



ALL INDIA CONGRESS COMMITTEE

Priyanka Gandhi Vadra
General Secretary

24, AKBAR ROAD,
NEW DELHI-110 011

30th December, 2019

Smt. Anandiben Patel,
Hon'ble Governor of Uttar Pradesh,
Raj Bhavan,
Lucknow, Uttar Pradesh

Subject:

Demand for a full judicial enquiry into the unlawful conduct of the U.P Police during the course of public demonstrations against the Citizenship Amendment Act and the implementation of a Nationwide National Register of Citizens and appeal for immediate directions to be issued to the U.P Police to act within the framework of the law.

Your Excellency Rajyapal Mahodaya,

1. I would like to bring to your attention that the stated objectives of the police force are the maintenance of law and order and the preservation of peace. The slogan of the Uttar Pradesh police is "*Suraksha Aapki, Sankalp Hamara*" (Your Safety, Our Pledge) However over the past two weeks, since the start of the anti-CAA/NRC protests, **the conduct of the U.P Police has been observed and reported to be patently unlawful, destructive of the rule of law and repressive of honest citizens.** This is unbefitting of a force that is dutybound to safeguard and protect the rights of every citizen.

2. **Following the Chief Minister's shocking and disappointing public declaration that the government will take 'revenge' against the protestors, the administration has failed in its basic responsibility to ensure the rule of law.** On the contrary, it appears to have acted in a manner that is biased, unlawful, and violative of the fundamental rights of citizens enshrined in the Constitution of India.

Article 21 of the Constitution of India states that "No person shall be deprived of his life or liberty except according to procedure established by law." In the last two weeks, in Uttar Pradesh **people have been shot at, beaten, arrested, detained, received notices for the confiscation of their properties and been wrongfully charged with extremely serious offences simply for exercising their democratic right to protest.** In some cases, mere bystanders have been targeted by the police.

Article 14 of the Constitution of India states that: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. Article 15 further reiterates that "The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." Article 19(1) (a) of the Constitution of India states that, "all citizens shall have the right to freedom of speech and expression". The philosophy behind these Articles is underscored in the Preamble of the Constitution as the foundational premise of our democracy. In it, a solemn resolve is made to secure 'liberty of thought and expression,' inter alia to all citizens. **The police has run amok throughout the state creating an atmosphere of terror, discrimination, and oppression thus ensuring that protestors are intimidated into silence and infringing on the above stated fundamental rights of every citizen of India.**

3. The Hon'ble Supreme Court has observed in the case of *People's Union for Civil Liberties v. State of Maharashtra* that " The United Nations Code of Conduct for Law Enforcement Officers (which includes all officers of the law, who exercise police powers) lays down that in the performance of duties, Law Enforcement Officers shall respect and protect human dignity and maintain and uphold human rights of all persons. Basic human rights standards for good conduct by Law Enforcement Officers by Amnesty International, inter alia, suggest, (1) Do not use force except when strictly necessary and to the minimum extent required under the circumstances and (2) Do not carry out, order or cover up extra-judicial executions or "disappearances" and refuse to obey any order to do so." In the same

judgment, the Court has held that in every case of police firing, an inquest must be held and the report thereof must be forwarded to a judicial magistrate. **From ground reports, media agencies and verified videos uploaded by witnesses on social media, the conduct of the government and the police force over the last two weeks, has been in complete contravention of this judgment.**

