



## Human Rights Defenders Alert - India

National Coordination Office

6, Vallabai Road, Chokkikulam, Madurai 625

002. Tamil Nadu, INDIA

Tel: +91-9994368540 Email: [hrda.india@gmail.com](mailto:hrda.india@gmail.com)

*June 12, 2016*

To,

**Mr. Michel Forst** ([defenders@ohchr.org](mailto:defenders@ohchr.org))

Special Rapporteur on Situation of Human Rights Defenders

**Mr. Maina Kiai** ([freeassembly@ohchr.org](mailto:freeassembly@ohchr.org))

Special Rapporteur on the rights to freedom of peaceful assembly and association

**Mr. David Kaye** ([freedex@ohchr.org](mailto:freedex@ohchr.org))

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

**Ms. Leilani Farha** ([srhousing@ohchr.org](mailto:srhousing@ohchr.org))

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living

**Ms. Maud De Boer-Buquicchio** ([srsaleofchildren@ohchr.org](mailto:srsaleofchildren@ohchr.org))

Special Rapporteur on the sale of children, child prostitution and child pornography

**Ms. Karima Bennoune** ([srculturalrights@ohchr.org](mailto:srculturalrights@ohchr.org))

Special Rapporteur in the field of cultural rights

**Ms. Catalina Devandas Aguilar** ([sr.disability@ohchr.org](mailto:sr.disability@ohchr.org))

Special Rapporteur on the rights of persons with disabilities

**Mr. Kishore Singh** ([sreducation@ohchr.org](mailto:sreducation@ohchr.org))

Special Rapporteur on the right to Education

**Mr. John Knox** ([srenvironment@ohchr.org](mailto:srenvironment@ohchr.org))

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

**Mr. Christof Heyns** ([eje@ohchr.org](mailto:eje@ohchr.org))

Special Rapporteur on extrajudicial, summary or arbitrary executions

**Mr. Philip Alston** ([srextremepoverty@ohchr.org](mailto:srextremepoverty@ohchr.org))

Special Rapporteur on extreme poverty and human rights

**Ms. Hilal Elver** ([srfood@ohchr.org](mailto:srfood@ohchr.org))

Special Rapporteur on the right to food

**Mr. Heiner Bielefeldt** ([freedomofreligion@ohchr.org](mailto:freedomofreligion@ohchr.org))

Special Rapporteur on freedom of religion or belief

**Mr. Danius Puras** ([srhealth@ohchr.org](mailto:srhealth@ohchr.org))

Special Rapporteur on the right of everyone on the enjoyment of the highest attainable standard of physical and mental health

**Ms. Monica Pinto** ([srindependencejl@ohchr.org](mailto:srindependencejl@ohchr.org))

Special Rapporteur on the independence of judges and lawyers

**Ms. Victoria Lucia Tauli Corpuz** ([indigenous@ohchr.org](mailto:indigenous@ohchr.org))

Special Rapporteur on the rights of indigenous people

**Mr. Chaloka Beyani** ([idp@ohchr.org](mailto:idp@ohchr.org))

Special Rapporteur on the human rights of internally displaced people

**Mr. Francois Crepeau** ([migrant@ohchr.org](mailto:migrant@ohchr.org))

Special Rapporteur on the human rights of migrants

**Ms. Rita Izsak** ([minorityissues@ohchr.org](mailto:minorityissues@ohchr.org))

Special Rapporteur on minority issues

**Mr. Joseph Cannataci** ([srprivacy@ohchr.org](mailto:srprivacy@ohchr.org))

Special Rapporteur on the right to privacy

**Mr. Pablo De Greiff** ([srtruth@ohchr.org](mailto:srtruth@ohchr.org))

Special Rapporteur on the promotion of truth, justice, reparation & guarantees of non-recurrence

**Mr. Mutuma Ruteere** ([racism@ohchr.org](mailto:racism@ohchr.org))

Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

**Ms. Urmila Bhoola** ([srslavery@ohchr.org](mailto:srslavery@ohchr.org))

Special Rapporteur on contemporary forms of slavery, including its causes and its consequences

**Mr. Ben Emmerson** ([srct@ohchr.org](mailto:srct@ohchr.org))

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

**Mr. Juan Ernesto Mendez** ([sr-torture@ohchr.org](mailto:sr-torture@ohchr.org))

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

**Mr. Baskut Tuncak** ([srtoxicwaste@ohchr.org](mailto:srtoxicwaste@ohchr.org))

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

**Ms. Maria Grazia Giammarinaro** ([srtrafficking@ohchr.org](mailto:srtrafficking@ohchr.org))

Special Rapporteur on trafficking in persons, especially women and children

**Mr. Leo Heller** ([srwatsan@ohchr.org](mailto:srwatsan@ohchr.org))

Special Rapporteur on the human right to safe drinking water and sanitation

**Mr. Idriss Jazairy** ([ucm@ohchr.org](mailto:ucm@ohchr.org))

Special Rapporteur on the negative impact of unilateral coercive measures in the enjoyment of human rights

