

# JUSTICE FOR ALL न्याय सब के लिए

न्याय सार्वासाठी لیے انصاف سب کے لیے अधा माटे न्याय

## Justice for All Campaign End Impunity, Ensure Accountability

**Supported by:** Justice P.B Sawant (retired) Supreme Court of India, Justice Hosbet Suresh (retired) Bombay High Court, Justice S.H.A Raza (retired) Lucknow Bench, Allahabad High Court & Lokayukta, Uttarakhand, Justice Michael Saldanha (retired) Karnataka High Court, Justice Fakhruddin (retired) High Court, MP & Chattisgarh, Justice B.G Kolse Patil (resigned) Bombay High Court.

### Invite

Dear .....,

Several groups and individuals have come together from all over India and will be meeting at Allahabad on **November 23-24 2013 (Saturday-Sunday)** to launch a visible public campaign for the immediate tabling of the *Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011* in Parliament forthwith. Several Individuals and groups involved with human rights issues among various communities will be spearheading the tabling of the Bill.

**As you know we have been in steady discussions with the government and secular parties on the issue and whatever clauses/sections that need to be altered should and must be. But for the UPA II government *not to table the bill would be going back on the CMP promise of the UPA I government.* May we request that you please come?**

SAY NO to Violence, YES to Justice and Peace are the slogans of this campaign that will be launched at a national level Campaign this November.

- Expedite Tabling of Prevention of Communal and Targeted Violence Access to Justice and Reparations) Bill 2011
- Join the Campaign at Allahabad November 23-24 2013

The arrangements for stay for all the outstation delegates have been made at the following places:

1. **Sadhana Sadan** (Opp. St. Josephs College) Tashkant Marg, opp. Company Babh, Allahabad.
2. **G. B. Pant Institute for Social Sciences**, Jhunsi, Allahabad.
3. **Homes of Friends.**

All outstation delegates may contact the camp office at Allahabad or local contacts whose phone numbers are given below. **Please copy all email correspondence to [teestateesta@gmail.com](mailto:teestateesta@gmail.com)**

**Venue for the seminar:** Jagat Taran College 32,  
Amarnath Jha Marg, George Town, Allahabad.

**Venue for public meeting:** Prayag Sangeet Samiti 12C,  
Kamla Nehru Road, Civil lines, Allahabad.

Issued by Justice for All Campaign Ad Hoc Committee: Teesta Setalvad (Convenor), Dr Amarjit Singh Narang, Irfan Engineer, Aslam Ghazi, Maulana Burhanuddin Qasmi, Maulana Daryabadi, Dolphy D'Souza, Farid Shaikh, Haroon Mozawala, Javed Anand, Keval Ukey, Kaushik Sangahvi, Rahul Bose, Sumedh Jadhav, Yusuf Muchhala.

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Peoples' Union For Civil Liberties(PUCL), Progressive Writer Association, Jan Sanskriti Manch, Institute for Social Democracy(ISD), Jagrit Samaj, Aazadi Bachao Andolan, Istri Mukti Sangathan, New Socialist Initiative, Shahri Garib Sangharsh Morcha, Human Rights Law Network, Josh and Firaq Literary Society, Sambhav.

**Camp Office at ALLAHABAD:** Career Coaching,13, Kamla Nehru Road, Civil Lines, Allahabad.

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## Summary

After the genocidal pogrom of Gujarat in 2002, UPA I in its Common Minimum Programme assured India's minorities of a special law and well defined crimes to ensure that the perpetrators of mass and targeted violence are punished and fair reparations are made mandatory. This promise has been kept in cold storage. The recent perpetrated violence

in the four districts of Muzaffarnagar, Baghpat, Shamli and Meerut demand that India's political case are made to fulfill this long overdue promise. India's National Advisory Council (NAC) drafted a bill in June 2011 aimed at tackling communal and targeted violence and delivering justice and compensation to victims. The proposed *Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2011* brings in categories like sexual offences, hate propaganda, dereliction of duty and culpability of officials within its ambit, widening the spectrum of crimes that constitute communal violence.

While the Bill seeks to prevent all forms of violence against all communities, the many incidents of violence targeting religious minorities in the past three decades – e.g., Nellie, Assam (1983), Delhi (1984), Kashmir (1989), Bhagalpur (1989), Mumbai (1992-93), Gujarat (2002) and Kandhamal, Orissa (2008) – as well as the failure of the police and justice systems to punish the guilty show the need for such a law to ensure accountability, due process, reparation, and protection of these peoples' human rights. These constitutional guarantees have been repeatedly denied and it seems the state machinery is complicit in acts of communal violence, both by commission and omission.

The inaction on the proposed bill (almost 2 years since its drafting) would seem to support this allegation. Civil society groups in India are now campaigning for the NAC draft bill to be tabled and taken up in Parliament.

## **Campaign Launch**

To strategise how to **ensure and expedite the tabling** of the Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2011 in the Parliament a National Campaign meet has been planned at Allahabad on November 23-24, 2013. We request you to attend and make this campaign successful.

