruling BJP’s ideological mentor Rashtriya Swayamsevak Sangh, has refused to talk about the pamphlets but some insiders say the organization does release “awareness campaign” material “from time to time.”

The Vadodara police say they are investigating the leaflets.

Vadodara will hold by-polls this Saturday after Prime Minister Narendra Modi vacated the seat and chose to retain his other constituency, Varanasi in Uttar Pradesh.

The BJP last month avoided the term “love jihad” when it adopted forced conversions as a campaign issue for the by-polls in key states including Gujarat and Uttar Pradesh. But some of its members have been less circumspect. Among them is BJP MP Yogi Adityanath, who has been accused of making inflammatory statements in Uttar Pradesh, where polls will be held in 11 assembly seats and one Lok Sabha seat on Saturday.

### Annexure-2

[http://m.newshunt.com/india/gujarati-newspapers/newsogujarat/gujarat-now/lav-jehad-mamale-vadodaramapharati-patrikani-tapas-polishesharu-kari\\_31978076/c-in-l-gujarati-n-newsgujarat-ncat-GujaratNow](http://m.newshunt.com/india/gujarati-newspapers/newsogujarat/gujarat-now/lav-jehad-mamale-vadodaramapharati-patrikani-tapas-polishesharu-kari_31978076/c-in-l-gujarati-n-newsgujarat-ncat-GujaratNow)

By newsogujarat, 10 Sep 2014

### Annexure-3

<http://navgujaratsamay.indiatimes.com/gujarat/central-gujarat/-/articleshow/42832448.cms>

*Continued in the next issue.....*

#### Endnotes:

1. Sanskarinagri, state’s riot capital too, by Tushar Tere in The Times of India, Ahmedabad, July 28, 2014
2. Please see the link for Annex. (1) <http://www.ndtv.com/article/india/love-jihad-pamphlets-in-vadodara-warn-girls-against-becoming-prostitutes-589407> for Gujarati report Annex. (2) (<http://navgujaratsamay.indiatimes.com/gujarat/central-gujarat/-/articleshow/42832448.cms>)
3. Please see the link for Annex. (3) <http://navgujaratsamay.indiatimes.com/gujarat/central-gujarat/-/articleshow/42832448.cms> for Annex.(4) <http://indianexpress.com/article/cities/ahmedabad/amid-talks-of-love-jihad-vadodara-garba-organisers-tread-cautiously/99/>
4. Link for Annex. (6) (<http://www.counterview.net/2014/09/ahead-of-navratri-senior-gujarat.html?sref=fb>)
5. Link for Annex. (7) <http://indianexpress.com/article/india/gujarat/common-thread-in-gujarat-clashes-vhp-aiding-police/99/> and (8) (<http://timesofindia.indiatimes.com/india/Fear-factor-gone-post-Modi-Gujarat-turns-communal-again/articleshow/44655367.cms>) □

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