

Human Rights Defenders Alert - India

National Coordination Office

No.6, Vallabhai Road, Chokkikulam, Madurai 625 002, Tamil Nadu, INDIA

Tel: +91-452-2539520 Cell Phone: +91-9994368540 Email:hrda.india@gmail.com

Madurai, 27th October 2010

Special Rapporteur on the situation of human rights defenders,
Mrs. Margaret Sekaggya
c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10
Switzerland

Email: urgent-action@ohchr.org

Dear Ma'am,

Sub: HRD Alert India - Urgent Appeal for Action - Gujarat: Human Rights Defenders working for victims of the Gujarat riots targeted - Reg

Greetings from Human Rights Defenders Alert - India!

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

We are now writing to express our grave concern about the malicious and motivated campaign spearheaded by a newspaper run by Bhartiya Janata Party (BJP) Parliamentarian Chandan Mitra against The Citizens for Justice and Peace (CJP) and its secretary Ms. Teesta Setalvad in particular because of their work in cases relating to the Gujarat riots.

About CJP

The Citizens for Justice and Peace (CJP) was the response of a group of citizens from Mumbai to the genocide in the Indian state of Gujarat. CJP's objectives are, among others, to promote communal harmony in India, to build public opinion on the need for justice as an essential step towards reconciliation and peace, to check threats to Indian democracy and the Rule of Law, whether by governments or political parties or other organisations, groups or individuals, to make legal interventions in the Courts of Law through Public Interest Petitions or otherwise, to prosecute all those guilty of killing or maiming innocent citizens; and to assist others petitioning before the Courts for the redressal of grievances and to set up or assist in setting up any lawyer/team of lawyers to effectively intervene in government appointed commissions of inquiry probing the causes of communal conflict.

Issue

A malicious and motivated campaign is being spearheaded by a newspaper run by the Bhartiya Janata Party (BJP) Parliamentarian Chandan Mitra against The Citizens for Justice and Peace (CJP) and its secretary Ms. Teesta Setalvad in particular because of their work in cases relating to the Gujarat riots. *(The 2002 Gujarat violence started with the Godhra train burning that resulted in communal riots between Hindus and Muslims.*

On 27 February 2002 at Godhra City in the state of Gujarat, the Sabarmati Express train was forcibly stopped and attacked by a large Muslim mob. As a result, 59 Hindu passengers - mostly women, children and seniors returning from the holy city of Ayodhya - were burned alive. The attack prompted retaliatory massacres against Muslims on a large scale, in which 790 Muslims and 254 Hindus were killed. 223 more people were reported missing.)

While legal rebuttals and legal notices are being pursued, it is critical that the issue is also countered in the public domain. Especially so since it is a critical time in this struggle for justice, when criminal investigations against the chief minister, cabinet colleagues and administrative and police top brass ordered by the Supreme Court of India are at a decisive stage. Mrs. Zakia Ahsan Jafri, the victim survivor and co-complainant, has also been targeted by Praveen Togadia of the Vishwa Hindu Parishad (VHP) as also the Trial Court Judge hearing the Trial.

The timing of all these allegations is significant. While the Supreme Court is deliberating on allegations of mass murder and criminal conspiracy, the allegations are same and the people making them are different. First a star witness (Zahira) won over by a BJP MLA (Madhu Srivastava (2004), then state of Gujarat and now accused who have been fielded for elections despite being charge sheeted for mass murder and a former employee Rais Khan who has been won over . In 2004 he was accused of kidnapping and digging up graves. In between a senior Supreme Court lawyer, another BJP Member of Parliament who secured his ticket recently after switching sides from appearing for the victims to appearing for the accused! Two accused and the State of Gujarat too have made the same allegations. **(Please see rejoinder affidavit filed by Teesta Setalvad/CJP in April 2010)**

These tactics are simply to frighten victims and intimidate the human rights defenders from pursuing the course of justice.

While the human rights defenders remain committed to the struggle what is crucial is that all citizens, in India and the world committed to justice and fair play join issue on this point. A false campaign of "perjury" is being made against the human rights defenders. What is in question are critical affidavits filed in the Supreme Court of India by victim survivors through the CJP pointing out the faulty investigation, revealing the names of wrongly arraigned accused by the Gujarat police and in fact, pointing out that high level state collusion had prevented politically powerful accused from being named in FIRs and chargesheets filed by the Gujarat police. **(Please see attachment - rebuttal by CJP and letter to the SIT, dated Oct 7 2010)**

It has come to our notice that the Supreme Court-appointed Special Investigation Team (SIT) is, out of turn harassing witnesses in a manner intimidating them, by calling them for investigations on tutoring. That in any event when these witnesses have already deposed in the Court and nothing has come on the record about any tutoring despite aggressive cross examination on the line of tutoring by seasoned defense lawyers, SIT's actions are suspicious about the line of their current investigation. It appears that SIT is trying to get information against human rights defenders as they are the ones who pointed out the failures and laxity in SIT's investigations and prayed for, and got its re-constitution. (2009-2010).

The SIT in its effort to discredit human rights defenders should not harass the witnesses who are victims of violence that has led to loss of their loved ones. They have been harassed enough already. **(Please see attachment Affidavit filed by Ms. Setalvad in the SC on 26.10.10)**

The cruel incident of Kauser Bano, whose womb was slit open and a her foetus swirled on a sword is not just being "obliterated" from the narrative; the India Today and Pioneer are making out that this narrative was a concoction of Setalvad's vivid

imagination unmindful of the fact that victims have deposed about this incident and several newspapers had reported this incident in 2002. **(Please see attachment Media. Rights Groups and Mass Crimes)**

Behind this motivated attack is also an attempt to blot out the narrative of gendered sexual violence that was central to the crimes committed in Gujarat in 2002. Ironically while several women witnesses have deposed to this narrative in the ongoing trials in Gujarat, the State and accused and other collaborators continue to wish to blot it away. CJP has recently released a Shadow Report to the CEDAW 47th Session in Geneva that was reviewing India's commitment to public justice and reparation.

Appeal:

We request you to ensure that the authorities in India

- Guarantee, in all circumstances, the physical and psychological integrity of Ms. Teesta Setalvad and all other human rights defenders from CJP
- Ensure that the Special Investigation Team (SIT) does not harass witnesses in the name of enquiry on tutoring to discredit human rights defenders
- Ensure that fair trial proceedings take place
- Ensure that the real perpetrators of the Gujarat Carnage are brought to book to avoid a similar genocide

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

National Coordinator

Human Rights Defenders Alert - India