

India: End the harassment against human rights defenders

(Bangkok, 18 February 2015) - The Asian Forum for Human Rights and Development (FORUM-ASIA) condemns the ongoing criminalization and judicial harassment of social activists Teesta Setalvad and her husband Javed Anand, who are facing trumped up charges of embezzlement in connection with their work to achieve justice for victims of the 2002 Gulbarg Society Massacre. FORUM-ASIA calls on the Government of India to drop all charges against Setalvad and Anand to ensure their protection under national and international human rights law.

Setalvad, who is Secretary of Citizens for Justice and Peace (CJP,) and Anand, editor of anti-conflict magazine Communalism Combat, have been living under the threat of imminent arrest since 4 January 2014, when Gujarat Crime Branch officials filed a First Information Report (FIR) against them, allegedly at the behest of a former resident of Gulbarg Society who claimed that they had embezzled funds of INR 38,500,000 (approximately USD617, 581), meant for the construction of a memorial of 2002 riot victims at Gulbarg Society in Ahmedabad, Gujarat¹. Since then they have been subjected to sustained judicial harassment; in 2014 they applied for anticipatory bail several times, having to travel to various different courts. In December 2014 they were ordered to appear before the investigating officer (IO) every 15 days. On 12 February 2015, Setalvad and Anand had their latest anticipatory bail plea rejected by the Gujarat High Court and their arrest stayed until the following day. On 13 February their stay of arrest was extended until 19 February by the Supreme Court.

FORUM-ASIA expresses grave concern that the unsubstantiated criminal charges against Setalvad and Anand are being used to harass and intimidate them for carrying out their legitimate duties as human rights defenders. We consider such reprisals for their peaceful work of promoting human rights of the victims of the Gulbarg Society Massacre to be an affront to democracy and justice. The government must desist from using State institutions and security apparatus for carrying out such attacks. Moreover, these allegations are not the only instance of harassment they have faced in the course of their work with Gulbarg Society Massacre victims. In 2011, Setalvad was intimidated by authorities for sending letters to the UN Office of the High Commissioner for Human Rights (OHCHR) voicing her concern at the investigation's lack of protection for witnesses and victims of the massacre.

Furthermore, FORUM-ASIA conveys its alarm that the government has failed to respond to a [communication](#) sent from OHCHR concerning Setalvad and Anand's case on 11 April 2014. FORUM-ASIA urges the government to redress this and to take all appropriate actions to ensure that the rights of Setalvad and Anand are protected, particularly in regards to Article 2 of the UN Declaration on Human Rights Defenders, which states that, *"each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice"*.

¹Setalvad and Anand were charged under Sections 120(B), 406 and 420 of the Indian Penal Code (IPC) and Section 72(A) of the Income Tax Act.

FORUM-ASIA also called on the judiciary to reject the spurious charges against these human rights defenders and in the interim provide them all forms of protection including bail and other appropriate relief. They also called on the judiciary to take note of the use of draconian laws and means to stifle the voice of dissent and ensure that all rights of human rights defenders are protected at all times.

Background

The Gulbarg Society Massacre took place on 28 February 2002 during three days of inter-communal violence in the state of Gujarat. A Hindu mob attacked the Gulbarg Society, a Muslim neighbourhood in Chamanpura, Ahmedabad. Most of the houses were burnt and at least 35 victims were burnt alive, while 31 others went missing after the incident, later presumed dead, bringing the total deaths to 69. A special investigation team (SIT) within Gujarat police was established to investigate the massacre. Seven years after the incident, in February 2009, the Deputy Superintendent of Police with the Gujarat Police at the time was arrested on charges of dereliction of duty and for tampering with evidence, as some survivors alleged that he not only allowed the killings to happen but also helped rioters to burn the dead bodies.

Setalvad, as the Secretary of CJP, has been advocating for years for victims of the Gulbarg Society Massacre and for bringing those involved to justice. She and Anand have been actively pursuing justice for the victims in the investigation of the massacre through legal support to victims, including the documentation of several cases and their defense in hearing sessions at the Supreme Court. CJP also sought the criminal trial of Narendra Modi, then the Chief Minister of Gujarat, and other politicians and government officials for complicity in the Gulbarg Society Massacre.

About FORUM-ASIA:

FORUM-ASIA is a Bangkok-based regional human rights group with 47 member organizations in 16 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta and Geneva. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expressions, assembly and association, human rights defenders, and democratisation.

For further inquiries, please contact:

1. Renato G. Mabunga (boyet), Human Rights Defenders (HRD) Programme Manager, boyet@forum-asia.org, +66 946464364
2. GayatriKhandhadai, South Asia Programme Officer, gayatri@forum-asia.org, +66 906538263