

27/06/2022

Statement of the Working Group on Human Rights in India and the UN (WGHR) **Condemning the Arrest of Teesta Setalvad**

The Working Group of Human Rights in India and the United Nations (WGHR) condemns the arrest and incarceration of one of our members Teesta Setalvad, the Secretary of Citizens for Peace and Justice (CJP). We believe that this illegitimate action of the Gujarat Anti-Terror Squad (ATS) arose from a reference contained in Supreme Court judgement in *Zakia Ahsan Jafri Vs. State of Gujarat* (SLP CrI. No. 7899-90/2015), decided on 24.06.2022. Teesta was detained by the ATS just a day after the Supreme Court verdict was pronounced. The State machinery has leveled charges of criminal conspiracy, forgery and giving or fabricating false evidence among other IPC sections. Two former police officers, R.B. Sreekumar and Sanjiv Bhatt have been arrested in connection with the same case.

Teesta Setalvad has been fighting tirelessly for justice for victims of communal violence in India. She is well-known and respected as a journalist, human rights defender and courageous champion of the rights of the most vulnerable. WGHR is of the firm belief that Teesta's arrest amounts to retaliation and reprisals for seeking accountability from all, including those in positions of power, and for standing with the victims of the attack, including Ehsan Jafri's wife, Zakie Jafri. Ehsan Jafri was killed in one of many incidents of communal violence that occurred during 2002 in Gujarat. We are deeply concerned by the arrest of Teesta Setalvad as it reflects an aggressive abuse of power and law by the State machinery, in grave breach of the rights and freedoms guaranteed to citizens under the Indian Constitution. This turn of events has also raised questions about the Government's commitments to human rights and Human Rights Defenders (HRDs), not just domestically but also at the global level.

The **1999 UN Declaration on Human Rights Defenders** recognises the right of everyone to: “individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” It recognises the right to “complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;” ((A/RES/53/144), adopted 8 March, 1999).

The **UN Declaration on Women Human Rights Defenders** echoes the basic principles laid out in 1999 UN Declaration on HRDs and reiterates that member States need to ensure that the promotion and protection of human rights is not criminalised or met with limitations and that Women Human Rights Defenders are not prevented from enjoying universal human rights owing to their work ((A/RES/68/181) adopted 30 January 2014).

India has obligations under the international human rights instruments that it has ratified. India will soon have to appear before the Human Rights Committee for the review of its obligations under the **International Covenant on Civil and Political Rights**, including the rights of human rights defenders. In its list of issues sent to the Government in 2019, the Committee raises the following issues:

“Harassment, intimidation, smear campaigns and violent attacks against human rights defenders, activists and journalists and their family members, and travel bans to prevent engagement with the United Nations and other international bodies and retaliation for such engagement”. (CCPR/C/IND/QPR/4, 22 August 2019).

During India’s past two **Universal Periodic Reviews (UPR)**, UN member states have called on the government to enact a law for the protection of Human Rights Defenders, and implement the recommendations made by the UN Special Rapporteur on Human Rights Defenders, Margaret Sekaggya, in 2011 while in India on a country visit. These recommendations have also been echoed by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christophe Heyns, in 2012 during his country visit to India (SR on Extrajudicial, Summary or Arbitrary Executions, A/HRC/23/47/Add.1, 26 April 2013).

In her report on India, the UN Special Rapporteur on Human Rights Defenders noted:

“The highest authorities at the central and state level should publicly acknowledge the importance and legitimacy of the work of human rights defenders. Special attention must be paid to defenders working on the rights of marginalised groups, including Dalits and Adivasis, defenders working on economic, social and cultural rights; defenders affected by security legislations and militarisation; Right to Information activists; journalists; and women defenders and defenders working on women and child rights.” (SR on HRDs, A/HRC/19/55/Add.1, 6 February 2012)

As India is to appear before the UN Human Rights Council for its fourth review under the UN's Universal Periodic Review in November 2022, the Government will be required to respond to the comments and recommendations from UN member states on the issue of Human Rights Defenders.

WGHR calls for the immediate release of its member Teesta Setalvad. It also calls for the release of R.B. Sreekumar, and Sanjiv Bhatt. The systematic targeting of human rights defenders by the Indian state must stop. Reprisals against defenders and civil society organisations conducting legitimate human rights work are completely unacceptable and incompatible in a constitutional democracy and in breach of India’s international law obligations.