## **Background**

There is a history of targeted violence in India in the past three decades. To name a few: Nellie, Assam (1983), Delhi (1984), Kashmir (1989), Bhagalpur (1989), Mumbai (1992-93), Gujarat (2002) and Kandhamal, Orissa (2008) . The attacks were made on India's religious minorities: Muslims, Kashmiri Pandits, Sikhs, Christians. Tamilians in Karnataka and Biharis in Maharashtra are examples of linguistic minorities who have suffered. Dalits and Adivasis too are frequent victims. The Khairlanjee massacre of Dalits in 2006 or the Ramabai Nagar police firing in 1998, both in Maharashtra, are cases in point.

The attacks are also allegedly state-sponsored and state-condoned. Moreover, when it comes to following the Rule of Law and ensuring accountability and due process after bouts of such targeted violence, the local administration and the police have been found tardy and wanting, failing to deliver justice and punish the guilty. Local sources opine that successive governments have been guilty of serious crimes of omission and commission.

Apparently there is what they call an "institutionalized riot system". The November 1984 massacre of Sikhs provides a good illustration. Victims were unable to get the local police to protect the lives of their family members or property. They were unable to file a proper complaint in the police station. Senior police officers, bureaucrats and ministers, who got reports from all across the city, state and country, did not act immediately to ensure the targeted minorities were protected. Incendiary language against the victims was freely used. Women who were raped or sexually assaulted got no sympathy or assistance. When the riot victims formed makeshift relief camps, the authorities harassed them and tried to make them leave. The victims had to struggle for years before the authorities finally provided some compensation for the death, injury and destruction they suffered. As for the perpetrators of the violence, they got away since the police and the government did not gather evidence, conducted no investigation and appointed biased prosecutors, thereby sabotaging the chances of conviction and punishment.

On a smaller scale, all victims of organized, targeted violence — be they Tamils in Karnataka or Hindi speakers in Maharashtra or Dalits in Haryana and other parts of the country — know from experience and instinct that they cannot automatically count on the local police coming to their help should they be attacked. Over fifteen years ago, a serving, senior police officer made a stunning statement: "No riot can last for more than 24 hours unless the state wants it to continue". This statement has since been endorsed by a number of senior policemen and political leaders.

What this means is simple. If the police and administration were to be held directly responsible for the failure to impartially enforce the Rule of Law, perpetrators of recurring violence would be halted in their tracks. If the law could give fair reparation commensurate to the loss and to be compulsorily paid within a time-frame, the future would not benefit rioters. If senior officers were held responsible for dereliction of duty they would ensure accountability from themselves and the men and women they command.

The proposed Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill 2011 (PCTV) is a first step towards addressing these incidents of targeted violence, a modest contribution towards ensuring that India's citizens enjoy the protection of the state regardless of their religion, language or caste. It was framed by the National Advisory Council (NAC) and released in June 2011. Sources also feedback that it is a huge improvement over a bill originally drawn up by the United Progressive Alliance government in 2005.

The PCTV bill sets out to protect religious and linguistic minorities in any state in India, as well as the Scheduled Castes and the Scheduled Tribes, from targeted violence, including organized violence. Apart from including the usual Indian Penal Code (IPC) offences, the NAC draft modernizes the definition of sexual assault to cover crimes other than rape and elaborates on the crime of hate propaganda already covered by Section 153A of the IPC. It also broadens the definition of dereliction of duty — which is already a crime — and, for the first time in India, adds offences by public servants or other superiors for breach of command responsibility.

Another important feature is the dilution of the standard requirement that officials can only be prosecuted with the prior sanction of the government. The PCTV bill says no sanction will be required to prosecute officials charged with offences which broadly fall under the category of dereliction of duty.

Likewise, the Bill fills the lacuna of compensation for those affected by communal and targeted violence. Today, the relief that victims get is decided by the government on an ad hoc and sometimes discriminatory basis. Sections 90 and 102 of the PCTV bill rectify this by prescribing an equal entitlement to relief, reparation, restitution and compensation for all persons who suffer physical, mental, psychological or monetary harm as a result of the violence, regardless of whether they belong to a minority group or not.

The PCTV bill also envisages the creation of a National Authority for Communal Harmony, Justice and Reparation. The authority's role will be to serve as a catalyst for implementation of the new law.

Citizens of India and human rights groups battling communalism have had a major role in debating and highlighting the need for this Bill. Today we need to come together to ensure that these collective efforts are not in vain, that the Bill is tabled before Parliament. Those opposing the Bill are those responsible for communalizing the public sphere and fomenting communal violence. Given the fierce opposition to such a Bill, it became imperative that it be brought back into the focus. We need to take up the

challenge and launch a nationwide campaign, at regional and national levels. The campaign now aims at focusing on the need to get the broad parameters contained in the NAC draft bill, re-worked into a government Bill and tabled in the Rajya Sabha.

**SAY NO to Violence, YES to Justice and Peace**