



Date: June 16, 2023

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Subject: Complaint against hate incidents against Muslims causing their exodus from Uttarkashi

Respected Sirs,

We at Citizens for Justice and Peace (CJP) Mumbai, a human rights movement dedicated to furthering the constitutional rights of all Indians, are deeply concerned about the recent incidents in Uttarkashi, Uttarakhand concerning the forced exodus of Muslims by local right wing groups.

Background

On May 27, in Purola, Uttarkashi one Ubed Khan and Jitendra Kumar Saini were booked for trying to kidnap a minor girl. In response, on May 29 several right wing organizations and local businessmen protested against the Muslims in the area and threatened them to vacate their shops. They further sent a representation to the Governor demanding immediate removal of the businessmen from 'a particular community.' Out of fear, reportedly, 42 Muslim shopkeepers like street hawkers, vegetable vendors, bicycle repair persons and others have fled the area.

As told to Times of India (TOI), a Purola businessman, Imroz was quoted as saying, “*The posters asking us to leave or face action are an attempt to intimidate us. Over 30 shops have remained shut since May 26.*”

A copy of the Times of India article dated June 6, 2023 has been marked and annexed as Annexure A

<https://timesofindia.indiatimes.com/city/dehradun/quit-notice-cross-marks-on-shops-send-chilling-message/articleshow/100781299.cms?from=mdr>

Another garment shop owner Salem told Hindustan Times, “*We are living in constant fear and cannot return to Purola in such an atmosphere. If they want us to leave the hills, authorities should compensate us for the property owned by us.*” As reported by ETV Times, his father Shakeel had set up the famous shop 42 years ago but due to rising unrest in the area, he fled to his brother’s place in Dehradun.

A copy of the Hindustan Times article dated June 6, 2023 has been marked and annexed as Annexure B

<https://www.hindustantimes.com/india-news/posters-asking-muslim-traders-to-leave-surface-in-uttarakhand-101685991761377.html>

Sir, the ripple effects of this are evident in other areas of Uttarkashi too. Another incident was reported from another town in Uttarkashi named Barkot. Some people struck posters on the closed shops which read as, “*Love Jihadion ko soochit kia jata hai ki dinank 15 June 2023 ko hone wali Mahapanchayat hone se poorv apni dukanein khali kar dein, Yadi tumhare dwara aisa nahi jata to vah vakt pe nirbhar karega.*” [Love jihadists are informed that they should vacate the shops prior to a mahapanchayat on June 15. If they don’t, it (consequences) will depend on time]. It was signed off as “*Devbhoomi Raksha Abhiyan*”. People also removed the boards from the closed shops and even painted ‘X’ on their closed shutters, the video of which was also shared on Twitter.

Vishwa Hindu Parishad (VHP) leader Virender Rana was quoted in the Hindustan Times article as saying, “*These posters were put up by local residents who want people from a particular community to leave the town to ensure peace and communal harmony. They came here on the pretext of doing business but are targeting girls and women from our community.*”

As per a report by Amar Ujala on June 6, nine landlords reported that their Muslim tenants emptied their homes as the local traders’ association had asked the landlords to take “complete responsibility for their activities” on a stamp paper.

A copy of the Amar Ujala article dated June 6, 2023 has been marked and annexed as Annexure C

<https://www.amarujala.com/dehradun/uttarkashi-purola-news-posters-pasted-to-leaves-shop-from-muslims-case-filed-against-unknown-people-2023-06-06>

A video posted by Journalist Zakir Ali Tyagi through his Twitter handle @ZakirAliTyagi shows people attacking the shops of Muslims. The caption also mentions “*Barkot me vyapari Muslims yuvak se abhi meri baat hui to usne btaya ‘Makan Malik ne bhi mujhe keh dia hai 15 June tak dukan khali karo aur yahan se jao’*”. The video shows a large group of people shouting slogans, breaking posters of the shops as the Police tries to control them.

A copy of the video posted by Zakir Ali Tyagi on June 11, 2023 has been downloaded by CJP and marked and annexed as Annexure D

<https://twitter.com/ZakirAliTyagi/status/1667906625968164864?s=20>

A twitter account @baxiabhishek shared a complaint dated June 05 to “Up Jilaadhikari/ Tehsildar” of Nainbagh in Tihri, Gharwal.

The letter is on the letter head of VHP, Bajrang Dal and states that “*Samuday Vishesh dwara lagatar kshetra me kisi na kisi roop me kabadiwala, ice cream wala, ityadi ke roop me gaon-gaon me yeh log inrantar ghum rahe hain. Jisme humari beti, choti, aur roti tatha poorvajon ki dharohar ke lie nirantar khatra badhta ja rha hai. Isi sambandh me sthaniye logon ne Samudayik vishesh ko 10 din ka samay dia hai. Samast Jaunpur ghati khali karne ke lie*”. [People from the special community time and again in different ways like rag picker, ice cream seller, etc visit different villages. Due to this, the daughters, respect, and food of our people is in danger. Due to this, the residents of the area have given 10 days’ time to these people and asked them to leave the entire Jaunpur region.]

The letter further informed the concerned officers that, “*Yadi samudaye vishesh ke logon ne Yamuna ghati Nainbag, Jakhdhar, Nagtibba, Thatyud, Saklanam Damta, Purola, Badkot, Uttarkashi ko 10 ke antral me khali nahi kia, toh sthaniya karobariyon tatha samast janmanas matra shakti ke sath, Bajrang Dal Vishwa Hindu Parishad Tihri Garhwal 20 June ko samay 11 baje Yamuna Pul par virodh Pradarshan karega.*” [If the people of the Special Community in Nainbag, Jakhdhar, Nagtibba, Thatyud, Saklanam Damta, Purola, Badkot, Uttarkashi did not empty their spaces in 10 days, the local organizations with their strength, Bajrang Dal Vishwa Hindu Parishad of Tihri Garhwal shall protest on 20th June at the Yamuna Bridge.]