**Ms. Dubravaka Simonovic** ([vaw@ohchr.org](mailto:vaw@ohchr.org))

Special Rapporteur on violence against women, its causes and consequences

**Dear Sirs & Madams,**

***Sub: Appeal for Urgent Action, India – Delhi - Seeking Urgent Intervention in respect of suspension of FCRA registration of ‘Lawyers Collective’, a Delhi based human rights advocacy organisation. ‘Lawyers Collective’ was founded by noted Indian activists and lawyers Ms. Indira Jaising and Mr. Anand Grover – Regarding***

**Greetings from Human Rights Defenders Alert - India!**

HRD Alert - India is a forum of Human Rights Defenders for Human Rights Defenders. It endeavors to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

On behalf of HRDA-India, we express our grave concern regarding the suspension of the Foreign Contribution Regulation Act (FCRA) accounts of ‘Lawyers Collective’ (LC) for six months by the Indian Ministry of Home Affairs. ‘Lawyers Collective’, a Delhi based human rights advocacy organisation was founded by noted Indian activists and lawyers Ms. Indira Jaising and Mr. Anand Grover. The order of suspension was issued by the Indian Ministry on May 31, 2016 which also barred the organisation from receiving any foreign funds. The punitive action on the part of Indian government has brought out the ugliest face of Indian democracy which chose not only to restrict social dissent but also crushed the basic democratic rights to peaceful assembly, protest and

association as the essential hallmarks of a democratic society.

Senior Advocates Ms. Indira Jaising and Mr. Anand Grover have an exceptional profile of public service, probity and personal and professional integrity as lawyers and as human rights activists. Their work has received global recognition. Ms. Indira Jaising, has made an unparalleled contribution to law and jurisprudence on gender discrimination, whether relating to women's right to property, sexual harassment at the workplace, domestic violence etc. Ms. Jaising is also a **former member of Committee on Elimination of Discrimination against Women (CEDAW) in the United Nations**. Mr. Anand Grover held the **mandate of the UN Special Rapporteur on 'Right to Health' between 2008 to 2014**. He has made tremendous contribution to the legal campaign against the criminalisation of homosexuality; rights of persons living with HIV; and access to medicine and healthcare. Ms. Jaising and Mr. Grover, through LC have and continue to advance the rights of the most vulnerable and marginalized sections of Indian society, thereby upholding constitutional values. Instead of recognizing their invaluable contribution to the country and its people, the Government of India is making all efforts to obstruct their work. It is pertinent to mention here that Ms. Indira Jaising served as the Additional Solicitor General of India from July 2009 to May 2014. The other Trustee of 'Lawyers Collective' Mr. Anand Grover served as the United Nations Special Rapporteur on the right to health after his appointment in 2008.

The Home Ministry has alleged that Ms. Indira Jaising has violated FCRA norms by receiving foreign funds when she was a "government servant" in her capacity as Additional Solicitor General. HRDA submits that Ms. Indira Jaising was a 'public servant' and not a 'government servant', on whom there was no bar to receive foreign contributions. The Home Ministry order suspending the FCRA account of 'Lawyers Collective' says that the reply/comment received from the organization is not satisfactory and hence has been rejected. It is pertinent to note that 'Lawyers Collective' has replied to the earlier notice on alleged FCRA violations with voluminous supporting documents. Ms. Indira Jaising has been fighting cases specially pertaining to human rights violations in the country. She has represented several persons in her professional capacity as a lawyer in several cases against the government functionaries and high profile Indian politicians. She has represented social activist and human rights defender Ms. Teesta Setalvad in a similar FCRA violation case

slapped on her organisations mainly Sabrang Trust and Citizens for Justice and Peace. She has also represented former Indian Police Service officer Mr. Sanjiv Bhatt in the Supreme Court and monitored an SIT probe against him. She also represented Ms. Priya Pillai, a Green Peace activist who was stopped at the Delhi airport from boarding a flight to London where she was to speak about the violations of the land and forest rights of local tribal communities in the Mahan Coal block area of Indian state of Madhya Pradesh.

