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This Is Treason, Mr Prime Minister Rajindar Sachar*

An unimaginable crisis is gripping our country. Only a straightforward clear declaration by the Prime Minister can clear it. I am referring to the advertisement issued by Government of India's I & B Ministry on Republic Day carrying in the background a watermark of the Preamble to the Constitution. But a devious interloping was done by publishing the Preamble as it was in 1950, thus deliberately omitting the words "Socialist" and "Secular" from the Preamble which are in the existing Preamble since 1976. This interpolation clearly shows that the BJP Ministers are trying to flaunt their status of being corporate-friendly and stooges of the RSS boss. I have no problem with how the Ministers present themselves. But the Indian Government would be guilty of a serious constitutional lapse and cannot be allowed to continue if by its word or action it conceals the mandate of the present Preamble containing Secularism and Socialism. In that context the Union Government would be an interloper because the Supreme Court has clearly held that the "Preamble is the key to the Constitution" and therefore the objectives of "Socialism" and "Secularism" must govern any programme and policy of the Government of India.

The perverted suggestion that "Socialism" and "Secularism" were not in the original Preamble and were incorporated in 1976, is ludicrous because the government has to follow the Constitution as it exists at any present time and not in the past. But then the RSS-tutored BJP Government is also telling us that it will not accept the invention of airplane in present times but only the "Udankhatola" thousands of years back-but perversely it would at the same time ridicule the suggestion that by the same logic Persia and the Arabs must have invented aeroplane because of the mention of the Flying Persian Carpet hundreds of years ago.

Another strained argument is that the word Socialism was not in the original Preamble. As I said, it is immaterial because the government is to see the present Preamble. But even this fatuous explanation shows ignorance of facts and the law. Thus it is recorded that at the time of framing the Constitution, it was clearly understood that in India we were setting up a Socialist State. This was brought out specifically by Dr Ambedkar in reply to Professor K.T. Shah who wanted 'Socialism' to be incorporated in the Constitution at the drafting stage. Dr Ambedkar, while refusing to do so for technical reasons, explained "that socialism as such was already included in the Directive Principles". He explained thus: "What I would like to ask Prof Shah is this: 'If these Directive Principles to which I have drawn attention are not socialistic in their direction and in their content, I fail to understand what more socialism

can be."

As for the equally fatuous argument of the effect of incorporating Socialism in the Preamble in 1976 the Supreme Court pointed to the fallacy, as far back as 1983, thus: "Though the word 'socialism' was introduced into the Preamble by a late amendment of the Constitution that socialism has always been the goal is evident from the Directive Principles of State Policy. The amendment was only to emphasise the urgency."

May I also remind the Prime Minister and his colleagues that as per Article 75(4) of the Constitution of India they took oath before entering upon their offices which requires them to swear in the name of God that they will bear true faith and allegiance to the Constitution of India as by law established. The oath covers the Preamble to the Constitution as existing at the time of taking oath and not to the original Preamble or Constitution as framed in 1950. Anyone suggesting to the contrary would be taking the ludicrous stand that the oath would not oblige the Ministers to follow the mandate of over 100 amendments to Constitution since the original Constitution of 1950. President Obama would have been horrified by this interpretation of the Union Ministers because it would mean the negation of the 14th Amendment to the US Constitution brought in almost a hundred years

after the original Constitution (from which we have incorporated Article 14 of our Constitution, and which is the sheet-anchor of equality and non-discrimination for any citizen). If that was the interpretation Obama could never have been the President because the original US Constitution did not have the 14th Amendment which was one of the biggest weapons for ending racial discrimination in the USA.

The BJP leaders are speaking in contradictory terms. While Venkat Naidu says that the government is for Secularism in the Preamble, his colleague and a lawyer, Ravi Shankar Prasad, says the government wants to delete it. There can be no hedging on Secularism. In point of fact to even talk of deleting the word 'Secularism' from the Preamble would not only be sedition but also an impossible exercise. This is because the Supreme Court in Bommai's case (1974) has categorically held that "Secularism is a part of the Basic Structure of the Constitution and the Preamble is a part of the provisions of the Constitution".

In the Keshvanand Bharti case (1973) the Supreme Court has also held that the power to amend (Article 368 of the Constitution) does not enable Parliament to alter the basic structure of the framework of the Constitution. Thus Secularism, being a part of the

basic structure of the Constitution, is non-amendable. In point of fact and the law Secularism, being the basic structure of the Constitution, must be held to have been incorporated automatically in the Preamble to the Constitution right from the beginning in 1950.

No Mr Prime Minister, mere denial and that too contradictory is not enough. A covert attempt to undermine the force and strength of the Preamble cannot wish away the fears in the country and especially amongst the minorities. A full-throated public repudiation in "a Man ki Baat" and TV spread by the Prime Minister that his government unequivocally and without any hesitation believes in and assuring the public that it will uphold and carry out the mandate of Secularism in the present existing Preamble of the Constitution of India is urgently required. Any wavering or inaction by the Prime Minister on this course either on account of his false sense of prestige or stubbornness would only divide the country into mutual suspicion and thus damage the progress of the nation. The public statements of the Shiv Sena, the ally of the BJP, reflects the danger of silence on the part of Prime Minister Modi. He must therefore speak out immediately because to speak is a moral duty and to keep silent a sin and thus unforgivable.

**The author, a retired Chief Justice of the Delhi High Court, was the Chairperson of the Prime Minister's high-level Committee on the Status of Muslims and the UN Special Rapporteur on Housing. A former President of the People's Union for Civil Liberties (PUCL), he is a tireless champion of human rights.*

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PUCL Statement: 18th February, 2015

Stop Persecution, by False Prosecution, of Teesta Setalvad and Javed Anand!

The PUCL welcomes the Supreme Court granting an immediate stay on the Gujarat High Court order permitting the custodial interrogation of journalists and Human Rights Defenders, Teesta Setalvad and Javed Anand, while refusing to grant

them anticipatory bail. The Gujarat High Court passed its order on the 12th of February in the FIR of alleged misappropriation of funds collected for building a memorial for the 2002 and other riot victims of the Gulbarg Society in Ahmedabad. In the same

matter it also granted bail to three other accused of the same charge. This is not the first time that Teesta Setalvad is being targetted through false FIRs. Earlier too in the Best Bakery case of Vadodara and the Exhumation case of Panchmahals,

there were efforts to malign the name and credibility of journalists Teesta and Javed Anand; however, both were stayed by the Supreme Court. It also cannot be ignored that it was through the efforts of Teesta, Javed and other activists of Gujarat and outside, that 117 people have been given life imprisonment for perpetrating the 2002 Gujarat mass killings, including Bajrang Dal leader Babu Bajrangji and former Gujarat minister Maya Kodnani. Incidentally Gujarat state is the only one where so many victims of communal violence have got justice, thanks to the untiring efforts of human rights defenders like Teesta Setalvad, Javed Anand, CJP and others. PUCL had brought to the attention of the NHRC the type of persecution and prosecution by Gujarat police of Teesta Setalvad and Javed Anand and the CJP for persistently seeking justice for the victims of the communal holocaust in Gujarat in 2002 following the Godhra incidents. We had pointed out that the, “allegations of financial impropriety are easy to make; but the damage such allegations cause to individual reputation and self respect is irreparable. Very often though nothing much comes out of such allegations finally, the allegations would well have achieved their purpose of putting the individuals and organisations concerned on the defensive and force them to necessarily participate in an endless spiral of litigation trying to prove their innocence. Apart from diverting defenders from the main task of protecting, promoting and preserving human rights work, immense amounts of time, physical and emotional energy, and finances are lost in fighting malicious prosecutions and litigations”. Seen in this backdrop the dogged and repeated demand of the Gujarat police seeking the arrest and “custodial interrogation” of Teesta and Javed is a matter of grave concern. Firstly, we would like to highlight that legally the direction of the Gujarat High Court seeking custodial

interrogation is in violation of the fundamental right under Art. 20(3) of the Constitution that “*No person accused of any offence shall be compelled to be a witness against himself*”. Secondly, we would like to point out that factually during the pendency of the anticipatory bail before the Gujarat High Court, Teesta and Javed in obedience to the directions of the court had presented themselves regularly before the investigation officers. They were subjected to hours of questioning each time during which they fully cooperated. Reportedly all documents including audited accounts, bank statements of the individuals and the Trust, resolutions of trustees and so on were submitted. Voluminous documents were filed before the Gujarat High Court as well. Hence the insistence of the Gujarat police for ‘custodial interrogation’ appears to be more a veiled threat of third degree methods and torture than any genuine necessity for investigation. PUCL would like to point out that the SC has clearly spelt out the law relating to arrest and custodial interrogation in the landmark case of ‘*Joginder Kumar vs State of UP*’ (1994). The SC has pointed out that arrest and detention in police lock-up of a person can cause incalculable harm to the reputation and self-esteem of a person and therefore no arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. Pointing out that it would be “prudent for a police officer in the interest of protection of the constitutional rights of a citizen and perhaps in his own interest that no arrest should be made without a reasonable satisfaction reached after some investigation as to the genuineness and bona fides of a complaint and a reasonable belief both as to the person’s complicity and **even so as to the need to effect arrest**”. Stressing that denying a person of her / his liberty is a serious matter the SC said, “A person is not liable

