



# JawaharlalNehruUniversity Teachers Association (JNUTA)

April 26 2016

Prof. M. Jagadesh Kumar  
Vice Chancellor,  
Jawaharlal Nehru University

Dear Professor Kumar,

The teachers of JNU have once again come in front of your office to express their strong protest at the unacceptable attitude adopted by the University Administration under your leadership towards the running of the University. We can discern a clear pattern from the University Administration's actions that indicates its preference for a highly discretionary and centralized system of governance over a democratic and norm-based one. Indicative of this is the fact that the University Administration has adopted a stony silence to several concerns and issues raised by the JNUTA.

The decision to impose extremely harsh penalties without fair enquiry in relation to the events of 9<sup>th</sup> February only serves to prove our point. The JNUTA has pointed out the lack of credibility of the HLEC enquiry process at every stage since its inception and thereafter. It violated the principles of natural justice leading to a situation where students did not or say could not even participate in the enquiry. You have also been made aware of the fact that this need not have been the case if the established norms and procedures for such enquiries had been followed. The JNUTA's position has been vindicated by legal luminaries like Justice A.P. Shah and this too has been brought to your notice. That the Administration chose not to address the issues raised and instead went ahead with imposing harsh penalties on students implies that it would rather make JNU a ruthless penal institution than an upholder of fundamental and foundational principles of running a University. Institutional sensitivity and efforts to restore normalcy on the campus are buried in the whole exercise of "teaching a lesson" to the students. Fortifying this perception is the extremely go-slow approach adopted with regard to the Paschimabad incident that took place barely three days after 9 February. Even now, we have only heard informally that an enquiry has been eventually initiated –

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neither has any official notification been issued nor do we know details about how the enquiry is being conducted. Furthermore, the Administration has refused to bring to book after a thorough enquiry those guilty of brow beating, making false allegations and harassment against Dr. Burton while he was discharging his assigned official duties.

The JNUTA is also concerned by the attempts in different ways to browbeat and intimidate teachers, including their elected representatives in JNUEC and JNUTA. Sometimes these even take the form of the Administration promptly charging teachers or seeking explanations from them on the basis of complaints from outsiders.

The declaration of the VC's intention to alter the long-standing method to appoint Deans, Chairpersons and Wardens are appointed is nothing but an attempt to strengthen the Administration's control over teachers and question the collective wisdom of the faculty. The JNUTA has already raised its objections to this attempt and categorically stated that the Administration's contention – that 'leadership is important' – does not provide any rationale for discarding the principle of rotation that JNU has followed since its inception. Deviation from the current practice would most likely promote lobbying and in-fighting among colleagues with no 'public good' to be served.

Through our protest action today we wish to urge the University Administration to address the concerns raised by the JNUTA. To remind you of these concerns, we are including with this letter the several representations which we have placed before you over the last two months without substantial written response to most of them. Further silence by the Administration.

Regards,

(Ajay Patnaik)

President

(Bikramaditya Choudhary)

Secretary



# JawaharlalNehruUniversity Teachers Association (JNUTA)

April 4 2016

Prof. M. Jagadesh Kumar  
Vice Chancellor,  
Jawaharlal Nehru University

Dear Professor Kumar,

As you are aware, JNUTA organized on 22 March 2016 a Public Panel on the University's enquiry process in relation to the incidents of 9<sup>th</sup> February 2016. An extremely distinguished and independent panel was asked to reflect on the process as it had unfolded, based on presentations of the different views on it and drawing on their knowledge and expertise.

In their observations, the panelists brought out a number of important issues including by invoking several judicial pronouncements and constitutional principles. Most generally the panelists felt that the rule of law and the principle of natural justice, which includes the objective of preventing any miscarriage of justice, need to be upheld even in the most difficult times – no circumstances justify any compromise in this regard. Keeping that in the background, the following points of concern were raised by the panelists about the enquiry through the HLEC and the subsequent steps:

- I. The replacement of the normal internal enquiry process (Proctorial) derived from the Statutes, and for the conduct of which there are already established norms and procedures, by another internal process (the HLEC) is rather unusual and hard to justify even if legally permissible. Moreover, if such a method is resorted to, the public declaration of the terms of reference of the Committee and the norms and procedures governing its proceedings is absolutely imperative.
- II. Natural justice requires that anyone accused of violation of rules of discipline must be clearly informed of the charges against him/her and also the evidence in support of the charges. It was observed that neither the original notices asking students to appear before the HLEC nor the show-cause notices issued after the submission of the HLEC report spelt out the charges in the manner required.



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III. All accused must also be allowed the full opportunity to defend themselves. Apart from clear specification of charges and presentation of evidence, right of personal hearing and the right to rebut, recording of testimony in their presence, right of cross-examination of witnesses, etc were identified as integral elements of this process. It was observed that given its specified norms, a normal proctorial enquiry process would have involved most of these. However, the failure to specify procedures to be followed by the HLEC enquiry beforehand, the subsequent lack of response to the queries raised by students asked to appear before the committee and finally giving accused students only a part of the HLEC Report – all were inimical to the right of putting up a defence that should be available to any accused. Further, the time given to respond to the show-cause notices (despite its extension) could also have a similar effect particularly given the fact that some students were incarcerated during that time.

As already conveyed to you, the distinguished panel had the following members:

1. Justice (Retd.) A.P. Shah, former Chief Justice of the Delhi High Court and Chairman of the Twentieth Law Commission.
2. Warisha Farisat, Delhi-based lawyer previously with the International Center for Transitional Justice, New York, and Centre for Equity Studies, Delhi.
3. Dr. Mrinal Satish, Associate Professor of Law and Executive Director, Centre for Constitutional Law, Policy and Governance National Law University Delhi.

The JNUTA is drawing your attention to their observations since we hope that an independent view from a knowledgeable and experienced panel will help in ensuring that JNU's internal enquiry mechanisms do meet the highest legal standards. In the present case, there are a number of anomalies and loopholes in the procedure that we have pointed out and urge you to address these issues.

Regards,

(Ajay Patnaik)

President, JNUTA