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Human rights situations that require the Council's attention

Written statement* submitted by Indigenous People of Africa Coordinating Committee, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 February 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



India: Appeal for the Immediate Release of Human Rights Defenders in Jail

In India, voices of dissent and those speaking out on human rights run the risk of being jailed and denied bail under regressive counter-terror legislation, including the Unlawful Activities Prevention Act (UAPA). The UAPA permits a detainee to be held in judicial custody without charge for up to 180 days and restricts recourse to bail, allowing authorities to keep defenders in jail on politically motivated charges for prolonged periods. The easy denial of bail facilitates police and prosecutorial abuse of the law to allow prolonged pre-trial detention, contrary to general Indian criminal law and international human rights law. For instance, the Delhi Police filed terrorism charges under the UAPA against human rights defenders targeted for peaceful protests against the Citizenship Amendment Act (CAA), most of whom were already being investigated for similar offences under the Indian Penal Code (IPC). The imposition of the UAPA ensured that bail remained out of reach for the defenders even where courts granted bail for offences under the IPC.

The arrest of activists accused of violence in the Bhima Koregaon case is particularly concerning because a digital forensics investigation found that some of the ‘evidence’ relied on by the prosecution had been planted through malicious software onto defender Rona Wilson’s computer and that there was no evidence that Wilson interacted with these files. A total of 16 human rights defenders have been arrested since 2018 under the UAPA, linked to the anti-caste violence that took place in Bhima Koregaon in Maharashtra state on 1 January 2018. In light of questionable evidence, these defenders should not be in jail in the first place, and certainly not in the midst of a pandemic where their health and lives are at risk.

There are currently at least 31 human rights defenders incarcerated under the UAPA across India, and only a handful of them were granted bail, mostly on medical grounds. Those in jail under UAPA include 15 human rights defenders held in relation to the Bhima Koregaon case, defenders (mainly students and from the Muslim minority) who protested peacefully against the CAA in Delhi and Assam, journalist Siddique Kappan and his two associates in Uttar Pradesh, labour rights defender Annapoorna in Andhra Pradesh, and anti-mining woman human rights defender HidmeMarkam in Chhattisgarh.

The current wave of the Pandemic in India has been devastating, and prisoners are at heightened risk. Indian rights defenders are held in overcrowded jails, in unsanitary conditions without access to proper medical care, Covid-19 testing, vaccination or treatment.

Exclusion of human rights defenders in prisoners eligible for release:

The UN Office of the High Commissioner for Human Rights has called for states to release “every person detained without sufficient legal basis, including political prisoners, and those detained for critical, dissenting views” to prevent the growing rates of infection everywhere. The Supreme Court of India has also twice passed directives on the need to decongest prisons, given the risk posed to inmates by the spread of Covid-19 in jails, heightened by overcrowding and unsanitary conditions.

We urge urgent action to hold India accountable for its human rights record especially in light of the Covid-19 pandemic, and its treatment of defenders jailed for their peaceful work. We urge the Human Rights Council to call on the Government of India to dismiss all charges against human rights defenders for their peaceful activism and release those detained immediately and unconditionally.