to arrest merely on the suspicion of complicity in an offence. There must be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified. **Except in heinous offences, an arrest must be avoided if a police officer issues notice to person to attend the Station House and not to leave the Station without permission would do.**” ((1994) 4 SCC 260 at page 267, emphasis ours). Very importantly, the apex court also pointed out that “No arrest can be made because it is lawful for the police officer to do so. **The existence of the power to arrest is one thing. The justification for the exercise of it is quite another.** The police officer must be able to justify the arrest apart from his power to do so”. The court thereafter pointed out that arrest and custodial interrogation that follows should be only in the following circumstances: (i) if the accused persons will flee justice or (ii) tamper with evidence or (iii) intimidate witnesses. The ruling of the Supreme Court is now a statutory safeguard incorporated in section 41 of the Criminal Procedure Code as amended in 2010. None of these three situations exists in the case of Teesta and Javed, who have been regularly appearing before the authorities. They have always produced required documents even when it was clear that the police were on a fishing expedition desperately trying to find some evidence to pin against them. It is necessary also to point out that the accusation against Teesta and Javed are not of having committed heinous offences but financial ones, all of which can be established or disproved mainly on documentary evidences. PUCL is disturbed by the other sweeping and unwarranted comments made by the Gujarat High Court about the role of individuals and NGOs. We are however confident that the Hon’ble Supreme Court will ensure that

justice is eventually done as the judiciary is the only bulwark against abuse of power by the executive against human rights defenders. We also hope that the SC will

consider ordering an impartial enquiry into the matter by an independent agency under the direct supervision of the Supreme Court as was ordered in other cases

related to Gujarat communal violence. This will help establish the truth.

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

35th JP Memorial Lecture to be held at Bangalore

The *JP Memorial Lecture* is organised in memory of Shri Jayaprakash Narayan by the PUCL every year on 23rd March, the day emergency was lifted. The 2015 lecture is scheduled to be held at Bangaluru. Shri Gopalkrishna Gandhi, IAS, former Governor of West Bengal will deliver the *JP Memorial Lecture* on 23rd March 2015. The lecture will be held at **Xavier Hall, St. Joseph's College, PG Centre, Langford Road, Shanthi Nagar, Bangaluru-27, Karnataka.**

For more details please contact: **Dr. V Lakshminarayana**, President, PUCL Karnataka at his Mobiles 09448051387, 09480326622 or at E.mail <skinlaxmi@gmail.com>

PUCL Karnataka: Press Release

A Fact-finding Report on the Eviction of Residents of Baina Beach at Vasco da Gama by PUCL

A fact finding team consisting of Dr. V. Lakshminarayana, Dr. E. Rati Rao, Prof. U. Ramdas Rao, Advocate Sheela Ramanathan, and Ms. Deepika, all members of People's Union for Civil Liberties, visited Baina Beach in Vasco Da gama, on 18th January 2015. In order to study the controversy regarding the ruthless and inhuman eviction of 75 families of workers that took place in the middle of the monsoon in July 2014. Our fact-finding investigation has resulted in the following findings:

1. These workers belong to the economically disadvantaged sections of society, most of them from the Dalit community who have been illegally evicted from the area without being provided with alternative housing. In view of the fact that Baina beach slum has been notified as a declared slum, these residents are entitled to their constitutional safeguards, such as the right to shelter, the right to livelihood, and indeed the right to life, under Article 21 of the Constitution.
2. Besides being economically disadvantaged, these evictees

are also socially disadvantaged since they belong to sections of Dalit community, such as Chalavadis, Madas and Madagas, and Lambanis, who have been notified as belonging to the SC/ST category by various state governments. However, in the case of Goa, the benefits granted by various constitutionally mandated schemes to these communities are, however, not being made available to them by the state government.

3. We have moreover learnt that another 207 families are on the verge of being displaced since they have been served notice to vacate their houses in spite of residing in this area for decades. These workers are now agitating against their eviction for more than 4 months. This proposed eviction will violate their rights guaranteed to them by the Indian constitution as well as international covenants and conventions. It deserves to be mentioned here that these workers, over the years, have contributed substantially to the economy of

the state of Goa by the dint of their hard work and determination. Yet their right to a due share of the wealth generated by their efforts has been denied to them, and the basic necessities needed to live a life with dignity are not being made available to them, leading to their living a subhuman existence.

4. The government of Goa has provided these residents with civic amenities like water supply and electricity, collected house taxes from them over many years, and has further provided them with statutory identity through the issuance of individual Aadhar card, ration card and voters ID. (Yet, it is distressing to note that these residents have not been provided with toilets and other sanitary facilities.) The above-mentioned documents issued by the state government are proof that these houses are indeed legal structures, and hence it is unfortunate that the state government has seen it fit to issue eviction orders to 207 residents.

5. The human tragedy that took place in July 2014 when they were forcibly evicted and their belongings destroyed. At that time, the temporary accommodation which they were provided in the Sports Club complex turned out to be a sham alternative housing arrangement because they were evicted from the Sports Club within 2 months by using brute police force.
6. The eviction process was set in motion by the reported declaration of these areas as being “unsafe and disaster prone” by the Collector. This declaration appears unfounded, lacking any evidential value. Equally, the CRZ Act being sought to be applied in this area lacks any credibility. In fact, we strongly feel that both these Acts are being applied, in this context, as a pretext for displacing the people of Baina beach in order to benefit vested interests.
7. The eviction of 2014 is a cruel repeat of the 2004 eviction which rendered nearly 3000 residents homeless overnight. The victims of the 2004 demolition have not received rehabilitation as per the scheme notified by the Goa government in 2005, titled “Rehabilitation Scheme for Commercially Women and other residential and commercial establishments in Baina”, even though the Goa Bench of Bombay High Court in the Writ Petition No. 258OF2004 on 8 Jan. 2013 directed that the benefits under the Scheme be provided to all the applicants within 6 months. But till date, leaving a few sex workers, nobody has been provided by the Goa government with any benefits under the scheme, which amounts to a contempt of the

court. We are attaching a copy of the scheme for your ready reference.

8. It is noteworthy that both these evictions mentioned above took place when the BJP was in power both in the Centre and in the state. The plight of these residents has been further intensified by their being constantly used as vote banks by rival political parties.

In the light of these findings, our team urges the government of Goa to give serious consideration to the following unanimous demands of the residents of Baina beach, namely:

- A. Victims of demolition in 2004 who have not received any benefits under 2005 scheme (“Rehabilitation Scheme for Commercially Women and other residential and commercial establishments in Baina) as per the High Court direction need to be provided these benefits with immediate effect.
- B. Residents of Baina Beach whose houses were demolished in 2014 also need to be included in 2005 scheme (“Rehabilitation Scheme for Commercially Women and other residential and commercial establishments in Baina) and provided housing.
- C. Prior to implementing their order of 21 Aug. 2014 (LRC/EVC/H/17/2014/3062), asking the residents to vacate their dwellings, the government must ensure that alternative housing is provided to all the residents of Baina beach.
- D. No demolition of houses in Baina till and until residents are allotted houses under this schemes and have been shifted to these houses. Equally important, in constructing houses for these residents, requirements like the size of the

family, proximity to the place of work as well as schools, and available of other public facilities should be taken into consideration.

It is our earnest that these demands of the people of Baina beach for suitable alternative housing before their displacement from the beach area are fully implemented.

Meeting with the Chief Secretary

We met the Chief Secretary and had a brief discussion on the issue with him. He directed us to meet the Collector with whom he would later discuss the rehabilitation matter.

Our meeting with the Collector was very disappointing because he seemed to have a very negative attitude towards the poor residents of Baina beach and the tribulations they were facing. He refused to take any responsibility for implementing the High Court order of 2013 which required the Chief Secretary and the Collector to provide housing and compensation to the victims of the 2004 demolition.

In the light of our discussions with the Chief Secretary, the Collector, the affected people, and activists involved in the struggle, our team has reached the following general conclusions, not only with regard to the Baina beach issue, but with also concerns and issues that emerge from our discussions:

1. Our perception is that popular prejudice against the so-called “outsiders” is repeatedly reinforced through sections of the media and the public in order to facilitate and legitimise inhuman actions of the administration taken for clearing statutorily declared slums, by ignoring the contributions made by the so-called “outsiders” to Goa’s development.
2. Two significant legislations, namely the CRZ and the Disaster Management Act, have functioned as a double-edged sword. On the one hand, they

are applied against the infractions of the poor (living in informal settlements, accessing land and natural resources) by invoking concerns of safety and protection from impending dangers of natural disasters. When the urban poor occupying public land (communidades, beaches and so on) are evacuated by these means, the land is promptly made available

to powerful interests such as the land mafia, politicians etc. On the other hand, the illegalities of the land sharks, the developers as well as the public authorities themselves (e.g., flouting environmental and zoning laws) are conveniently overlooked in order to benefit vested interests.

