

India: End the incarceration and harassment of human rights defenders in the Bhima Koregaon case

(Bangkok/Kathmandu, 17 September 2020) – The recent arrests of cultural activists Sagar Gorkhe, Ramesh Gaichor and Jyoti Jagtap this month in relation to the Bhima Koregaon case is a vicious targeting of human rights defenders aimed at instilling fear and suppressing their work, the Asian Forum for Human Rights and Development (FORUM-ASIA) said in a statement today.

Coupled with the continued incarceration of 12 academics, lawyers and other activists since April 2018 in relation to the same case, FORUM-ASIA believes that the State is unjustifiably preventing the legitimate work of defenders.

Since April 2018, 12 human rights defenders have been arrested by the National Investigation Agency (NIA) under Sections 153A, 505(1)(b), 117 and 34 of the Indian Penal Code¹ and Sections 13, 16, 17, 18, 18B, 20, 38, 39, 40 of the Unlawful Activities Prevention Act (UAPA)², a repressive counter-terrorism law that is being used to target defenders and are awaiting trial.

The most recent arrests of Sagar Gorkhe, Ramesh Gaichor and Jyoti Jagtap has added to a total of 15 arrests since 2018 by the Government of India using the Bhima Koregaon case to justify harassing and attacking defenders based on unsubstantiated charges, and has linked them to the banned Communist Party of India (Maoist).

On 5 September 2020, Sagar Gorkhe and Ramesh Gaichor were questioned by the NIA and refused to comply when they were asked to confess that they belonged to the Maoist organisation. Two days later, the pair was arrested by the NIA while Jyoti Jagtap was arrested on 8 September. All were associated with Kabir Kala Manch, an organisation that works on the elimination of caste-based discriminations in India. The police have accused Kabir Kala Manch as a front for extremist activities involved in the Bhima Koregaon violence.

BHIMA KOREGAON

The Bhima Koregaon case was filed based on a clash that happened in January 2018, between the dominant and marginalised castes in Bhima Koregaon of Maharashtra state. The clash took place during the bicentenary celebration of Elgar Parishad to commemorate the victory of Dalit Mahar soldiers over Brahmin Peshwa rulers of the Maratha Empire.³ The police claimed that all 15 arrested activists conspired to incite violence in Bhima Koregaon on 1 January 2018.

¹ Sections under IPC relate to promoting enmity between different groups, intending to cause fear among public, abetting commission of an offence with a common intention.

² Sections under UAPA relates to unlawful and terrorist acts, raising funds for a terrorist act or organisation, recruiting persons and being a member of any terrorist gang or organisation

³ <https://www.indiatoday.in/india/story/what-happened-at-bhima-koregaon-1326175-2018-08-29>

The first spree of arrests in the Bhima Koregaon case included Dalit rights activist Sudhir Dhawale, human rights lawyer Surendra Gadling, land rights activist Mahesh Raut, women's rights activist Professor Shoma Sen and human rights activist Rona Wilson in April 2018 and it was followed by the arrests of human rights lawyers Arun Ferreira, Sudha Bharadwaj and academics Varavara Rao, Vernon Gonsalves in August 2018.

On 14 April 2020, after a long and unsuccessful battle in court seeking bail, academic Anand Teltumbde and human rights activist Gautam Navlakha were arrested, followed by the arrest of academic Professor Hany Babu on 28 July 2020.

The NIA had also claimed that activists Varavara Rao and Sudha Bharadwaj, who were arrested in 2018 and remain incarcerated were taking 'undue advantage' of the COVID-19 pandemic to get out of prison when they had sought bail in the court on medical grounds. It is pertinent to note that Varavara Rao, an octogenarian, was tested positive with COVID-19 inside prison and medical treatment was only made available after interventions by civil society organisations and the National Human Rights Commission of India.

The police have relied heavily on evidence allegedly collected from electronic devices of the arrested human rights defenders, which has also been reportedly tampered with. An internet security company had stated that some of the arrested defenders were victims of an Israeli spyware 'Pegasus',⁴ which is mostly used by government agencies for surveillance, raising concerns over the right to privacy of the human rights defenders.

In addition to arrests and imprisonment, several human rights activists including academics K. Satyanarayana, Partho Sarathi Ray and journalist K.V. Kurmanath have been harassed by police, summoned for interrogations and their properties were raided.

CALL TO END HARASSMENT

FORUM-ASIA believes that the malicious targeting these defenders is to send a chilling message to their counterparts and prevent them from carrying out their legitimate human rights work. FORUM-ASIA reiterates its concerns regarding the UAPA which allows for the detention of a person for up to 180 days without the police having to file a completed charge sheet, thus denying fair trial rights.

FORUM-ASIA calls for an end to the harassment, reprisal and targeting of human rights defenders in India. It urges that due process be followed in all stages of the trial in the Bhima Koregaon case and that those in need receive adequate and competent medical care in accordance to international human rights standards.

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⁴ <https://thewire.in/tech/pegasus-spyware-bhima-koregaon-activists-warning-whatsapp>

Note to Editor - Chronology of arrests

- April 2018 : Sudhir Dhawale, Surendra Gadling, Mahesh Raut, Prof. Shoma Sen, Rona Wilson
 - August 2018: Arun Ferreira, Sudha Bharadwaj, Varavara Rao, Vernon Gonsalves
 - April 2020: Anand Teltumbde, Gautam Navlakha
 - July 2020: Prof. Hany Babu
 - Total arrests (*before September 2020*) : 12
 - September 2020: Sagar Gorkhe, Ramesh Gaichor and Jyoti Jagtap
 - Total arrests (*as of September 2020*) : 15
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About FORUM-ASIA:

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a Bangkok-based regional network of 81 member organisations across 21 Asian countries, with consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity-development and solidarity actions in Asia and beyond. It has sub-regional offices in Geneva, Jakarta, and Kathmandu. www.forum-asia.org

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