



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

Ref No: HRDA/South/KA/03/07/2020

July 09, 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

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Karnataka and Gujarat: Cases registered against HRD and senior journalist Mr. Aakar Patel for his tweets and his twitter account restricted.

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 criminal cases against human rights defender and senior journalist Mr. Aakar Patel in Karnataka and Gujarat for his tweets and restrictions imposed on his Twitter account after Indian Government's interventions.

Source of Information:

- Communication with the HRD
- Media Reports
- Social media

Date of Incident:

- June 02, 2020
- July 02, 2020

Place of Incident:

Bengaluru, Karnataka (1st FIR)

Surat, Gujarat (2nd FIR)

The Perpetrators:

Police personnel of the JC Nagar police station, Bengaluru

Mr Purnesh Shwarbhai Modi, MLA of Surat, Gujarat

Ministry of Communication and Information Technology

Twitter

About the Human Rights Defender:

Mr. Aakar Patel is a senior journalist, writer and columnist. He has also formerly been the Executive Director of Amnesty International India. He has worked as a newspaper editor for various publications. His book, "Why I Write", translating Saadat Hasan Manto's non-fiction from Urdu to English was published in 2014. He has also translated the writings of Prime Minister Mr. Narendra Modi from Gujarati to English.

Details of the Incident:

On June 02, 2020, Mr. Nagaraja Dr., an inspector in Bengaluru police, filed a FIR against Mr. Aakar Patel for a tweet calling for US like protests in India against atrocities committed on Dalits, women, Muslims, and Adivasis. The tweet by Mr. Patel said, "*We need protests like these. From Dalits and Muslims and Adivasis. And the poor. And women. The world will notice. Protest is a craft.*" An FIR numbering 35/2020 of the JC Nagar Police Station was registered under IPC Sections, 153 (wantonly giving provocation with intent to cause riot), 117 (Abetting commission of the offence by the public or by more than ten persons) and 505 (1) B (statements with intent to cause mischief). However no further actions have been carried out on the basis of the FIR till now.

Twitter informed Mr. Patel that they were sent a legal demand to remove Mr. Patel's Twitter account in India because it violated Indian laws and twitter brazenly complied. They also stated that they were in touch with the Indian authorities who had made this legal demand. No notice was given to Mr. Patel by the government. After some public outrage, Mr. Patel's Twitter account was partially restored, yet his Twitter page is still withheld in India.

On July 02, 2020, another FIR was registered against Mr. Patel in Surat Gujarat, by the sitting BJP MLA Mr Purnesh Shwarbhai Modi under IPC Sections 153 A, 295A, 505(1)b, 5051c, 499 and 500. The charges against Mr. Patel include inciting communal violence from his twitter account, bringing defamatory charges on public persona of the PM and the Hindu-Ghanchi community, and since it is from his twitter account, it is a cybercrime. The following tweets of Mr. Patel were mentioned in the second FIR:

- *June 24, 2020, 1:19 pm: "Narendra Modi comes from community which was made OBC in 1999 under Vajpayee. Oil pressing and grain selling community called teli in N. India (called ghachi in Gujarat). Is well off community. Is meat eating. Modi himself has taken on the manner of his RSS leaders and gone veg"*
- *June 24, 2020, 1:22 pm: "the Muslims in Godhra accused of attacking the Sabarmati express also from Ghanchi community."*
- *June 27, 2020, 10:20 pm: "RSS and BJP always profit from the violence against other Indians, specially Muslims. We have to stop this cycle of violence and blood cycle by the RSS and BJP."*

The two FIRs, as well as the government's direction to Twitter to withhold Mr. Patel's account is another example of how the right to dissent and free speech is being increasingly criminalised in India. The police must stop abusing its authority and put an end to the intimidation and harassment of Mr. Patel for exercising his constitutionally guaranteed right to freedom of expression.

This is a clear violation of Article 19(a) of the Indian Constitution which provides for free speech and power to express oneself to every citizen. Mr Patel has the right to express himself via his social media without being scapegoated by criminal offences against him.

Furthermore, the fact that one of the FIRs was registered by a policeman in the police station closest to Mr. Patel's house and the second FIR was registered by a sitting BJP MLA of the ruling party point to a broader political conspiracy against Mr. Patel to intimidate and stifle his voice as a human rights defender.

A free media is an extremely important fourth pillar of the Indian democracy. Our Constitution gives journalists the right to exercise freedom of speech. These FIRs filed by functionaries in power are proof of a political vendetta against Mr. Patel and absolutely violate his right to freedom of speech and expression under Article 19(a) of the Indian Constitution. Freedom to expression is crucial to the work of HRDs. 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.

Appeal:

We urge the Hon'ble Commission to immediately intervene in this matter of the police misusing law to silence the human rights defenders and restricting their fundamental rights to expression, dignity and liberty. As the apex national human rights institution of India, we urge you to intervene in this case and independently analyse the contents of the tweets within the framework provided by the Supreme Court on free speech and expression on numerous occasions and according to the provisions of international law.

We therefore urge you to immediately take necessary steps and:

- Direct the DGPs of Karnataka and Gujarat to take appropriate measures to remove all charges against Mr. Aakar Patel, which prima facie are motivated, and restore his rights without any delay.

- Issue notice to the Ministry of Communication and Information Technology for the copy of the legal demand send to Twitter, assess the same and direct appropriate actions for withdrawal of any measures to restrict free expression and criticism of Mr. Aakar Patel.
- Issue an urgent circular to all chief secretaries reiterating that the fundamental right to freedom of speech is an integral part of the Indian Constitution and in now ways laws are misused to criminalize free speech and expression.

Yours sincerely,

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

(Henri Tiphagne)

National Working Secretary