4. The U.P Police initially claimed that there were no deaths caused by police firing. The Director General of Police, Mr. O.P Singh publicly stated that the police "did not shoot even a single bullet". This statement was made on the 22nd of December 2019 and was widely covered by the media. Authorities have subsequently made a series of admissions confirming deaths caused by police firing and have attempted to provide excuses for the same. The Bijnor police admitted that 21-year-old, Suleiman of Nehtaur, Bijnor was in fact shot by them. They simultaneously claimed that the boy was killed as he had fired from a country-made pistol. The family of the boy has stated that the boy was running a fever and had gone for his Friday prayers to the local mosque when the police abducted him, removed the clothing from his upper body and shot him in the chest. These contradictory statements made by the police can only mean one of two things: either the Director General of Police intentionally misled the people, or he himself was misled himself by his own subordinates and was not aware that bullets had indeed been fired by his men. The fabricated narrative of the police has thus been completely exposed in this case. It is clear that the police are more interested in suppressing the truth than making it transparent to the public. **The stand of the police that protestor's deaths have happened due to firing by the protestors themselves cannot therefore, be believed without an independent judicial inquiry.** The state owes the family of the deceased persons, the dignity of truth and the opportunity for justice.
5. The engagement of '*Police Mitras*' (Friends of the Police or untrained civilians functioning as para policemen who undergo a short three-day training session, retain their civilian attire and are provided with batons/lathis, shields and helmets by the police force)) is a deeply disquieting development. There is information to indicate that '*Police Mitras*' are essentially Special Police Officers in the vein of certain similar initiatives that are now banned nation-wide. Information from many districts in Western U.P indicates that in a recently initiated drive to appoint such '***Police Mitras***', a large number of men have been

recruited from within the ranks of sympathizers of the ruling BJP party and its more fundamentalist wings like the R.S.S. It is imperative that the role of “*Police Mitras*” in the ensuing violence is investigated thoroughly and the legality of such Special Police Officers that taint the professionalism of the police force and create doubts about its impartiality is examined.

6. **Notices for recovery of fines and seizure of property in lieu thereof have been issued to 498 persons in Uttar Pradesh since the inception of the CAA/NRC protests without following any due process.** These persons include respected members of society and a number of social activists such as 77-year-old retired IPS officer, Sri. S.R. Darapuri who is a well-known social activist and Ambedkarite scholar.

Interestingly, the High Court Judgment that is being relied upon for the issuance of these notices clearly states that such liability will be imposed only on the political party or sitting or former legislator or identifiable person or group who had called the protests and in fact specifies in Para 29 (ii) of that order that the claim shall be filed only against "political parties/persons" (emphasis applied). Even otherwise, without identification of any actual perpetrator of damage, nobody can be penalized simply at the government's discretion. The above judgment bears no reference to individuals or ordinary citizens participating in such protests. At any rate, the recent protests in U.P have been largely spontaneous and cannot be said to have been organized by specific political parties or groups. Prior to the aforementioned High Court order, a judgment of the Hon'ble Supreme Court in 2009, merely authorized the High Courts to assess and impose such penalties. As such, the proposed penalties and confiscation of property at the whim of the government of Uttar Pradesh following the recent public protests are patently illegal. In any case, even if such penalties are to be imposed, their valuation has to be commensurate to the damage of property which figures can only be arrived at after following due process with the approval of the courts. In the event that these penalties are imposed, they would also have to be imposed on the police personnel clearly seen vandalizing private and public property in a number of verified videos available on the internet over the past few weeks.

7. A bare perusal of the statistics regarding police action show what has gone wrong in Uttar Pradesh. From the information gathered below it is evident that the U.P Police has on many occasions during the past few weeks, acted with unlawful intent to cause damage

to property- public and private, cause death or injury to persons demonstrating peacefully and create an atmosphere of terror in the state. **There have been reports of children in Bijnor and Muzaffarnagar districts being detained and assaulted while in custody.** An 8-year-old child was killed in Varanasi in a stampede caused by a brutal lathi charge on peaceful protestors. One discernible and indisputable standard for moral conduct is that children are not harmed. The administration has failed even this basic standard of morality. This is indefensible.

Following are instances where death, injury and damage to private property has been caused by the administration along with the sections of the Indian Penal Code that appear to have been violated by their actions:

A. Cases where death has occurred:

- i. **In Nehtaur, District Bijnore, a 22-year-old boy named Anas, who ran a coffee machine to support his family, was shot and killed by the police as he left his home to buy milk on the 20th of December 2019.** The police pressurized his family to bury him at a place that was 20 kilometers away from his village causing his family immense pain. Family members were warned against filing a FIR regarding the boy's death and threatened with dire consequences if they did not comply. In this manner, a post-mortem of the body was avoided. No help or support whatsoever has been received by the family of the deceased from the administration. In a reflection of the government's partisan attitude, a minister in the U.P Government, Sri. Kapil Dev Aggarwal refused to visit the family of the deceased on a visit to Nehtaur and publicly described him as a 'vandal' with no evidence to prove the same. If initial evidence and local reports are proved correct, then the police have, in this case, clearly committed the offence of murder under Section 302 of the Indian Penal Code. They have also potentially violated Section 506 of the Indian Penal Code (criminal intimidation). In pressurizing the family of the victim to carry out a quick burial, thereby avoiding a post-mortem, the police have also committed the offence under Section 201 of the Indian Penal Code (causing disappearance of evidence).
- ii. **Also, in Nehtaur, District Bijnore, a 21-year-old boy named Suleiman was shot dead by the police on the 20th of December 2019.** Suleiman, a hard-working student preparing for the civil service entrance exams in Delhi, had returned home for a few days because of