3. Seen in this context, displacement has an underlying agenda, namely appropriation

and transfer of land and other natural resources from the poor to the rich and the powerful, in the service of the neo-liberal model of corporate-led development, which has regained a new momentum with the inauguration of the Modi regime in the centre.

Dr. V. Lakshmi Narayana, Dr. E. Rati Rao, Prof. U. Ramdas Rao, Sheela Ramanathan, Ms. Deepika □

PUCL TN & Puducherry: 22.11.2014

PUCL's Fact Finding Report on Tirupur Nigerians Issue

Tirupur Town, known as the Dollar City of Tamil Nadu, is famous for its hosiery garments trade throughout the world. Tirupur is a cosmopolitan city with a versatile culture. Adding to its versatile nature it accommodates people from foreign nations too. There are Nigerian and African migrants who are also involved in hosiery garments trade in recent times. Locals of Royapuram area have alleged that the Nigerian youths are involved in creating trouble locally and have become a menace to women residing in Royapuram Area. Consequent to these allegation the local landlords have decided not to rent dwellings to the African nation and outcast them from the area. In this connection PUCL decided to constitute a fact finding team to explore the truth behind the issue. The team visited Tirupur town on 2 separate days, 30th August and 3rd October 2014.

Members of the Fact finding team were

1. S. Balamurugan (Advocate), State General Secretary, PUCL, Tamilnadu & Pondicherry.
2. Ezhil Subramaniam, Social Activist, Tirupur.
3. D. Sekar Annadurai(Advocate), District Secretary, PUCL, Coimbatore District.
4. M. Balachander, (Advocate),

District President, PUCL, Coimbatore District.

5. R. Eswaran, Tamilnadu progressive writer and artist association. (Tamilnadu Murpoku Ezhuthaalar Matrum Kalaignargal Sangam) Tirupur.
6. Prof. L. Ganapathy Murugan, District Coordinator, PUCL, Cuddalore District.

Personal Interview Committee

1. P. Ganesan, Royapuram, Tirupur. (Gandhi Peoples Movement)
2. Balasubramaniam, Businessman, Raayapuram, Tirupur,
3. Kannan, South Street, Tirupur.
4. Antony, Nigerian, Hosiery Merchant, Katharpettai, Tirupur.
5. Abina Betrik, Nigerian Social Welfare and Banian Merchants Association.
6. Kezhichi, Nigerian, Nigerian Catholic Youth Society, Tirupur.
7. S. Jeyachandiran, Asst. Commissioner Of police, Tirupur.
8. Rev. Edward, Catholic Church, Tirupur.
9. A. Sundaram, President, Second Quality Banian Export Association, Kaatharpettai, Tiruppur.
10. Kumar, President, Second Quality Banian Export Association, Kaatharpettai, Tiruppur.

11. Thooyavan, Media person, Tirupur.

Nigeria had once been a British Colony in the African Continent like India in Asia. The federal republic of Nigeria has a muslim (Islamic) majority population in the north and Christian population in the south. The country consists of 36 states as a whole. It is the most populated in Africa and stands at seventh place in the World population. It has close contact with India. About 10% of India's fuel needs is met from the import of crude oil from Nigeria. The value of Nigerian trade with India is also estimated about 10 billion dollars in a year. It is also estimated there are nearly 5 lakhs Indian emigrants in Nigeria and about 50,000 Nigerian immigrants living in India, and most of them are settled at Goa.

The underlying facts behind the Anti-Nigerian Agitation

The first and the best quality of hosiery garments have been exported to the developed countries of Europe and the U.S. A sometimes the rejected and damaged items from the exported commodities are returned and brought back to the local markets for sale. Such items known as 'second sale' are sold in the Katherpet area near Tirupur Railway Station. The Nigerians, who came here for the procurement of

such items, became retailers in the beginning and began to export these items to their Country in due course. Later, they started producing hosiery garments and exported it to their country themselves. The people who came with business visa settled in the rented houses and continued their business in the areas like Katherpet and Royapuram in Tirupur. Such 'second sale' business is still prevalent in this region. During such stay Nigerians are charged usually exorbitant rent. They are indeed paying two or three times more than the rent paid by the local residents. Meanwhile, It was reported by the local news media about Nigerian youths indulging in illegal activities since 2012. Smuggling of narcotic drugs through courier services, alleged attack of a special police Sub-Inspector of the North police station at Tirupur in 2014 and arrest of Nigerians violating the visa period are some of the charges against them. Samson, a Nigerian youth who was arrested is said to have misbehaved with woman in the south street of Royapuram on August 2014. Soon a section of local residents of the area along with local political groups resolved and issued a notification to all the house owners to evict the Nigerians. In continuation of these events the Daily Thanthi newspaper carried a report under the heading "Women and the sexual harassment by the Nigerians" on 21.08.2014, Raj T.V Tamil channel also gave an abridged news as the Nigerians were involving in immoral activities in Tirupur. As a result the Committee of the PUCL organized an investigation in these areas to find the real happenings.

Objectives of the Fact Finding Team

The main objectives of the Fact Finding Team are to find out whether the Nigerians were

involved in illegal activities as alleged by some local groups and media; to identify their social conditions, to trace the problems as they are considered foreign nationals particularly third world developing countries and to recommend the ways and means for their honesty and dignity, Respect and social solidarity.

Complaints against the Nigerians

The complainants of the area accused the Nigerians of consuming liquor in open places and to engage in cruelty among themselves and also with the common folk. They are also blamed of rash driving in two wheelers.

Encyclopedia Britannica refers to the cultural background of the Nigerian as well. Liquor consumption, Night resorts are the order of their country except the Islamic area where prohibition is in practice. Festivals are celebrated as a part of their life right from the birth till the marriage of a person. Moreover, seafood, Beef, Meat and Chicken are important food of protein sources in their life.

Every one known's that liquor consumption, even in common places has become quite obvious in the society and addition to liquor consumption is increasing every year in Tamilnadu. One can find the increases in the sale of liquor and number of consumers in Tirupur every year. Besides the team did not find any materials that substantiated that Nigerians consume liquor always in open places. Besides in Indian society caste persists as an important sociology-psychological phenomenon in which popular belief among the local residents that Beef is consumed by mostly by untouchables known as dalits and muslims. So the age old social stigma on beef food reflecting against Nigerian. Despite, the Nigerians are criticized of having all these habits. The physical appearance, their articulation and

gesture of the Nigerian folk are seem to be frightful and averse to the native people of the area. The Black complexion of these Nigerian is matter for the native people of diversified caste, creed in the social order of locality.

Apart from these, the fear among the local second quality hosiery garments (banian) merchants on the emerging status of the Nigerians into producers, these merchants are jittery of their future due to these fellow foreigners. It is to be remembered that the North Indian had already invested huge capital in this trade and they became equally competitive to the local merchants, thus, it is studied by the committee that major part of the trade had already been in the hands of the rich north Indian business men. Hence, the local merchants understood the Nigerian as their challenging force. This economic factor led the local merchants to uproot the Nigerians from there. They compelled these foreigners to quit the area on December 2013. These foreigners are also seen back to the business by paying exorbitant rent for their shops. This business competition continued between the local traders and the Nigerians which lead to dissonance with Nigerians. It is also found by the committee that there is Xenophobia like attitude among the townfolk in Tirupur which results in hostility .

The fact finding team understood that Nigerians in Tirupur does not involve in any conflicting terms with local people and however are willing to maintain a cordial relationship with local police. On 19.8.2014 the police filed case against one Mr. Samson a Nigerian national who is alleged to have misbehaved with a woman. He was arrested with the help of the 'Tirupur Nigerian community welfare and garment trade association' who facilitated the arrest by helping the police to fix his

whereabouts.

The committee examined the facts to find that the Print and visual Media reports baseless information about the Nigerians in this area. The message in the Daily Thanthi on 21.08.2014 and the documentary in the Raj T.V. Channel are instances of such reporting. The Press should verify the reliability of the news before publishing it. The Media's social responsibility plays a significant role in maintaining harmony in the society. The stereotyped and portrayal of Nigerians in negative light insinuates a preconceived notion on all Africans and will have far fetching repercussion on the African migrants.

The committee also observed that some of the Nigerians were treated in a disrespectful manner without any reason by the local resident. Mr. Kellichi, a Nigerian in Tirupur also shared his experience in this regard.

The team also interacted with police official who opined that no law and order issue aroused in city by Nigerians.

The persecution of Africans has become a common phenomenon in India. These people are facing racial discrimination in states like Goa, Delhi and Chandigarh. Yanic Nipadagamy, a Burundi student of Jalander Lovely Professional University of Punjab was brutally beat by his own mates and he succumbed to injuries in the year 2012 and the same was reported to the chief Minister of Punjab State by parents of the victim. The Police did not take any action on this case on account of the influential family background of the Indian students. This dreadful event made the other students from African countries such as Burundi, Nigeria, Zambia, Congo, Rwanda, Tanzania fearful in the state of Punjab. The African Students studying in the deemed Universities in places like Jalander

and Bakwara of Punjab also feel that they are discriminated even though they pay the fees two or three times more than Indian students.

