



Honorable Justice (Retd.) H.L Dattu
Chairperson,
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi-110 023
Email: hrd-nhrc@nic.in

12 September 2018

Re: Open Letter to the National Human Rights Commission of India concerning the raids and arbitrary arrests of human rights defenders across India

Dear Honorable Chairperson,

The Asian NGO Network on National Human Rights Institutions (ANNI) would like to appeal to the National Human Rights Commission of India (NHRCI) to exercise its mandate to carry out independent investigations into the arbitrary arrests of human rights defenders across India on Tuesday 28 August 2018.

The arrests were carried out following a series of raids. Those arrested include prominent human rights activists and defenders of India: Sudha Bharadwaj, Faridabad; Gautam Navlkha, Delhi; Vernon Gonsalves and Arun Ferreira, Mumbai; and P. Varavara Rao, Hyderabad. All the arrested activists have been charged under the Indian Penal Code and the Unlawful Activities (Prevention) Act or UAPA.

These incidents follow a similar pattern that occurred earlier this year when Dalit activists' houses were raided before they were arrested in June. They were all charged under the same UAPA, a law vague in substantive provisions, and draconian in procedural provisions. It provides the authorities with discretionary power to detain suspects for an unspecified period without bail or fair trial. Such power and provisions are in a blatant violation to the fundamental rights guaranteed under the Indian Constitution¹ as well as the international human rights law.

In the face of grave and systematic human rights violations of this kind, NHRCI has the responsibility to intervene immediately. It has a mandate to independently consider any human rights concern, hear from any individual including government representatives, and obtain any information or document necessary to assess the situation. It also has the mandate to conduct on-site investigations as necessary and visit places of detention without prior notice.

¹ Fundamental freedoms under Article 19(1) of the Indian Constitution

The Paris Principles enables NHRCI to write to the Government, the Parliament, and other concerned bodies to draw their attention to such human right violations, and propose measures to put an end to such situations.²

ANNI would like to recall the appeal sent by FORUM-ASIA on 29 June 2018 concerning the arrest of five human rights defenders on 6 June 2018.³The case was registered as 1315/3/0/2018, and an initial order from the NHRCI was passed stating that the responsible authorities should submit a report within four week. However, according to the NHRCI's website as of 8 September, the status of this case was still pending as '*report from concerned authority is awaited.*' ANNI is extremely concerned about the inordinate delay and non-compliance of NHRCI's order by Maharashtra Police in this case. ANNI is also worried that NHRCI has not taken necessary actions based on the Protection of Human Rights Act. ANNI believes a timely and stronger intervention by the NHRCI would have prevented the recent raids, arrests and harassment of the human rights defenders.

Given the significance of the case and the attempts by the Indian Government to stifle dissent and work of human rights defenders, ANNI would like to request the Honorable Chairperson and Members of the NHRCI to:

1. Immediately order independent and impartial investigations into the arrests of the human rights defenders through the NHRCI's independent investigation team;
2. Ensure that the dignity, well-being and integrity of the human rights defenders are respected and protected under all circumstances; and
3. Review and recommend amendments to all acts and laws that are in conflict with the fundamental rights guaranteed under the Indian Constitution and the international human rights laws, in this case the UAPA.

Yours Sincerely,



Mukunda Kattel
Director Asian Forum for Human Rights and Development (FORUM-ASIA)
ANNI Secretariat

About the Asian NGO Network on National Human Rights Institutions (ANNI)

The Asian NGOs Network on National Human Rights Institutions (ANNI) was established in December 2006. It is a network of Asian non-governmental organisations and human rights defenders working on issues related to National Human Rights Institutions (NHRIs). ANNI has members that are national organisations from all over Asia. ANNI currently has 33 organisations from 21 countries or territories. The work of ANNI members focuses on strengthening the work and functioning of Asian NHRIs to better promote and protect human rights as well as to advocate for the

² Article 3 (a), Principles relating to the Status of National Institutions (The Paris Principles), available on <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>,

³<https://www.forum-asia.org/?p=26712>

improved compliance of Asian NHRIs with international standards, including the Paris Principles and General Observations of the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs (GANHRI).