a fever. He had gone to the local mosque to offer Namaz and was returning home when he was picked up by the police. His corpse was then found with a bullet wound that entered through his chest and exited through his back. The clothes from his upper body had been removed, and the body was located approximately 2 kilometers away from where he was last seen. His family was also threatened by the police not to file an FIR and forced to bury the boy in another village far from his home. The police subsequently arrived at the deceased's house late in the night and threatened the women of the family causing them to be traumatized and afraid. The police originally denied that any person had been killed in firing but were later forced to admit that the concerned personnel must be proceeded against for commission of murder under Section 302 IPC, (criminal intimidation) of the family of the deceased to prevent them from initiating legal proceedings under Section 506 of the IPC and for (wrongful restraint) under Section 341 of the IPC.

iii. Six people were shot dead in Meerut district of U.P on the 20th of December 2019.

Saeed Ahmed, Saleem and Zaheer were daily labourers while Mohammed Mohsin worked as a scrap collector, Mohammad Asif was an e-rickshaw driver while Aleem made a living making rotis. Asif was reportedly turned away from four hospitals without treatment while Zaheer was merely standing on the roadside smoking a cigarette while he was shot. This information is publicly available however the police have been threatening the families and have refused to file complaints from the family members of the deceased. The final indignity was when Mohammad Mohsin, Zahir Ahmed and Asif were named as accused in an FIR with no evidentiary basis. In the interest of justice, a full investigation must be held into the circumstances of the death of these persons. From available reports it is indicated that the commission of the offences of murder, Section 302 of the IPC, and criminal intimidation, Section 506 of the IPC might have been committed by members of the U.P Police in the above cases.

iv. In Firozabad, 6 persons have been killed since the incident of police firing on the 20th of December,

including Mohammed Haroon and Mohd Shafiq who passed away in a Delhi hospital on December 26th, 2019. 14 people were seriously injured in police firing. The police personnel as well as the officers commanding them are liable to be prosecuted for the offence of murder Section 302 of the Indian Penal Code. Such large-scale firing has to be legally justified, it cannot be presumed to be justified. 6 persons dying of gunshot

injuries is indicative of wanton firing by the police. The other four persons who have lost their lives are Ale Nabi, Rashid, Arman and Muqeem.

- v. **In Muzaffarnagar, Nooru aged 30 years was shot while participating in the protest on the 20th of December.** The protest was peaceful and was heading towards Meenakshi Chowk, Muzaffarnagar when the local Member of Parliament Sanjeev Baliyan reached the spot with his supporters. As per press reports, this group indulged in stone pelting as well as firing. In the melee, Nooru was killed. His body was taken by the police to Meerut for a post-mortem examination. The police then forced the family to bury the body in Meerut, disallowing them from taking it to their home town for a proper burial. The perpetrators of this murder, whether the police or others ought to be brought to justice as they would be liable for prosecution under Section 302 IPC read with Section 149 IPC that is a case for murder committed by the member of an unlawful assembly. The police itself would be liable for prosecution under Section 506 criminal intimidation for enforcing the burial of the boy against the will of his family members.
- vi. **At Sambhal, two persons have died in police firing 20th of December 2019.** The same needs to be examined, in light of clear evidence at various places that the administration has been seeking to strong-arm protestors and to scare them through unwarranted instances of police firing. An investigation for murder is warranted.
- vii. The city of Varanasi has witnessed a particularly tragic death. **The police conducted a brutal lathi-charge on a peaceful protest. This resulted in a stampede in which an 8-year-old child was crushed to death on the 20th of December 2019.** Another child, Mohammad Tanvir has also been severely injured. The persons responsible for the lathi-charge that caused the stampede are liable to be proceeded against for culpable homicide not amounting to murder, Section 304 of the IPC as well as causing injury to the minor, Mohammad Tanveer who was subsequently admitted to the Intensive Care Unit.
- viii. **One person named Mohammad Vakil was killed in firing at Lucknow on the 19th of December 2019.** While the police claimed that they had not shot him, press reports cite witnesses to state that he was, in fact, shot by the police. This would then be a case of murder under Section 302 of the IPC.