Another event (October, 2013) telecast in the Media is the murder of the Nigerian in Panaji, Goa. When the Africans indulged in road roko, Goa's Art and Culture Minister Dayanand Mandrekar called Nigerians a "cancer" and said their actions were detrimental to the tourism industry; though he retracted the statement and apologized later the incident underscored the racial discrimination experienced by African students in the hands of Indians. After the riots, Goa's Chief Minister Manohar Parrikar ordered police to find and expel Nigerians living illegally in Goa and Goan MLA Shantaram Naik said: "Nigerians misuse education schemes, violate the Foreign Exchange Management Act (FEMA), indulge in the drug trade and yet try to boss over Goans, which no civilised society would tolerate." Some signs read "Say No to Nigerians" and others were said to have resolved not to rent out apartments to Nigerians. The Media also expressed the news about the denial of renting houses and hiring two wheeler to these foreign citizens.

Yet another incident relates to the serious assault of three Nigerian youths by a mob at Rajiv Chowk Metro Railway station in Delhi on September 2014. Events of such kind have made the Nigerian to think that they are ill-treated and discriminated in India.

On 8.3.2014 when Nigerian High commissioner Mr. Ndubuisi Vitus Amaku visited Tirupur to interact with Nigerian people to understand the problems faced by them in Tirupur and adjoining areas, he asked the Nigerian nationals to respect Tamil culture and live in

harmony with local people. He appealed to Indians to treat his citizens in a kind manner. In the wake of increased discrimination faced by Nigerians in India, their Administrative Attache, Mr. Jacob Nwadibia an officer in the Nigerian embassy has warned that if this kind of situation remains unchanged in India, it would provoke reactions against Indians residing in his country, Nigeria.

Recommendations of the committee

1. The central and state governments should take measures to end racial discrimination in terms of colour and physique and to prepare action plans to create social solidarity following the guidelines of U.N.O. i.e. Action Plan of Vienna Declaration of 1993 and World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance of 2001.

2. Article 21, of the Indian Constitution guarantees the personal liberties and rights to foreign citizens too. Hence governments and society must act to ensure protecting the dignity of Nigerians in India.

3. Action Plan should be formulated to encourage robust and vibrant business relationships between Nigerian business people and local Indian manufacturers. A working committee should be set up with representatives of both communities as also officials to create harmonious relations between African nationals living in Tirupur and other places in India and locals.

4. The Government must discourage local residents from refusing to give rental houses and shop building for the Nigeriens business men who are pursuing honest, free and fair business.

5. The Government must intervene in the matter of rental arrangements and ensure that rents are not exorbitant but fair; the government

should also ensure that local landlords are not permitted to capitalize on the vulnerable position of foreign nationals who live in Tirupur by quoting exorbitant rents or in routinely hiking up rents.

6. The local administration and police should set up grievance redressal mechanisms so that foreigners can approach them for assistance to sort out local controversies or issues. By the same token foreigners living in India should be told that they need to obey the laws of India or else they will have to face prosecution under Indian laws.

7. Moreover, these foreigners are to be provided with the right to have

relations with the embassies and to know the guidelines of the Vienna Convention on Consular Relations of 1963 so as to make them understand the legal measure for and against them. The Police Department and the officers are also to be made aware of these guidelines

8. We implore the local community to be sensitive to the cultural values, practices and mores of people who come from foreign countries to reside in India so as to practice their trade. Indian citizens are requested not to create a problem around whose culture and values are more valuable and not to turn issues into

one of 'us and them'.

9. It is important for Indians to remember that our own society is marked by great degree of diversity and that our strength is our multiculturalism and equal respect for all cultures and peoples.

10. Respecting one's culture in a multi cultural society paves way for harmonious existence of human values.

These are the recommendation of the Committee especially to the affected Nigerians in the entire country in General and Tamilnadu in particular.

S. Balamurugan, Gen. Secretary, PUCL TN & Puducherry □

FORM IV

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

March 1, 2015

V. Suresh, Publisher, *PUCL Bulletin*

Summary of Discussion in the Patna National Convention, Thematic Committee on communal issues:

Challenges to Majoritarian Communalism in the Country by the PUCL in States'

About 35 participants from Bihar, Rajasthan, MP, Assam, Jharkhand, Orissa, UP, Karnataka, Tamil Nadu, Delhi, Chhattisgarh and West Bengal were part of this session. The discussions in this group were extremely rich. It began with the larger question and moved on to examining concerns from the States.

The first question raised was

whether grievances related to violations caused on minorities will be at all addressed by the police and executive, now that the ruling dispensation in Delhi consisted mostly of members from the RSS which believed in the formation of the Hindu Rashtra. There were genuine fears of the possible loss of the secular character of the system of governance, in the

present context.

The next question raised was whether there could be a challenge to State functionaries integrating majoritarian religious symbols in their dispensation of work. The concern emanated from the Prime Minister foreign visits where he publicly used religious symbols of the majoritarian community like holding a three hour Puja at the

Pashupati Nath Temple in Nepal and donating huge sums for Sandal wood (from the State exchequer) or gifting the Geeta to the President of America. Was that not a blatant violation of the Constitution apart from giving a strong message to the hindutva forces that he was one of them but also paved the way to the state functionaries to carry out similar activities.

It was also stated that competitive identities was the mood of the day, therefore it was important also to question minority communalism, including the Owasis along with making the State accountable under all circumstances against the violations of people's rights.

It was also stated how elections were openly and increasingly become processes of consolidation and assertion of votes on religious grounds, particularly consolidation of the majoritarian vote, which was visible in the 2014 Lok Sabha election and the State elections preceding it.

Apart from sharing larger concerns the participants also shared struggles and the challenges faced by the people on a day to day basis in our state. Experiences from the 12 states of Bihar, Rajasthan, MP, Assam, Jharkhand, Orissa, UP, Karnataka, Tamil Nadu, Delhi, Chhattisgarh, West Bengal were shared in this session.

Former President of Bihar PUCL, Father Philip Manthra opened up the discussions and presented the situation in Bihar. According to him, looking at the forthcoming Vidhan Sabha elections, efforts were being made to polarise the communities on religious lines. He also said that the run up to the Lok Sabha elections saw a lot of hate speech and statements on caste and communal lines being openly expressed and little action was taken against the violators. He suggested that it was time that those people spreading hate on the

basis of religion be considered as anti national people and the law be strictly applied. He was worried about the multi cultural, multi religious state of affairs which were being thwarted.

Building on the presentation of Father Phillip Manthra, Ajamal Arshad of the Bihar PUCL stated, quoting from Justice Tarkunde's lecture which was delivered as the JP Memorial lecture in the early nineties, where he stated that tendency of building collectivism whether majority or minority issue can be in both communities. IT asserts in a way that even suppresses the individual within these collectives, thus causing loss in merit of the people. He also added that collectivism of the majority was a bigger challenge.

He was worried that the level of acceptance of attacks on minorities and that of vitiating the public discourse was on the increase. He felt that a new grammar of engagement of the people with the executive had to worked upon, while making accountable the Government through legal means. He added that the constant attack on one community now called "low intensity attacks and tension" had to be nipped in the bud as if unaddressed it would simmer and take a serious toll.

Participants from PUCL Delhi shared about the communal violence incidents that that took place in Trilokpuri and Bawana areas of Delhi, including the attack on a church which was not heard off in Delhi. What was sinister about Trilokpuri was that it was aggressive hindutva, where the dumping ground gets appropriated with a Mata ki chowki, right underneath the eyes of the administration and police but they appeared helpless and like in Gujarat the Scheduled Caste community was in the forefront of attacking the Muslims. What was also sad was that a

section of the progressive Dalit leadership also refused to speak up. It was just that the glare of the media that averted a major incident. Similarly, in Bawana, a resettlement colony of the Delhi Government of 50% percent hindus and 50% Muslim population, since the last 12 years, also saw a communal flare, when a meeting was organised by hindutva forces, in the presence of the BJP MLA and a fatwa along with a parcha were issued that the Muslims would not be allowed to take their Tazia procession through areas where the Hindus lived, as they indulged in asserting their might and also sexually assaulted women. They were told that they should learn to stay within their limits. It was only after the administrative glare and a public opinion in the media and civil society condemning it that the ugly breakout during Muharram was averted. They said that these incidents had picked up along with burning of churches as the Delhi elections were near and very clearly there was an effort of polarise the population. They mentioned that the main role of the PUCL was to build this awareness among the people to see the game plan of the communal forces.

The PUCL members also they suggested that there should be a press conference in Delhi of the national PUCL office bearers as what was happening in Delhi was too serious for the nation.

