

JOINT PRESS STATEMENT - Mumbai Rises to Save Democracy
October 1, 2018 at 4p.m., Mumbai Press Club

We, the members of civil society and 38 rights organisations including women's rights organisations, dalit rights organisations, adivasi mass organisations, legal aid and research organisations, environmental groups, trade unions etc., have come together to register our grave apprehensions over the possible miscarriage of justice in the arrest of activists in connection with the Bhima Koregaon violence. We feel concerned over the continued media trial of the activists despite the SC judgment and the myths being floated in the media.

The Apex Court of India pronounced its Judgment on September 28, 2018 in the case of a PIL filed by 5 eminent citizens, renowned historian Romila Thapar, Devaki Jain & Prabhat Patnaik, leading economists, Maja Daruwala, human rights spokesperson, and Satish Deshpande, a leading sociologist. The petitioners approached the Supreme Court when five well-known lawyers, journalists and civil rights activists were arrested across the country on August 28 and charged with abetting acts of terror under the Unlawful Activities (Prevention) Act (UAPA). The petition sought their release from custody and asked for the case to be handed over to a court-monitored Special Investigation Team. Soon this was followed by an intervention on behalf of earlier five arrested activists – Advocate Surendra Gadling, Professor Shoma Sen, Mahesh Raut, Rona Wilson and Sudhir Dhawale. The intention of the petitioners was to draw the attention of the judiciary to what they believe is a case of gross misuse of the state's powers under draconian laws like the UAPA to suppress dissent and opposition of the state's unjust policies and actions. The case hearing witnessed several dramatic moments including the highest court in India upholding the right to dissent and calling dissent as the safety valve of democracy.

In the majority judgment disposing off the petition, the Supreme Court implicitly recognised the need to protect the liberty of the accused by providing window period of 4 weeks so that they can seek appropriate relief from lower courts. Justice A N Khanwilkar writing for himself and Chief Justice of India (CJI) Dipak Misra, said, "This is not the stage where the efficacy of the material or sufficiency thereof can be evaluated nor it is [sic] possible to enquire into whether the same is genuine or fabricated. We do not wish to dilate on this matter lest it would cause prejudice to the named accused and including the co-accused who are not before the Court."

Meanwhile, in his minority dissenting judgment, Justice Dr. D Y Chandrachud, categorically held that liberty cannot be sacrificed at the altar of conjecture, and that the police had been taking liberties with the truth and besmirching the reputation of the activists by doing a media trial. Under such circumstances, the police's ability to conduct a free, fair and impartial investigation being in serious doubt, Justice Chandrachud proposed the constitution of an SIT. In his conclusion, Justice Chandrachud writes: "I am of the view that while the investigation should not be thwarted, this is a proper case for the appointment of a Special Investigating Team. Circumstances have been drawn to our notice to cast a cloud on whether the Maharashtra police has in the present case acted as fair and impartial investigating agency. Sufficient material has been placed before the Court bearing on the need to have an independent investigation."

Justice Chandrachud berated the police's methods of evidence collection in which Panchas were made to travel all the way from Pune to collect evidences which is at odds with the regular procedure of the Panchas belonging to the neighbourhood in which investigation is being conducted.

While the majority view holds that "no specific material facts and particulars are found in the petition about *mala fide* exercise of power by the investigating officer", J Chandrachud with reference to the unverified letters released to the media, which it claimed to be proof of a Maoist connection, states, "The letters are unsigned and do not bear any identifiable particulars including e-mail addresses or headers."

We firmly stand in support of and solidarity with the activists and demand that the values of the Indian Constitution and the rule of law be strictly upheld to ensure a fair trial and the liberty of the activists be protected.

We are especially concerned about the independence and fairness of the investigation in the context of the false narrative and negative public opinion being created against the activists, which has the possibility of prejudicing the trial.

We would like to draw the attention of media organisations to the Bhima Koregaon Judicial commission hearings that are going on to investigate the failures of Maharashtra government in being able to control the violence that ensued after alleged Hindutva groups attacked Dalit Bahujans at Bhima Koregaon memorial on January 1. We would like to strongly urge the Maharashtra government to take stringent immediate action on the original FIR lodged in the Bhima Koregaon case which implicates Hindutva leaders Manohar Bhide and Milind Ekbote and to stop the diversionary tactics being employed to falsely implicate and target activists with long standing credibility working for the rights of the people. In the wake of news reports published today of the police having dropped criminal cases against the two Hindutva leaders for rioting in the past¹, there is a strong suspicion of foul play to protect these individuals with criminal antecedents.

We emphatically condemn the continued use of the draconian UAPA in a concerted manner to target dissenting and inconvenient voices alike. UAPA, an act that came into existence in 1967, has no place in a democratic society. UAPA has been regularly used against Muslims, Dalits, Adivasis, Activists, Lawyers, Journalists etc. in order to spread a reign of terror. UAPA especially makes it difficult to get bail and has stringent provisions, on account of which people can be perpetually imprisoned without any trial. It is a draconian law that can be invoked on vague and untrue grounds.

As civil society organisations we stand strongly against the selective targeting of dissenting voices using draconian laws like UAPA, and invocation of the Bhima Koregaon incident to implicate innocent civil society voices.

Organisations supporting Mumbai Rises to Save Democracy -

1.	People's Union for Civil Liberties (PUCL)	20.	Indian Social Action Forum (INSAF)
2.	Committee for Protection of Democratic Rights (CPDR),	21.	People's Commission on Shrinking Democratic Spaces (PCSDS)
3.	Citizens for Justice and Peace (CJP)	22.	Human Rights Law Network (HRLN)
4.	New Trade Union Initiative (NTUI)	23.	Cause Lawyers Alliance
5.	Trade Union Centre of India (TUCI)	24.	Police Reforms Watch
6.	Student Islamic Organisation (SIO)	25.	Kashtakari Sanghatna district Palghar
7.	Satyashodhak Feminist Collective	26.	Sarvahara Jan Andolan district Raighad
8.	National Alliance of People's Movements (NAPM)	27.	Shramik Mukti Sanghatna, district Thane
9.	Lokraj Sangathan	28.	Human Rights Defenders Alert (HRDA)
10.	Spark magazine	29.	Innocence Network
11.	National Confederation of Human Rights Organisations (NCHRO)	30.	Association for Protection of Civil Rights (APCR)
12.	Bebaak Collective	31.	Students of St. Xavier's
13.	Forum Against Oppression of Women (FAOW)	32.	Bharat Bachao Andolan (BBA)
14.	LABIA- A Queer Feminist LBT Collective	33.	FTII Alumni
15.	Jagrut Kamgar Manch (JKM)	34.	The Leaflet
16.	Majlis	35.	Awaaz-E-Niswaan
17.	Indian Muslims for Secular Democracy (IMSD)	36.	Bastar Solidarity Network (BSN)
18.	Women against Sexual Violence and State repression (WSS)	37.	Ambedkar Periyar Phule Study Circle (APPSC), IIT
19.	Students of Tata Institute of Social Sciences (TISS)	38.	Indian Christian Women's Movement - Mumbai Chapter

¹ <https://www.oneindia.com/india/firs-against-sambhaji-bhide-dropped-6-months-before-bhima-koregaon-violence-2785773.html>