- ix. **At Rampur, 24-year-old Faiz Ahmed was killed on the 20th Of December, 2019.** His family reports that he was shot in the neck by the police. Witnesses report that he was in the market when the crowd swelled. He spotted an old man who had fainted and rushed to help him but was shot even as he picked up the old man. Furthermore, his treatment was intentionally delayed resulting in fatal consequences. It appears that an investigation for murder under Section 302 of the IPC is required to be initiated in this case.
- x. **There have been three deaths during the protests in Kanpur city on the 20th and the 21st of December, 2019.** The case of daily wage labourer, Raees has received considerable public attention. He was was shot in the stomach revealing a clear intention on the part of the assailant, to cause grevious injury or death. Aftab and Saif, two more victims of police action have died in similar circumstances. Investigation for the offence of murder, Section 302 of the IPC ought to be carried out for the above, as shooting with intent to kill is not a legally justifiable method of crowd control. A video from Kanpur that has been circulating since December 21st, 2019 showing a police officer with a pistol in his hand. This clearly belies the police version of no firing having taken place in the city. It is clear that the police, bolstered by the Chief Minister's statements about revenge and punishment, have exceeded the level of the normal permissible response.

Twenty- three deaths have taken place in the state of Uttar Pradesh due to police excesses and police brutality against the CAA/NRC protestors. A full judicial inquiry is required into each and every one of these incidents to ascertain the culpability of the administration and the police and provide justice to the families of the deceased.

B. Cases of Unlawful Conduct of the Police During CAA/NRC protests in the state:

- i. **In Muzaffarnagar district, subsequent to police brutality against the protestors, it was reported that local residents were targeted on the intervening night of December 20th and 21st, 2019 with the intent to terrorize them and prevent further expression of their right to protest. Among the victims of this intimidation, was a 22-year-old bride named Ruqaifa Parveen.** She was beaten up mercilessly by the police and received

stitches on her head. Her family has stated that her jewellery was also stolen. This is a clear case of commission of offence Section 352 of the IPC (assault), Section 379 (theft) and Section 380 of the IPC (theft in a dwelling) along with causing hurt and indignity to a young woman.

The police entered and lathi charged the premises on which Maulana Asad Raza Hussaini Sahab, a 75 years old cleric resides. Although he had nothing to do with the protests, the Maulana was assaulted without any cause or justification. He was then reportedly taken to the police station where he was tortured. The police is liable to be investigated for commission of the offence of voluntarily causing grievous hurt, Section 322 of the IPC, criminal intimidation, Section 506, and house-trespass, Section 448 of the IPC.

FIR's must be immediately registered and an enquiry into the incidents of the night of December 20th and 21st, 2019, must be conducted in order to ascertain the facts and impart justice to the victims. A citizen's enquiry report has exposed the role of the police. Unfortunately in this case, even the RAF seems to have descended to conduct it was specifically formed to prevent. There is no justification for the police entering houses in order to cause hurt, damage to property and intimidation at night, let alone justification for beating up innocents, especially women and the elderly.

- ii. **Brutal repression of peaceful protestors took place in Varanasi on the 19th of December, 2019. At Banaras Hindu University itself, 12 students:**
Raj Abhishek Singh, 23, (M.A. Conflict Management & Development)
Anant Shukla, 25 years, (M.A Social Exclusion)
Neeraj Rai, 24 years, (M.A. Hindi)
Divakar Singh, 30 years, (Phd IIT-BHU)
Vivek Mishra, 25 years, (M.A Hindi)
Rohan Kumar, 21 years, (B.A. French)
Chandan Sagar, 22 years, (M.A. Conflict Management and Development)
Deepak Singh, 24 years, (M.A. Political Science)
Dhananjay Tripathi, 32 years, (P.hd)

Ayurveda Ravindra Bharti, 25 years, (Research Scholar, Faculty of Education), were arrested following a peaceful protest on the 19th of December, 2019.