The most disturbing was the news from Chhattisgarh. The Ghar Wapsi programme of Jashpur was now spreading its tentacles in the whole State. The Hindutva forces were working systematically to divide the Oraons into Hindu and Christian Oraons, which was against the law as the Tribals under the Constitution are one irrespective of religious identities. Since the Tribals held a special status in the Constitution being the most deprived of the

communities, the latest propaganda was that the Tribals would not get their privileges if they took on the minority status.

The sec 170 (B) of the land revenue act which prevented the buying of Tribal land by a non-tribal was under threat as they were coercing Christian Tribals to sell their land and the administration also ignored these sales.

However, what was most scary was the VHP campaign in more than 35 villages, where the gram sabhas were forced to pass a resolution that they would not allow any Christian missionary and that only Hindu mendicants would be allowed. This had been challenged in the Bilaspur High Court, however only notices had been issued by the Court.

The also forced all Christian schools in the area not to call the clergy as Father but as an "acharya". They also forced all schools in the area to install a Saraswati idol and to begin with a Saraswati pooja everyday. Incidents of violence and attacks on the Christian community was also reported from Ambikapur where a pastor was beaten up and jailed. The PUCL members had travelled extensively and brought out a report on all the issues stated above.

Members from Uttar Pradesh shared the experience of the yearlong communal violence that took place in western UP prior to the Lok Sabha elections of 2014. The Muzzafarnagar riots in 2013 and the Sahranpur riots in 2014 showed how farming communities which had stood firm on the single identity as farmers bargaining nationally for the interest of farmers, a movement built by leaders like Charan Singh and Mahendra Singh Tikait, which shook Governments through their non-violent protest politics, could be split on religious lines. The brutality of Rape and Murders accompanied by loot, arson and damaging of property of

the minority community, leading to displacement of large sections of the people still lay unaddressed. Although several FIRs were filed however, the investigation was slow. Like in Gujarat, their was bargaining happening that the victims could return home if they took back their cases. The State Government to had been insensitive with the situation and shut the relief camps, pushing victims out of any State security.

Communal leaders like MPs Adityanath, Sakshi Maharaj whose constant anti minority statements were communalising everyday calm and peace, Sadhvi Prachi whose provocative speeches burnt Muzzafarnagar along with the VHP leaders whose demand for the Ram Janam bhoomi Temple was getting louder, were weakening democracy. The entire episode of Love Jihad too was dealt with, where it was shared that this was one more means of interfering with choices of individuals along with controlling women's sexuality and fertility. The slogan of Love Jihad was the best way to consolidate to the hindu community against the Muslims

It was stated that the ruling dispensation at the centre including the Prime Minister Narendra Modi refused to stop these blatantly communal people as it was their calculation of pushing through market reforms and anti people policies and legislations through this hindutva upsurge.

The members from Tamil Nadu also stated how interreligious marriages were increasingly becoming a problem and that even lawyers in many instances were not available to assist in the registration of marriage as they too got hounded by hindutva forces.

The Rajasthan situation was also shared, whereas it was stated that the profiling of Muslims as terrorists continued, the Special Police Cells and the ATS persisted with their

scheme of booking Muslim boys under the garb of Terrorism. On the 24th of March, 2014 a series of arrests of young Muslim boys, mostly professionals began in the cities of Jaipur and Jodhpur and a total of 16 boys and one adult was arrested. Using the bogey of Indian Mujahidin the it was claimed that they were supporting those who planted bombs and had similarly planned to plant bombs in order to take revenge of the Gopalgarh killings of Muslims. The entire case was established on the vague confessional statement of one of the accused. The PUCL brought out a well researched report on the subject and showed the lacunae in the investigation. It also seemed that a hype was created before the Lok Sabha elections in the State by the media and the police, showing that the PM candidate Narendra Modi and all temples and public places were under threat.

Influential members of the Muslim community in the city were also targeted by the State Intelligence through a leak letter which went viral in the cyber space, which stated that several poor Hindus had sold their land due to incentives provided by the Muslim community and a Masjids had been constructed there. These influential and rich Muslims basically conduct secret meetings and provide the money. The name of Jamait Islami Hind was also dragged along with its member Dr. Iqbal that he kept the accounts. The PUCL immediately conducted a fact finding and showed how baseless these allegations were.

The challenges according to the State PUCL consisted of how to prevent the communalisation of the Dalit community particularly the Valmikis, who in a city like Bhilwara, had attacked the Muslims 25 times in only one year and the Police and administration refused to take preventive steps. Also the

provocation of the Muslim community with the increased activity of the RSS along with the amplification of the attack on Muslims after RSS shakhas and other events being continuously organised in Tribal districts like Pratapgarh district which lead to the January, 2014 riots.

The members feared the change in text books and attack on freedom of speech and expression in these times of the dominant discourse on Hindutva. They suggested that documentation of these case studies was very important.

The participant from Assam talked of the ongoing Bodo Vs Muslims and Bodos Vs Tribals conflict and urged the PUCL to come and make a comprehensive report on the trends as there were several myths of what was happening in Assam. While it was true that the Bodos felt threatened by an increased Muslim population as compared to the period of independence, however, it was the militant chauvinistic Bodo groups and definitely not the All Assam Bodo Students union who were using violence against Muslims and Tribals to arm twist and pressurise the Government of Assam and India. They did not have popular support of the people but they were trying to revive the

subnationalistic and separatist sentiment in the Bodos.

An analysis of the above showed that Hindutva was seeking newer territories and was trying to consolidate those constituencies that were loosening their caste identities, thus love jihad was the best tool with such groups as khaps and jati panchayats did not exist here. It was bringing all those caste groups within its fold who the Brahmins never accepted like the maha dalits and the Tribal. This cooption was not only because of groups seeking sanskritised identities but also this was the militant face of the Hindutva, the hands of these new groups who were other wise victims of Brahminism apartheid because of a closed social order, were now soiling their hands in blood to save Hindutva.

Moral policing was also on the increase due to their loosening control over women and choices being made by them. Both love jihad and the Ram Sene or Khaps were part of this phenomena.

Suggestions :

- The PUCL should start holding regional meeting on the above issues, like the states of Jharkhand, Bihar, West Bengal, Chhattisgarh and Orissa can be

one unit. Similarly, MP, Rajasthan, Maharashtra, Gujarat can be another unit, Delhi Western, UP, Haryana, Punjab can be one and the southern States, North Eastern States can be one unit.

- Dialogue with youth of different communities proactively on constitutional values, democracy and the rise of Majoritarian communalism.
- Dialogue with Tribal and Dalit youth on the issue of communalism in the state and the districts upto Panchayat level, to prevent them from becoming the foot soldiers of the upper caste.
- Each State should bring out a report on the condition of communalism in the State, the role of State agencies and peace.
- Follow up on legal cases in States. Workshop with lawyers on the issue of communalism.
- Fact finding and relief work should be continued, but we need to go beyond it and start the political dialogue with the people on this so that there is rejection of these tendencies and respect for pluralism.

Report sent by Kavita Srivastava □

Made Snana, Pankti Bedha: Social Accountability of Mutts and Religious Institutions - A Discourse

Summary of Presentations:

Delivering the inaugural address on, 'Made Snana, Pankti Bedha: Social Accountability of Mutts and Religious Institutions – A Discourse', Prof GH Nayak, Sahitya Academy awardee and noted Kannada Literary critic, accused that the religious Mutts are the nursery nurturing casteism in Indian society. Tracing the history of Indian parliamentary Democracy he reminiscences how stalwarts of Indian freedom movement under

the leadership of Ambedkar prepared Constitution for India. Leaders of first parliament took oath on this Constitution. But, within five months the communal forces killed Mahatma Gandhi. Bad times continued when Indira Gandhi imposed emergency in 1975. Later Vajpayee and Advani entered the Janata coalition to rule India. Today murderers of Gandhi are in power at centre. Constitution itself is in danger. They talk of patriotism! I have grown along with freedom

movement. I have seen my family my entire village getting arrested and going to jail for participating in freedom struggle. I have grown in a casteless milieu of struggles to free India from British rule. I know what patriotism is! The welfare State concept includes wellness of resources of the country - land, water, environment and the entire people of the Nation. In the name of tradition justifying discriminatory practices like Made snana (a religious practice where in lower

caste people role over the left over food of Brahmins in temples) is shame! Untouchability is tradition will they justify it? Sati was religious tradition but many stalwarts fought against it. As a literary person if evolution of content of 18 -19th century writers is scrutinized, discrimination against women, later on atrocities on Dalits were focused. These were all caste, religious, patriarchal and traditional discriminations. Nation has fought against discrimination as powerful social movement. Now the Paradox is Murali Manohar Joshi declared that *Mulla's* and *Pandits* will decided the content of school text books. What happens to scientific temper in education? We are concerned and anxious! The absolute majority of BJP Government, technically speaking can alter the Constitution of India. The slogan of 'Development' is the newly added blind belief. Welfare State is being dismantled. Bad days are haunting our country today!

