

India: End judicial harassment and reprisal against People's Watch

(Bangkok/Kathmandu, 12 January 2022) – The Central Bureau of Investigation's registration of a case against human rights organisation People's Watch under the Foreign Contribution (Regulation) Act highlights the worsening situation of shrinking civic space in India, the Asian Forum for Human Rights and Development (FORUM-ASIA) said.

On 8 January, a team of nearly ten officers from the Central Bureau of Investigation (CBI) conducted search operations in the office of People's Watch, a member organisation of FORUM-ASIA, in Madurai, India. The search was conducted based on a court order related to a First Information Report (FIR) registered by the CBI on 6 January alleging violations by People's Watch in receiving and utilising foreign funds. The FIR is filed under sections 120B (criminal conspiracy) and 420 (cheating) of the Indian Penal Code and sections 33, 35, 39 r/w sections 7, 8, 9 of the Foreign Contributions (Regulations) Act (FCRA) for alleged offences committed between 2010 and 2014.

People's Watch has been working on the protection and promotion of human rights in India for more than two decades as a programme unit under its legal holder, the Center for Promotion of Social Concerns (CPSC). CPSC is duly registered under the Foreign Contributions (Regulations) Act to receive foreign funds. In 2012, the Ministry of Home Affairs suspended CPSC's FCRA registration thrice for a period of 180 days each time. Only after the intervention of the Delhi High Court in a writ petition by CPSC challenging the suspension of their FCRA registration, did the court allow CPSC to use their FCRA account.

Meanwhile in 2016, CPSC applied to the Ministry of Home Affairs to renew their registration under the Foreign Contributions (Regulations) Act, and was rejected due to a 'field agency report' by the Ministry. Failing to cite any financial irregularities, the Ministry stated in a written response before the Delhi High Court that the reason for non-renewal was due to People's Watch Executive Director Henri Tiphagne's communications with embassies as well as UN Special Rapporteurs. CPSC has challenged the non-renewal of their registration before the Delhi High Court and the case is still pending.

'People's Watch is clearly facing reprisals in the form of non-renewal of their FCRA registration. Working with UN human rights mechanism is not a crime. The continuous harassment against People's Watch is highly condemnable and deeply concerning. It is surprising that after nearly ten years, the CBI has registered a case against CPSC and People's Watch. This is a clear case of targeted harassment and reprisal against the human rights work of People's Watch,' said Shamini Darshini Kaliemuthu, Executive Director of FORUM-ASIA.

The Foreign Contributions (Regulations) Act is used arbitrarily to harass and impede the work of civil society organisations, especially those working on human rights issues. The FCRA registration of nearly 6,000 organisations¹ on 31 December 2021. Many applications for renewal, including that of Oxfam India, were rejected by the Ministry of Home Affairs.

¹ <https://indianexpress.com/article/india/ima-iiit-delhi-jamia-millia-among-6000-entities-fcra-licence-7701140/>

Recent amendments to the Foreign Contributions (Regulations) Act which prohibit sub-granting of foreign funds has affected countless grassroots organisations at rural level.² The amendment also enables authorities to freeze the funds of any organisation based merely on ‘preliminary inquiry’. Previously, an organisation had to be proven guilty of contravening the provisions of FCRA for the government to be able to freeze its funds. The new provisions are arbitrary and unjust as they can be easily used to target and harass civil society organisations and human rights defenders, who very often express criticism and dissent towards the government.

The Indian government should uphold its voluntary pledge³ made during the UN Security Council elections by continuing to ‘foster the genuine participation and effective involvement of civil society in the promotion and protection of human rights’.

‘FORUM-ASIA reiterates its earlier call for a repeal of the FCRA⁴ and urges the Government of India to ensure an enabling environment for civil society to freely promote and protect human rights. It must cease its harassment of civil society organisations and human rights defenders through repressive laws,’ said Shamini.

‘We also call upon the National Human Rights Commission of India (NHRCI) to intervene in this case of harassment against a civil society organisation, and to ensure protection in accordance with the Regional Action Plan on Human Rights Defenders⁵ of the Asia Pacific Forum. We strongly encourage the NHRCI to revisit the appeal⁶ submitted by human rights defenders from 24 countries gathered in Colombo for the 7th Asian Regional Human Rights Defenders Forum, 2016, regarding non-renewal of CPSC’s FCRA registration,’ said Shamini.

The Indian government must put an end to the targeted harassment and reprisal against People’s Watch, and unconditionally drop all charges against them.

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About FORUM-ASIA:

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 82 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. www.forum-asia.org

² https://fccraonline.nic.in/home/PDF_Doc/fc_amend_07102020_1.pdf

³ <https://undocs.org/en/A/73/394>

⁴ <http://l.forum-asia.org/RepealFCRA>

⁵ <https://www.asiapacificforum.net/resources/regional-action-plan-human-rights-defenders/>

⁶ <http://l.forum-asia.org/ahrdf7appealnhr>

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