



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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**NHRC Diary No. 8153/IN/2020 for the complaint submitted online**

**Ref No: HRDA/West/GJ/03/06/2020**

June 19, 2020

To,

Mr. Debindra Kundra,  
Focal Point - Human Rights Defenders & Assistant Registrar, National Human  
Rights Commission,  
Manav Adhikar Bhawan,  
Block-C, GPO Complex, INA,  
New Delhi – 110 023  
Email: [hrd-nhrc@nic.in](mailto:hrd-nhrc@nic.in)

Dear Sir,

**Sub: HRD Alert - India - Urgent Appeal for Action – Gujarat: Journalist Mr.  
Dhaval Patel arrested in false sedition case for publication of news–  
Regarding**

Greetings from Human Rights Defenders Alert - India!

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

We are writing to express our grave concern regarding the arrest of human rights  
defender Mr. Dhaval Patel in a false case for sedition for publishing an article on his  
website, claiming that chief minister Mr. Vijay Rupani might be replaced.

**Source of Information:**

- Communication with the HRDs in the region
- Media Reports

**Date of Incident:**

May 11, 2020

**Place of Incident:**

Ahmedabad, Gujarat

**The Perpetrators:**

Crime branch, Gujarat

**About the Human Rights Defender:**

Mr. Dhaval Patel is the owner and editor of the portal 'Face of Nation' in Gujarat. As a journalist, he is considered a human rights defender by the definition of the UN Declaration on Human Rights Defenders known as the '***Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms***', adopted by the UN General Assembly Resolution [A/RES/53/144](#).

**Details of the incident:**

On May 7, Mr. Dhaval Patel, editor and owner of Face of Nation, allegedly wrote a news story titled '*Mansukh Mandaviya called by high command, chances of leadership change in Gujarat*'.

The news story mentioned that COVID-19 cases have been increasing in Gujarat and the "failure" of the Gujarat CM has been noted by New Delhi. It said that Mr. Mandaviya, a Union minister and a Rajya Sabha MP from Gujarat, was called by the BJP leadership, due to which there were speculation of a leadership change in the state. After publication of this story Mr. Dhaval was detained and arrested by a team of Ahmedabad Detection of Crime Branch from his residence in Ahmedabad. An FIR was filed under under IPC section 124 A (sedition) and Disaster Management Act section 54 (Punishment for false warning). Gujarat government lawyer Sudhir Brahmhatt said in court that the journalist "*tried to instigate and create a feeling of hatred in the minds of the people against the chief minister of the state and also tried to spread rumours, false news and mislead the people of the state by creating panic in public.*" Mr. Patel was given regular bail by the sessions court.

The above incident is a clear case of misuse of power by the police officials. The arrest of Mr. Patel is an attempt to stop the journalists/ human rights defenders from writing anything about the political leadership. This is a violation of Article 19 of the Constitution which provides for free speech and power to express oneself.

Recently, the controversial sedition law has been extensively misused by authorities to silence dissent and criticism. India's Supreme Court has imposed sharp limits on what construes sedition. In the landmark 1962 ruling in Kedar Nath Singh v State of Bihar, the Supreme Court ruled that unless the accused incited violence by their speech or action it would no longer constitute sedition, as it would otherwise violate the right to freedom of speech guaranteed by the constitution. The FIR against Mr. Patel for a journalistic piece is a clear illustration of the fact that the idea of a free press is severely restricted. Article 19 of the Constitution guarantees freedom of speech and expression to citizens. Constitutionally guaranteed right has no meaning if free expression is countered by this kind of "police and legal harassment."

Freedom to expression is crucial to the work of human rights defenders, including journalists. The right to freedom of opinion and expression encompasses three different aspects: 1) the right to hold opinions without interference; 2) the right of access to information; and 3) the right to impart information and ideas of all kind. On the aforesaid it is stated that Declaration on Human Rights Defenders seeks to protect the monitoring and advocacy functions of defenders by recognizing their right to obtain and disseminate information relevant to the enjoyment of human rights.

We urge the Hon'ble Commission to immediately intervene in this matter of the police misusing law to silence questions by human rights defenders and restricting their fundamental rights to dignity and liberty.

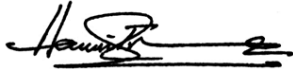
### **Appeal:**

We therefore urge you to immediately take necessary steps to:

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident involving the false case of sedition filed against Mr. Patel.
- DGP, Gujarat and the Commissioner of Police, Ahmedabad be directed to submit a comprehensive report pertaining to the above incident.

- Exercise Section 12 (b) of the Protection of Human Rights Act and intervene in the said proceedings before the court through a competent criminal lawyer.
- Direct Chief Secretary, Gujarat to take necessary steps for providing congenial atmosphere to the human rights defenders for their smooth working in the state of Gujarat.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

(Henri Tiphagne)

National Working Secretary