Discourse by GV Sriram Reddy, State General Secretary, CPM started by asserting that BJP government in Centre never believed in Constitution. The makers of constitution the Congress is ambiguous! Anxiety is palpable! Citizen's responsibilities have increased. While entering parliament Modi bowed before it and declared that he is entering 'the temple of democracy'! Today parliamentary system is being insulted. How about the opposition that should be rescuing it? Congress Government in Karnataka is the only hope and is pro -people. In the wake of Dhabol's murder a committee was formed to frame a bill to control superstition and Mutts in Karnataka. Without reading its recommendations the Sangh parivrees opposed it. Siddaramaiah immediately with drew the bill. A bold initiative could have been to uphold the bill on the fundamental issues

of scientific temper and cleared it. Instead he succumbed to pressure of forces of people whose blood is steeped in Brahmanism! These believers in blind beliefs and caste discrimination on one hand take oath in the name of constitution and on the other want Bhagvat Geeta to be nations holy scripture. Same kinds of forces in our judiciary on one hand oppose Mades Snana but recommend Edesnana (rolling over Prasad). Well fortunately, the Supreme Court ruled that archaic discriminatory practice of Made snana is to be banned. Edesnana is not a recommended alternate. Now the issue of ban on religious conversion Bill! Well, Pejavar Swamy of Udupi must tell us what caste he recommends for the Hindu converts? When Education Minister was asked about his opinion, he personally does not want the ban but won't talk of it. Instead he would fall at the feet of these saffron leaders! This is the level of our Ministers. No Guts! If there is murder in Mutts or irregularities are being practiced in Mutts should the police raid the premises or not? Saffron attires and Mutts are above constitution or above law of the land? They want to include of Akhand Bharat (Greater India) including Nepal, Bangladesh, Afghanistan, Sri Lanka etc in school text books! History is being falsified at every step. Well, Modi talks of Veer Biharis who have challenged Alexander and Veer Biharis who protected Sita Mata? When did Alexander go to Bihar and in fact Sita was never in Bihar? The sad part is our historians never open their mouth. They are unusually silent on the issue. The government must listen to its citizens, uphold democratic opinions and work for the people. Dalits, women's and landless people's issues are all neglected. Reactionary RSS and Corporate companies support communalism. It is not possible to

take stalk of the entire situation at ideological level. For everything is reduced to law and order and frame work of law is ruling!

The PUCL Karnataka State President and National Secretary Dr V. Lakshminarayana, reiterated that today secularism is in danger. The militant rightist government in Centre is contemplating basic changes to constitution of India. The secularism practiced in India is different from the Western model. Deliberating on the various models of secularism he said that in the West the Church and the State are separate. Hence, interference from the Church matters of State is nil. However, in India Religion does intervene with the State affairs, be it political social or economics. It was Savarkar who had formed a frame work for Hindutva in India. While Vivekananda strongly criticized Western tradition as against Hindu religion, Gandhi on the other hand believed strongly in Hindu Muslim unity. Today the intolerance towards PK cinema, and the Gharvapsi programmes etc show that venom of hate is being spurted out on religious minorities and women through many tongues. All over India mainly in village levels, divisive forces are dividing every community on religious lines. Casteism is being practiced in the name of religious practice of Hindu tradition. We need to confront casteist and religious forces to democratize and secularize the Indian polity. Mugarai Institutes need to be democratized. We need to fight against superstition and clear the bill on Mutts and religious institutions. Today's Modi's Swachatta Andolan is superfluous gimmick. Gandhi really involved himself in cleaning the latrines. He argued that the Hindtva of communalism of Sangh Parivar has to be exposed at all levels and challenged with Secularism as enshrined in the constitution. Need of the hour is to build a strong

movement to propagate scientific temper.

Dr Narendra Nayak, the famous Rationalist from Mangalore informed the audience that the school children could not be fooled by Modi. When he asked if Lord Ganesha had under gone plastic

surgery, the students strongly denied it. They too know that plastic surgery is 20th century science. To fight against blind beliefs, discriminatory religious practices, Casteism and Communalism younger generation should be approached by inculcating scientific

temperament. Youth is the only hope for this madness!

Made Snana, Pankti Bedha: Social Accountability of Mutts and Religious Institutions - A Discourse was organized by Karnataka State Backward classes enlightened forum, PUCL Mysore and CPI(M) on 31-12-2014 at 11am at Rotary Hall, Mysore. Karnataka □

Gujarat PUCL:

Minutes of PUCL Meet at Shramjeevi Sevalaya, Surat on 17-1-2015

A meeting of PUCL members of Surat was held on 17-1-2015. The meeting was attended by 24 people including Rohit Prajapati and Uttambhai Parmar as representatives from National Body. Krishnakant welcomed all the members and attendees. Uttambhai proposed that we consider this meet to further strengthen and expand the membership base in Surat city and district. The proposal was supported by all the members present. It was felt by the attending members that we need to include many more prominent people from Surat city and District and hence there were discussions and deliberations in this regard.

Rohit Prajapati explained the structure of the PUCL organization. He also emphasized the need to function according to the PUCL

constitution. He elaborately explained the structure and how members from a city/district unit are nominated for the state body and then to the national body. He stressed the need to subscribe for the PUCL bulletin for each member, so as we keep ourselves updated about our organization.

An ad-hoc team of 6 members under the convenorship of Shri Babubhai Desai was unanimously announced to further the membership drive and include prominent citizens from the city and district.

Adv. Pratik Sharma, Krishnakant, Khushalbai Solanki, Uttambhai Parmar, MSH Sheikh, Vipul Dobariya are members of the team. However it was stressed that other members also try to involve more people, especially socially conscious and active people.

Kishorbhai Desai, reminded of the Environmental Activist Priya Pillai case. PUCL has issued a statement in this regard which was brought to the notice of the attending members.

Nikunjibhai emphasized the need to widely publicise the PUCL statements to the local press also. Uttambhai proposed that we have a Fact-finding team for the ongoing communal riots in the Hansot area of Bharuch District, which is adjacent to Surat District. The proposal was supported by all. Uttambhai, MSH Sheikh, Krishnakant would help the fact-finding team at the local level.

The meeting concluded with vote of thanks to all and a resolve to strengthen the PUCL unit of Surat city and district.

Krishnakant from PUCL Surat □

PUCL Chhattisgarh:

Fundamental unFreedoms

A note on the situation of ordinary Adivasis in Bastar

The Bastar Division in South Chhattisgarh comprises today of seven districts – Kanker, Kondagaon, Narainpur, Bastar, Dantewada, Sukma and Bijapur. Sparsely populated, this area is home to many of the Adivasi tribes of Central India – the Gonds, Murias, Koyas, Halbas, Bhatras, Marias, Abujhmarias, Dorlas, Dhurvas etc. While richly endowed with minerals and lush forests, this region is also home to the most impoverished populations of tribals, with one of the highest rates of infant mortality, illiteracy, poverty and maternal

deaths. South Bastar has had the presence of Naxalite groups since the 1980s, but the conflict has intensified in recent years, with the state embarking on heavily militarized counter-insurgency operations such as *Salwa Judum* and Operation Green Hunt. As the state pushes its military might to recapture its control over the territory and underlying resources of Bastar, vulnerable communities of Adivasis are threatened with arbitrary detentions, arrests, fabricated cases and fake encounters.

Increased Militarization

This year saw the change of government in Delhi, which was rapidly followed by an intensification of the State's war against its own people in Central India.

Soon after the new government took position at the Centre, on June 7th, the Home Ministry announced an innocuous-sounding name change of its Anti-Naxal Unit to the Left Wing Extremism (LWE) Division. A far more substantive announcement that day was the sanctioning of an additional 10,000 paramilitary troops

for Chhattisgarh's war on Naxalism, now rechristened as Left Wing Extremism¹. On the same day, the Chhattisgarh state government announced a major reshuffle of its police officers, in which the SPs of all 3 districts of South Bastar (Dantewada, Sukma and Bijapur) were replaced, and police officer, SRP Kalluri, accused of numerous human rights violations, was made the Inspector General of Police (Bastar Range).²

Two days later, on June 9th, the Chhattisgarh CM Raman Singh met with Home Minister Rajnath Singh, and made several more demands for effectively combating Naxalism in Bastar – 26 new battalions of paramilitary forces, 21 additional choppers for troop movement, more UAVs, an Armed Forces Recruitment Training School, a commercial airport in Jagdalpur among others. The Chief Minister also sought relaxation of norms under the Forest Conservation Act for diversion of forest land in LWE areas, and in a move eerily reminiscent of SPO recruitment, asked the Centre for help in providing monthly stipends to over 4.75 lakh tribal youth, to wean them away from recruitment by Naxalites.³

The Union Home Ministry responded the next day with its new "Get Tough" approach, indicating that the new government did not believe in talks, and would only concentrate on wiping out the LWEs. The Union government acceded to most of Chhattisgarh's demands in principle, and decided to make Bastar the focus of its new all-out offensive against the Naxals⁴. The Union followed up by granting Chhattisgarh two additional helicopters, 2 technical battalions (2000 men) comprising of engineers for carrying out construction projects; 1000 ITBP troops⁵ and 2 battalions of Naga IR battalions. Writes The Economic Times⁶:

"With the additional deployments, Bastar is set to be the most-militarised zone in the entire country. With an area of 40,000 square kilometres, Bastar already has a deployment of 36 central battalions and 12 state police battalions."

