

India: Credible investigation must be ensured for police crackdown on protestors

(Bangkok/Kathmandu, 17 December 2019) - The Asian Forum for Human Rights and Development (FORUM-ASIA) unequivocally condemns the irresponsible and unprofessional conduct of the Delhi Police and the Union Government in orchestrating violent attacks against protesting students of Aligarh Muslim University and Jamia Millia Islamia University on 15 December 2019. FORUM-ASIA believes these were deliberate attempts to crackdown on peaceful protests against the recently enacted Citizenship Amendment Act, which has been criticised as unconstitutional and discriminatory.

It is reported that the Delhi Police was directly involved in unprovoked attacks on private residences and student hostels, as well as in causing street arson and destruction of public property. The Police reportedly also entered the university campus without permission from the authorities and opened fire. Media reported that more than 100 students were injured. The police even blocked ambulances from entering the university to help wounded students¹.

The Citizenship Amendment Act 2019 has sparked protests across the country, ever since the bill to amend the Act was cleared by Cabinet on 11 December 2019.² The Act provides citizenship rights to Hindus, Sikhs, Buddhists, Jains, Parsis and Christians, who have come from Pakistan, Bangladesh or Afghanistan on or before 31 December 2014. The Act notably does not include Muslims.

Over the last few days, widespread protests have been reported from all over India. In some of these, security forces have used excessive force and have even killed a number of protesters, particularly in Assam. While exact numbers differ according to different sources, in Assam, some 100 people were arrested and about 2,000 were detained.³ Internet services have been shut down in Assam, Meghalaya, Tripura, West Bengal, Delhi and several other places.

The right to freedom of assembly is a constitutionally guaranteed right in India. It is also a universally recognised human right, enshrined in international treaties ratified by the Government of India. This right must be protected without arbitrary interference and violence from the State. Any use of force must be kept to a bare minimum and be proportionate.

In February 2016, two United Nations Special Rapporteurs, Maina Kiai and Christof Heyns, recommended, in a joint report, that 'force shall not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law.'⁴

The report further clarifies that 'States and their law enforcement agencies and officials are obligated under international law to respect and protect, without discrimination, the rights of all those who

¹ <https://scroll.in/latest/946939/sparked-by-police-violence-in-delhi-s-jamia-university-students-across-india-erupt-in-protest>

² <https://www.indiatoday.in/india/story/cabinet-clears-citizenship-amendment-bill-govt-gears-up-for-crucial-parliament-test-1624973-2019-12-04>

³ <https://www.thehindu.com/news/national/other-states/175-held-1406-taken-into-custody-in-assam-over-citizenship-act-stir/article30313056.ece?homepage=true>

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/018/13/PDF/G1601813.pdf?OpenElement>

participate in assemblies, as well as monitors and bystanders. The normative framework governing the use of force includes the principles of legality, precaution, necessity, proportionality and accountability.' The recent police actions appear to have gone far beyond the normative framework referenced in the report

FORUM-ASIA calls for an independent investigation into the ongoing crackdown on the protesters at the universities and across the country, focusing in particular on the role of law enforcement agencies, in order to ascertain the proportionality of the force used and to ensure accountability for the loss of human life and injuries. Stringent actions must be taken against those law enforcement forces who have resorted to unlawful use of force against peaceful protesters.

FORUM-ASIA further calls on the Government of India to ensure freedom of assembly, free expression and protection of the life and liberty of the protesters in the country, and engage in peaceful negotiations with the stakeholders to resolve the legitimate concerns about the Citizen Amendment Act.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 81 member organisations in 21 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratisation.

For further information, please contact:

- South Asia Programme, FORUM-ASIA, sasia@forum-asia.org