Along with others, social activist couple Ekta and Ravi Shekhar were arrested for protesting in the Beniya Bagh area and have been kept away from their breastfed one-year-old child since.

They were protesting peacefully when they were arrested on 19 December, 2019 along with other peaceful protestors. As per media reports, of the 12 arrested students, three are PhD students and eight are doing their MA degree and one is a BA student. This is clearly a case of wrongful arrest and liable for investigation under Section 506 IPC, for criminal intimidation of the protestors.

- iii. **An audio clip purportedly in the voice of the Superintendent of police of Bijnor, Sanjeev Tyagi, is in circulation since the 21st December, 2019 in which he is directing his subordinates to “break the hands and legs” of the protestors.** The role of the police in society is to maintain law and order, not to contravene the law themselves. While a proportionate response is permissible, open exhortation to assault and injury is clearly illegal. This conduct amounts to abetment of offences committed by the officer and his subordinates. An inquiry and appropriate action against the said officer is required to be initiated. *Audio attached herewith.*
- iv. **It was reported that in Lucknow around the 21st of December 2019, a group of people gathered in prayer encircled by their friends who had formed a protective circle around them were subjected to stone pelting by policemen surrounding them.** This is a clear case of interference with the fundamental right to worship in addition to assault and causing hurt, Section 352 and Section 321 of the Indian Penal Code. *Video attached herewith.*
- v. **In Lucknow itself, on the 19th of December 2019, a Congress party worker, Smt. Sadaf Jafar, was making a video following a protest, when she was suddenly arrested by the police without cause or reason.** As per media reports, she was then taken to jail and

brutally assaulted by police officers while in custody. This is a violation of Section 320 (voluntarily causing hurt to force a confession), as well as Section 342 (wrongful confinement). Smt. Sadaf Jafar is a single mother with two minor children aged 16 and 10 years who are currently living alone in her flat with no adult supervision tragically awaiting news of their mother's whereabouts. She has been charged with 18 offences under various sections of IPC, including 307 (attempt to murder), 436 (mischief by fire or explosive substance with intent to destroy house, etc) 506 (criminal intimidation), 504 (intent to provoke breach of the peace) among others. *Video attached herewith.*

- vi. Along with Ms. Sadaf Jafar, 48 other persons arrested in the same vicinity, on the same day have been charged with the same offences. The charges against these persons appear prima facia to be entirely unfounded and blatantly false. Included in this list of 48 persons is also the 77-year-old retired IPS officer, Sri. S.R. Darapuri and well known social activist mentioned in paragraph 6. He was picked up from his home after he posted a Facebook post against the CAA along with which he had also posted an appeal to all protestors to remain peaceful and desist from violence. On the same date, theater actor, Deepak Kabir, visited Hazratganj police station to inquire about his friends who were not locatable after the protest. He was arrested on the spot and added to the list of detainees framed in various cases (enumerated above). This is a violation of Section 192 (Fabrication of evidence) as well as under Section 342 (wrongful confinement). This unconstitutional and illegal action has received extensive media coverage as it happened in the state capital and ought to be corrected by the immediate release of those who were protesting peacefully in accordance with their fundamental right to free expression and the dropping of all charges against them.
- vii. In Gorakhpur it has been reported that policemen surrounded and beat a minor. This incident has been recorded on a *video attached herewith*. This is a clear case under Section 320 (voluntarily causing hurt), and Section 352 (criminal assault) of the IPC.

