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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Liberation, a non- governmental organization on roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 August 2018]

* Issued as received, in the language(s) of submission only.



Arbitrary detention – Chandrashekhar Azad Clustered Interactive Dialogue with Working on Arbitrary Detention

This is a statement prepared for Clustered Interactive Dialogue with Working on Arbitrary Detention under Agenda Item 3, “Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.”

We welcome the Report of the Working Group on Arbitrary Detention (A/HRC/39/45) submitted to the 39th session of the Human Rights Council (HRC). The report indicates that many states are not responding to opinions and urgent appeals of the working group. It is at this background that in its recommendations, the Working Group calls for increased cooperation from States, with a view to preventing and ending arbitrary detention, especially in following regards – 1. in relation to its requests for country visits. 2. in relation to their responses to its urgent appeals and 3. communications, and for the enforcement of its opinions.

We strongly argue that India should work urgently on these recommendations. Attacks on minorities, dalits, indigenous peoples is on increase. Right wing fanatical groups are becoming more powerful. Sadly they are being backed by Central and in some cases by state governments directly in form of passing legislations or through protecting the perpetrators. There is one more danger faced by these already exploited communities. Those who are working to protect economical, educational, social and all other human rights of these marginalised sections are facing arbitrary detentions, extra judicial executions and enforced disappearances especially under the cover of administrative laws.

It is not that this legalised attack on human rights defenders is new. Many people from states like Assam, Manipur and all other north-eastern states, Kashmir, Punjab have faced these attacks for long. But since past 3-4 years, there is increase on miss use of law. Measures such as UAPA, PSA, POTA etc have transitioned from being exceptional measures for exceptional situations, to extraordinary measures for ordinary situations. These laws have come to function as, what the Supreme Court calls, a parallel system of “lawless laws”¹.

We are particularly concerned about arbitrary detentions and encroachments over liberty of human rights defenders belonging to schedule castes. Peaceful protesters are getting booked under serious offences like attempt of murder. But when human rights defenders are getting attacked by racist forces, the authorities are taking time to file complaints and are also trying to dilute the charges against racist majority perpetrators.

Arrest of Mr. Chandrashekhar Azad who is also known as Raavan. D\emonstrates how the administrative detention is affecting human rights defenders. He is facing the detention for last more than an year. He was arrested on June 8, 2017. Currently booked under Nastional Security Act (NSA). Mr. Azad is human rights defender from Dalit (schedule castes) community fighting mainly against atrocities on dalit community. He is very young and educated and has huge following. His organisation runs parallel informal schools for children from marginalised communities so as to reduce the high drop-out rate in formal education. In his case it is clearly evident that NSA is nothing but an intimidation tactic used by government to suppress dissent. Laws like NSA are thus lawless because they perversely invert the very basis of a justice system and presume guilt until proven innocent. It is this conflation that makes the conduct of the preventive detention law a travesty of justice itself.

In above mentioned case, the racist majority people who attacked dalits, marginalised community in Saharanpur, Uttar Pradesh, India are walking free and the one who raised the voice against these attacks is behind bars. Ironically the government of Uttar Pradesh state claims that Mr. Azad would trigger a caste violence, if freed.

International covenant on civil and political rights to which India has ratified in 1979, declares that everyone has right to liberty, through article 9. It clearly says that no one should be subjected to arbitrary detention. It is time that India should be reminded about its responsibility as per the covenant.

Through this statement we want to express that India should release Mr. Azad immediately; ratify to the convention against torture and other cruel, inhuman or degrading treatment or punishment and the international Convention for the Protection of All Persons from Enforced Disappearance as recommended by states like Kazakhstan, Japan, Greece, Ukraine etc to India in its 3rd UPR cycle; India should repeal AFSPA immediately, as it gives authority to defence

1 Supreme Court of India, *Jaya Mala v. Home Secretary, Government of Jammu & Kashmir* (29 July 1982). Available from <https://indiankanoon.org/doc/203168/>.

forces for arbitrary detention and in a way, promotes enforced disappearances; and finally it should accept the request of Working Group on arbitrary detention for country visit which is pending since 6th April 2017.

It is our humble request to the Working Group on Arbitrary Detention to consider Mr. Azad's case as urgent concern. Civil society organisations have already filed the complaint under special procedures regarding this but we are waiting for any concrete action from the Human Rights Council.