A Policy of Impunity for Police Officers

In September, Home Minister Rajnath Singh made a statement that police officials initiating action against Maoists should not worry about reactions from human rights bodies⁷. This statement is reflected on the developments in Bastar wherein, Police officers like SRP Kalluri have been promoted as the IG of Bastar range despite a dark human rights record and a pending inquiry.

As SP of Surguja and Balrampur, Kalluri had been known for "encountering" Naxalites – many of them were later revealed as fake encounters by various human rights groups. In 2007, civil liberties groups across the country had taken up the case of Ledha Bai, a tribal woman in Balrampur, who had accused Kalluri of killing her husband first and raping her when she tried to get legal redress⁸. In 2009-2010, Kalluri exhibited similar brutality when he was posted as senior SP in Dantewada. In March 2011, a group of SPOs and CRPF men had burned down the three villages of Tadmethla, Timmapuram and Morpalli in Chintagufa thana, killing three villagers, sexually abusing three women, burning over 300 houses and granaries in the three villages, allegedly under Kalluri's orders. A public uproar ensued when details of this incident became known, following which a judicial enquiry into the incident was ordered and Kalluri was transferred out of the area, in order to ensure independence of this enquiry⁹. The Tadmethla judicial

inquiry is still underway, but Kalluri has been posted to the area again – and this time, at an even higher position as the Inspector General.

This policy of impunity violates the state's responsibility to uphold rule of law and respect and fulfill human rights.

Systematic Human Rights Violations

The heavy deployment of forces in Bastar has meant continuous, round-the-clock search and patrol operations, frequent encounters (extra-judicial, summary and arbitrary killings), and a spiraling increase in the number of arrests and surrenders of alleged Naxals. In the month of July alone, the police claim to have made more than 200 arrests of alleged Naxals in Bastar¹⁰. While only 22 surrenders of suspected Naxalites took place in Chhattisgarh in all of 2013¹¹, the six months from June to November this year have already seen the surrenders of more than 280 alleged Naxalites in the Bastar division alone.¹²

It is doubtful that the Bastar police have suddenly turned very efficient, and it is more likely that the increased arrests and surrenders are a result of coercive measures adopted by them against ordinary Adivasi villagers. There have been reports that the state apparatus is pressurizing a lot of ordinary villagers to surrender. There also have been protests in various villages in Bastar on the issue of arrest of innocent people and illegal detentions in many cases.

Allegations of forcible surrenders, false implication and arrests of innocent villagers and extra-judicial killings have been leveled against the police by the state Congress leaders, CPI Leaders and AAP leaders. These allegations have been brushed away by the state police and government by carelessly labeling all the leaders who've raised

these questions as Naxalite supporters who are trying to shield Naxalites.

Some of these are highlighted in the case studies below.

Case Study 1- The Jiram Valley Arrests and Surrenders: False Implication of Political Workers

On 25th August, the Bastar police and the NIA held a press conference in Jagdalpur, showcasing three masked “Naxals” allegedly involved in the Jiram valley attack on the Congress convoy last year, who had now surrendered before the authorities. These three, Chaitram, his wife Manjula and a woman called Rajni, hailing from the Kanker district of Bastar Division, were involved in many Naxalite operations, including the attack in Tadmetla which led to the death of 76 CRPF men, claimed the police at the press conference. Direct questions to the three by reporters present were severely discouraged.¹³

The very next day, on 26th August, Bhupesh Baghel, the president of the State Congress Committee, held a press conference in Raipur, accusing the Bastar police of shielding high placed police officers and instead, coercing innocent adivasis into fake surrenders for the Jiram valley attack. He claimed that the three so-called surrendered Naxals were actually ordinary villagers, and Chaitram’s wife Manjula was a cook in the village, with no connection with the Naxals.¹⁴

Undeterred by such accusations, the Bastar police under the able guidance of IG SRP Kalluri, held another press conference on the same day in Jagdalpur, announcing that based on important information divulged by the three surrendered Naxals the previous day, they had nabbed two “dreaded Naxalites,” – a certain Sukhdev Nag and one Manjhiram Kashyap of Tongpal, who

had also taken part in the Jiram Valley attack, and the police claimed that Sukhdev was the very person who had pulled the trigger on Mahendra Karma. At this press conference, the police described in great detail how the daring policemen had nabbed these two dangerous Naxalites who had been traveling on a motorcycle, and they had also recovered IEDs and Maoist pamphlets from them.¹⁵

The next day, on the 27th of August, Manish Kunjam, veteran CPI leader and the president of the Adivasi Mahasabha, issued a press note challenging this version of the police. He claimed that the two arrested the previous day were actually activists of the CPI. Of these two, Sukhdev Nag was an elected member of the Janpad Panchayat, and Manjhiram Kashyap was the secretary of the Tahakwada branch of the CPI. Manish Kunjam revealed that the two had been asked by the police to report to the police station on the 25th of August – when they reported the first time, the in-charge was away and they were asked to return later. It is only when they had reported to the *thana* the second time, that the two were nabbed and then produced before the world as dreaded Naxal leaders¹⁶. In a press conference later that week, it was highlighted that Manjhiram Kashyap had been badly injured in an accident several years ago, consequently he walks slowly with a pronounced limp – certainly not the image of an agile Naxalite who leads an operation in dense jungles and escapes soon after. And Sukhdev Nag had already been questioned by the NIA earlier, and let go since there was nothing to link him to the attack.¹⁷ But then, as we have come to realize, lack of evidence has never stopped the Chhattisgarh police from arresting people.

It should be noted that as of now (November 2014, three months after

the press conference), both Manjhiram Kashyap and Sukhdev Nag are facing charges in the Jagdalpur court (district Bastar) on incidents surrounding the Jiram Valley attack (stocking of explosives etc.) – *but the National Investigating Agency (NIA) – the premium investigating agency which is in-charge of the investigation in the Jiram Valley attack – has not yet taken them into remand or started any proceedings against them.*

Case Study 2 – The Extra-judicial Killings in Ramaram

There have been reports wherein the police have claimed that they have killed dreaded naxalites, but investigations in a few of these cases reveal that some of them are cases of extra-judicial killings of ordinary villagers. One such case happened in the village Ramaram in Sukma District.

On 29th August, soon after Manish Kunjam had denounced the Bastar IG for arresting innocent adivasis, the Aam Aadmi Party also held a press conference in Jagdalpur. The AAP raised questions about the encounters being reported by the Bastar police. In particular, the Bastar police had claimed that on 28th July in a joint operation with the CRPF in jungles close to Ramaram, they had killed 11 Naxalites, of which they were able to retrieve one body.¹⁸ But Soni Sori of the AAP reported in the press conference that a fact-finding conducted by the AAP had revealed that the security forces had surrounded the Ramaram village and shot indiscriminately into it, killing one sick woman who was in the process of rising from her bed to take cover from the gunfire. Her name was Adme Vetti and the villagers had prevented the security forces from taking her body away. But on the way back, the security forces had come across another boy from Pidmel village, Hidma Markam, who

was in the jungle to graze his cattle. They had killed him in cold blood, dressed him up in battle fatigues and taken him along as their trophy Naxal.¹⁹ All these details have also been confirmed by an independent journalist for BBC Hindi in a BBC Hindi report of the incident.²⁰

Case Study 3 - Hijacking democracy- interference with democratic processes

Nothing illustrates the impact of the new LWE policy on our fragile democracy better than the story of the bye-elections in Antagarh (Kanker).

After the sitting MLA from BJP, Vikram Usendi vacated the Antagarh assembly seat in Bastar Division for the Lok Sabha seat of Kanker, by-polls were scheduled for Sept 13. Fourteen candidates had filed their nominations, of which one was rejected. It was expected to be a close contest between the Congress candidate Manturam Pawar – who had lost the previous Assembly election by as few as 5000 votes – and the BJP candidate, Bhojraj Nag.