- viii. **In Bulandshahar, on the 20th of December, 2019 police personnel smashing windows and breaking cars parked on the street were recorded on video.** This is a case of vandalism and is punishable under Section 426 of the IPC. *Video attached herewith.*
- ix. **Students of the Aligarh Muslim University faced the consequences of a virtual rampage by the police on December 15th, 2019.** Brute force was used to enter the hostels (including those housing female students) and indulge in wanton violence. Tear gas shells were fired inside the hostel rooms. A room in Morrison Court hostel caught fire because of this assault and the students living there were taken into detention. One student of the University has suffered injuries leading to the amputation of his hand. Students who were taken into custody were brutally beaten, denied treatment and subjected to communal slurs. Many students had fractures when they were released. This is an offence under Section 153A, 153B, 295A and 505 IPC. Police personnel who wantonly assaulted students have violated Section 322 and 321 of the IPC (causing hurt and grievous hurt).
- x. **In Firozabad district, timber outlet belonging to Azad Khan was reportedly burnt in the presence of police personnel on December 20th, 2019.** A crowd of people first vandalised his establishment and assaulted his nephew and him. Azad Khan managed to escape however his nephew Faraz Khan was arrested. Although Faraz Khan was a victim of violence and arson, he was named as one of the main accused and a case of rioting was registered against him. Later on ,the same day, his factory was burnt in the presence of police. This is a case of commission of the offences under attempt to murder Section 307 IPC, and mischief using fire, Section 436 IPC.
- xi. **In Kanpur a policeman hit a cornered man with stones and lathis on the 20th of December, 2019.** The police officer concerned is liable to be prosecuted for assault and causing hurt Section 352 and Section 321 of the Indian Penal Code. *Video attached herewith.*
- xii. **In Meerut, Lucknow, Farrukhabad, Mau, Kashiram Nagar, Sambhal, Rampur, Deoria, Bahrach, Ferozabad, Hathras, Gorakhpur, Kanpur and Varanasi deep distress has been caused to a large number of people whose loved ones have been**

arrested or detained without justifiable cause. In some cases the families are not clear about the whereabouts of their kin and unable to contact them.

8. **The Chief Minister of Uttar Pradesh Shri. Ajay Singh Bisht (alias Yogi Adityanath), has made an open declaration of revenge and punitive action against protestors that has been widely broadcasted on December 19, 2019.** This makes him a willing abettor to acts of violence carried out by the police. It is also a blatant violation of Section 506 of the IPC, insofar as it is an illegal attempt to intimidate the protesters from exercising their democratic rights of freedom of speech and free expression. Properties are being illegally confiscated by the government in accordance with the above call made by the Chief Minister.
9. **According to official figures, 5500 persons have been detained and over 1100 have been arrested during the current protests, however unofficial figures of unnamed detainees being subjected to coercion and harassment run into tens of thousands.** This is a clear attempt to brutally suppress voices of dissent by the wilful exercise of State power it is also an infringement of the right to speech and free expression as articulated in Article 19(1)(a) of the Constitution.
10. In view of the facts and information stated above the Uttar Pradesh Congress Party demands that:
 - i) Immediate orders for exercising restraint be issued by the Home Department, Government of Uttar Pradesh and the Director General of Police to ensure the cessation of such violent, unlawful and criminal acts by the U.P Government and Police and that the fundamental right to free expression as enshrined in the constitution be protected and upheld by law and state and ensured to the citizens of the state.
 - ii) An impartial assessment of all cases filed on peaceful protestors and their validity be made with immediate effect by an independent commission under a sitting or retired judge of the Hon'ble High Court. and bail be granted forthwith to all those

who have been wrongly charged and were not engaged in any unlawful or illegal act.

- iii) Notices for confiscation of property, sealing of such properties and other similar punitive actions be suspended till due process can be established and an appropriate enquiry by competent authorities is completed. Further, that any punitive action taken thereafter be legally endorsed by a concerned judicial authority to be appointed by the Hon'ble Supreme Court of India.
- iv) Students participating in peaceful protests be assured that they will not face academic or legal repercussions and their fundamental right to free expression as enshrined in the constitution will be protected and upheld by law and state.

As the constitutional head of the state of Uttar Pradesh we hope and expect that the values enshrined in the Constitution of India to which you have sworn allegiance, will be upheld and respected by your office and justice will be ensured to all those who have suffered and been victimized by the unlawfulness and wrongdoing of the Government of Uttar Pradesh and members of the Uttar Pradesh Police.

Sincerely Yours,



Priyanka Gandhi Vadra

General Secretary, All India Congress Committee



Sri. Ajay Kumar Lallu

President Uttar Pradesh Congress Committee