HRDA condemns this blatant act of reprisal from the Indian Ministry of Home Affairs which is intended to victimize and intimidate 'Lawyers Collective' and its trustees Ms. Indira Jaising and Mr. Anand Grover by misusing the provisions of Foreign Contributions (Regulation) Act, 2010. HRDA would like to point out here that in April 2015, the Indian government cancelled the licenses of nearly 9,000 NGOs for alleged violation of FCRA. The FCRA has been time and again criticised by NGOs in India and abroad for its unfair interference in the internal management of organisations. The Indian civil society claim that the bogey of "foreign funding" is raised more to smear individual and groups challenging unfair, unjust inequitable and unsustainable state and corporate projects. The stand of the Indian government is based on the assumption that groups which expose human rights abuses associated with development projects are instrumentalised by foreign agents who are out to harm Indian economic growth. It is an irony that those who repatriate profits earned in India by looting and plundering the nation's wealth are feted as 'patriots' and those citizens who assert India's and Indians' rights over our vast common resources and protest against destructive development are dubbed 'anti-national-economic interest.'

Freedom of Peaceful Assembly is an individual right that is always expressed in a collective manner. Article 5 of the Declaration on Human Rights Defenders expressly states that the right applies to individuals in association with others, which implies that this right is also protected for associations of individuals, such as non-governmental organizations. HRDA wishes to state that the restriction on access to resources is a violation of the right to association as upheld by the United Nations Special Rapporteur on the right to association and assembly.

The UN SR on FoAA has also recently shared a 17-page legal analysis of the FCRA 2010 with the Government of India and took strong exception to the manner in which Foreign Contribution Regulation Act is being used to suppress India's civil society. He stressed that "access to resources, including foreign funding, is a fundamental part of the right to freedom of association under international law, standards, and principles, and more particularly part of forming an association. Therefore, any restriction on access to foreign funding must meet the stringent test for allowable restrictions for the right to association developed by the international human rights bodies. The restrictions as defined by the Indian Foreign Contribution Regulation Act (2010) and Rules (2011), do not meet the obligations of the Union of India under international law, standards and principles".

Several other civil society organizations have also faced similar situations in the past but if this is what a former UN SR and Former CEDAW Committee member have to face, this is time to act on behalf of all human rights defenders in the country – a responsibility that is expected from all recent mandates of the Special Procedures and Treaty Bodies of the United Nations and also the mandates of the Global Alliance of NHRIs.

HRDA anticipates that these are pre-planned and deliberate attempts being made to delegitimize the work of human rights defenders in the country and thereby increase their vulnerability. Therefore, in the light of above mentioned facts, legal standards and circumstances, HRDA most respectfully appeals you all to jointly and urgently intervene in this matter and also consider issuing a joint statement on such a grave situation urging Indian authorities to comply with their international obligations and commitments on freedom of association and other fundamental rights.

HRDA also reminds you all of the visit of the UN Special Rapporteur on the situation of human rights defenders to India in 2011 and portions of her report of March 2012 which recommended, "*The Foreign Contribution Regulation Act, adopted in 2010 and which came into force on 1 May 2011, replaced the Foreign Contribution Regulation Act of 1976. The Act aims at "consolidat[ing] the law to regulate the acceptance and utilization of foreign contribution or foreign hospitality by certain individuals or associations or companies, and to prohibit such acceptance and utilisation for any activities detrimental to the national interest and for matters connected therewith or*

*incidental thereto*".

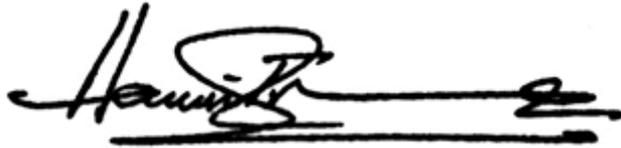
HRDA wishes to recall that over 35,000 NGOs are in the process of FCRA re-registering as a result of the new Foreign Contribution Regulation Act of 2010 and Rules of 2011. It is therefore also a time for the community of the UN Special Rapporteurs to remind Government of India through a joint statement that women/human rights defenders should not be denied their re-registration using this opportunity and on the contrary NGOs engaged in the protection and promotion of human rights and fundamental freedoms should be specially encouraged by a speedier process of re-registration respecting India's obligation under the "*UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998*"

HRDA – India urges the community of all UN Special Rapporteurs to urge the Government of India:

- Revoke immediately the suspension of Lawyers Collective's FCRA registration and take measures towards the repeal of the FCRA which restricts freedom of association and assembly in violation of India's international human rights obligations;
- Refrain from imposing other restrictions on the right of NGOs to access funding and respect the right of NGOs to have unhindered access to funding for their work, including from sources abroad;
- Refrain from engaging in negative portrayals or stigmatisation of NGOs because of their sources of funding — or any other reason – and publicly acknowledge the importance and value of NGOs, as key partners, in efforts to enhance citizen participation in decision-making as well as in human rights promotion.
- Not to refrain from re-registering NGOs under FCRA engaged in the protection and promotion of human rights and fundamental freedoms locally, at the state level, nationally, regionally and internationally.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read "Henri Tiphagne". The signature is written in a cursive style with a long horizontal flourish extending to the right. Below the signature is a solid black horizontal line.

**(Henri Tiphagne)**

National Working Secretary