In a move that took everyone by surprise, Manturam Pawar withdrew his nomination on August 29th, (one day before the last date to withdraw candidature) and went missing immediately afterwards. While speculation was rife as to what had happened with him, the Congress Party Chief rushed to the constituency and declared that Congress was willing to support any other independent candidate for the seat. However, on the next day, all other independent candidates also withdrew their nominations, one by one, and also proceeded to go missing. At the end of that day, there were only two candidates still in the fray – the BJP candidate Bhojraj Nag, and an unknown candidate from the Ambedkarite Party of India, whom no one was able to reach, called Rupdhar Pudo.²¹

Some insight into what had happened in those chaotic 48 hours emerged in the following days, when the Congress filed a complaint before the Election Commission claiming that candidates had been forced to withdraw by the BJP workers, who threatened to have them prosecuted as Naxalites under the draconian Chhattisgarh Special Public Security Act. Alleging the complicity of administration and police with the BJP, Pankaj Mahavar of Congress filed an affidavit before the Election Commission stating that Bhupesh Baghel, the President of Chhattisgarh State Congress Committee, had been placed under virtual house arrest in his hotel room after he had come to the district to meet with the six independent candidates who had gathered in Pankaj Mahavar's house. He further stated that in the wee hours of the morning of the 30th August, police and BJP workers had barged into his house, rounded up the independent candidates and had taken them away to an undisclosed location. Later on that day, these independent candidates also withdrew their nominations.²²

When Rupdhar Pudo of the Ambedkarite Party surfaced a few days later, he told the media that he had gone into hiding to escape from BJP's pressure to withdraw his candidature. While on the one hand, he was offered plum positions on compliance with BJP's request, on the other, he was threatened with implication in Naxal-related offences if he defied it. "[T]hey said that if I did not take back my nomination, I would be charged with being a Naxalite. That they would make life difficult for me. This is not new; I have been threatened similarly in the past too. The charge is used very often against the tribals, who are then made to spend a number of years in jail," Pudo told a journalist²³.

The Election Commission has

refused to step in so far, and the constituency went to the polls as scheduled on the 13th of September. The results have been predictable – the BJP candidate has won by a whopping margin of over 53,000 votes.

What gets deeply ingrained by this whole episode is this: In a war zone, where security concerns become an excuse for impunity, democracy dies. The much cherished "ballot," which was to provide the tribal with an alternative to the "bullet," is still a distant dream for her. Elections fought in this manner will certainly not yield the kind of government that can look beyond fake arrests and opportunistic surrenders to draft a roadmap to any kind of justice or peace.

Case Study 4 – Who listens to the Adivasi? The Case of Burgum villagers

On 6th August 2014, local media reported that 3 young adivasi men had been caught red-handed the previous day. According to the news report, the police party had been returning from a 3-day anti-Naxal operation conducted in the villages of Nilvaya, Potali, Phoolpad etc. when they came across three members of the Jan Militia- Joga Mandavi, Pandu Mandavi and Rajaram Sori - planting explosives near the Revali canal.²⁴

A few weeks later, scores of villagers landed up at the door of the Dantewada collector with an entirely different story. They said that the three young men belonged to farming families of Pujaripara in Burgum *panchayat*, who had been working in the fields in the early morning of the 4th of August, along with other villagers. After a few hours, these three decided to take a bath in a waterhole next to their field, at which time, a huge posse of security people was spotted coming towards them from the direction of Nilvaya. All the villagers

quickly vacated the fields to go back to the security of their homes – but the three young men, oblivious to the approaching forces, continued to bathe, and were nabbed thus by the security forces and forced to accompany them. The entire village witnessed the incident, and followed the security forces who took the men to the Aranpur police station. Yet, when the villagers approached the Aranpur Station House Officer for information about their young men, the SHO flatly refused all knowledge of them.

The entire village of around 150 people, including women and young children, spent the night of the 4th of August in the open, keeping vigil at the Aranpur Police Station. The next day, the *sarpanch* and *Up-Sarpanch* of the Burgum panchayat also arrived, only to be told once again by the police-station in-charge that he had no knowledge of the three youth. However, the very next day, the same Aranpur police station in-charge produced the three young men before the Dantewada magistrate as dreaded Naxalites, who had been caught with landmines next to the Rewali canal, 5 kms from the village of Pujaripara.

On 22nd September, 2014 the Pujaripara villagers came *en masse* to the Dantewada collector, demanding that he take note of this travesty of justice as the District Magistrate and the nodal officer of the NHRC. The collector met them with perfunctory assurances. The villagers also gave memoranda to the police with their story demanding that the police investigation also takes account of the villagers' version of how and when the three men were picked up, but the police too turned a deaf ear.²⁵

The villagers wished to submit affidavits before the Investigating Officer, insisting that their version also be recorded in the

chargesheets. However, as a painful reminder of how the lopsided court system works against *adivasi* villagers, the notaries of Dantewada court refused to notarize the villagers' affidavits. At first, the notaries explained that they usually do not notarize affidavits on such sensitive issues for Gondi-speaking deponents – since these, the notaries claimed, are unreliable witnesses, and the notaries are often hauled up before courts for taking incorrect testimonies. But when the villagers insisted, the notaries used the excuse that government-issued photo-IDs were needed for notarizing their papers – and the ration cards, or the *Sarpanch* - issued photo IDs that most of the villagers were carrying were not sufficient to satisfy the notaries' zeal for authenticity. Eventually, the villagers had no option but to send plain, un-notarized letters to the Investigating Officer.

A few days after the villagers had come to Dantewada demanding justice for their young men, 400-500 CRPF and police forces again went to the Burgum village and camped there for 4 days, where they beat up 17 people, including an 80 year old woman, ransacked houses, stole hens, watches and other valuable material. The police abused the villagers for talking to the media and going to the Collector, and specifically sought out the *upa-sarpanch* who had led the villagers' representation before the Collector, and cautioned them against creating more trouble.²⁶

On 31st October, the charge-sheets were finally presented against the three young men. As expected, the only witnesses listed are those from the police. As expected, the villagers' testimony has found no place in the investigation that has taken place so far.

Case Study 5 – Collateral Property –The wife as surety for the husband

On 20th November 2014, a woman from Badegurba village of Sukma district, Madvi Sukdi, was picked up by the police in broad daylight from her house²⁷. She is the wife of Madvi Ayata, a local village level representative (*Janpad Sadasya*) and a popular village level activist with the Bharatiya Janata Party. For unspecified reasons, the police had been harassing Ayata for a while, calling him for interrogation into the police station, pressuring him to surrender to unknown crimes as a Naxalite. That day also, the police had again come for him in two Boleros and four motorcycles. Not finding him in the house, they decided to take his wife instead – at 3:30 in the afternoon, in front of the entire village.

The villagers and her family waited to hear from Sukdi for a whole day, and then they went to the local police station of Kukanar, demanding knowledge of her whereabouts. According to newspaper reports, around 500 villagers surrounded the police station that day. Lawyers from Jagdalpur also contacted the Superintendent of Police of Sukma, but the SP denied all knowledge of the incident, stating that there was no one by that name detained or arrested in any of the police stations in his district. Interestingly, he also suggested that should the family require more information, her husband should contact him directly to register a complaint. Similarly, the villagers protesting at the Kukanar police station were also given the misinformation by the local police that only the husband could come forward and register a missing person's complaint for his wife.

On the next day, the 22nd of November, about 6000 villagers along with Aam Admi Party leader SoniSori continued the *gherao* and

again demanded the release of Sukdi. On this day the mother-in-law of Sukdi filed missing person report to the police wherein she mentioned the details of the abduction of Sukdi from her house by armed police personnel²⁸. However, the police continued their stand that they had no hand in the abduction of the Sukdi. The SP once again informed the lawyers that the police had no information about the missing woman, but that he had taken cognizance of the missing persons report filed by the family. Meanwhile, Sukdi's young child of 3-4 years was running a high fever due to malaria, and was refusing to take in all food and medication in the absence of his mother.

The villagers continued their vigil in the open outside the police station into the fourth day, their numbers growing daily. Soni Sori gave an interview to the press, directly challenging the police version of events and holding the IG Bastar Range of orchestrating the 'surrender' of innocent adivasis through such coercive measures. With the villagers getting more

restive and impatient, and the police refusing to budge from their positions, the situation grew extremely tense.

Meanwhile, as news of the situation percolated the social media and the internet, several concerned citizens from different corners of India, international human rights organizations and journalists started contacting the Sukma authorities, seeking information on the detention of Sukdi. The combined pressure due to the continued presence of thousands of villagers and constant phone calls from the outside world led the police to suddenly "discover" Sukdi in the nearby village of Rokel that evening. The police stated Sukdi had herself fled from her village to Rokel, fearing the 'masked' abductors who had come in the Boleros and motorcycles. The police took her to the Sub Divisional Magistrate wherein she apparently repeated the police version in her testimony before the Magistrate. The police version also went on to malign the character of Sukdi's husband by claiming that he had links with the naxals and there was

a constant flow of suspicious people visiting the house²⁹.

Sukdi's story of the ordeal is different. She states that she was picked up by the police on the 20th of November and then kept at a nearby security forces camp, and was constantly pressured to get her husband to surrender before the police as a Naxalite. As a sign of protest, Sukdi went on a hunger strike for her entire duration in the camp. After her release she has been re-united with her family but the situation continues to be grim with the police pressure on her husband to surrender mounting.

The five cases above illustrate the impact of the conflict and repression on lives of ordinary adivasis in Bastar. Arbitrary detentions, criminalization of large masses of people, intense militarization, fake encounters plague civic life in Bastar. But in the midst of all this, people are still resisting – through whatever means available – fighting elections, protesting arrests, moving the courts – but getting their voices heard is proving to be harder and harder.

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