Sir, this letter shows clear threats and consequences of not throwing out the Muslims from the area.

A copy of the letter of VHP and Bajrang Dal dated June 5, 2023 accessed from Twitter is marked and annexed as Annexure E

<https://twitter.com/baxiabhishek/status/1667910079637487616?s=20>

Papers like Amar Ujala and Hindustan also published this letter that has been reportedly sent by the Vishwa Hindu Parishad to the Tehri District Magistrate giving an ultimatum to members of the Muslims Community to leave the Jaunpur valley and in particular the towns of Nainbagh, Jakhar, Nagtibba, Thatyur, Saklana, Damta, Purola, Barkot and Uttarkashi. The threat specifies that if Muslims don’t respond to their ultimatum of leaving the areas themselves, these organizations will

organise a chakka jam in Tehri on June 20, 2023. The report of Hindustan, a Hindi newspaper detailing the contents of this letter can be found here –

<https://www.livehindustan.com/uttarakhand/story-communal-tension-tehri-district-after-uttarkashi-particular-community-people-warned-leave-city-within-10-days-8282992.html>

A copy of the Hindustan article dated June 9, 2023 is marked and annexed as Annexure F

A video posted by a local news portal called Pyara Uttarakhand @PyaraUKofficial titled “उत्तरकाशी जनपद के सीमांत विकास खंड #भट्टवाडी में लव-जिहाद एवं लैण्ड जिहाद के विरोध में ढोल नगाड़ों के साथ जुलूस निकाला और जमकर नारेबाजी की ओर तहसीलदार के माध्यम से मुख्यमंत्री को आपन सौंपकर ऐसे कृत्य करने वालों को सख्त से सख्त सजा की मांग की” [In the Frontier Development Block #bhatwadi of Uttarkashi district, a procession was taken out with drums and drums in protest against Love-Jihad and Land-Jihad, and by handing over a memorandum to the Chief Minister through Tehsildar demanding strictest punishment for those who commit such acts, shouting slogans.] It showed them marching to the office to submit the above mentioned letter.

A copy of the video posted by Pyara Uttarakhand on June 8, 2023 is marked and annexed as Annexure G

<https://twitter.com/PyaraUKofficial/status/1666810806724616193>

Intimidation & Threats by Radha Semwal

In addition to the two events in the town of Uttarkashi, there were incidents of harassment of Muslim traders in Garwhal as well.

Radha Semwal, self-proclaimed Hindutva activist, a repeated hate offender, live streamed the harassment of the Muslim traders on her Facebook page on June 4. She can be seen pointing her camera towards some men sipping tea and then flashing their rental certificates to the viewers. She says, “They have invaded our villages now and for some thousand rupees these villagers are giving them places on rent. Now I will have to complain against them, or we will have to send our bahu-beti (Daughters and Daughters-in-law) with them.”

When a person tried to reason with her, she claimed that he was lying and added, “I will push you off this ledge if you lie to me”. She then asked him to show is Adhaar Card, she flashed it on camera and kept on saying that it is a fake. She then refused to return their Aadhar cards and said, “go to the police station and tell them that Radha has taken your Aadhar cards. Come along with the cops and then take your Aadhar cards back”.

She also said, “How dare you come to the mountains. You don’t come here to sell goods, you come here to kidnap girls. If I throw off this ledge nobody will come to know. Aukaat me reh (Stay in your limits). Think ten times before coming here again.”

A copy of the video of Radha Smewal Dhoni on June 4, 2023 has been downloaded by CJP and is marked and annexed as Annexure H

<https://fb.watch/I9hNFYLLzx/>

Antecedents & Build-Up

It is reported that the Devbhoomi Raksha Abhiyan is an organisation operating in the area, which issued posters demanding that Muslims in the area flee their residences on threat of violence. They were joined by local community leaders like Swami Darshan Bharti and Rakesh Uttarakhandi, who also called for the forced eviction of Muslims while making hate-speech against the community. Evidence of these speeches are available in videos currently seeing wide circulation, and are contributing to the deterioration of communal harmony in the area.

Local press has also reported that homes and shops belonging to Muslims have been marked with an ‘X’, and long standing residents including a BJP Minority Cell Leader (Mohammed Zaid), have been forced to flee their homes due to the threat of violence. As stated at the outset, the threats were consolidated and escalated on May 29, when a rally organised by groups of the majority Hindu communities of the ruling BJP parties with the support of trade unions, turned violent, with mob violence against home and shops in the area. Reports suggest senior leaders of the ruling party have been involved with these rallies, with the District General Secretary of ruling party, Prakash Kumar Dabral, saying, “We will not let them do business here, will not let them open shops. Then they will leave on their own.”

Sirs, these demands go against the spirit of the Preamble which rests on the spirit of the fraternity. These consistent hate speeches attack the dignity of the individuals, threatens not only their livelihood but also their life based on their religious identity i.e. Muslims. It reduces the Muslim citizens to second class citizenship and creates both institutional and popular sentiment to view them as lesser than. As ground situation shows, it does not stop with seeing Muslims as lesser than but goes on to instigate targeted violence against them, their property and a series of their

fundamental rights. The violent targeting of a religious group with the intent of removing them from a geography, holds alarming similarities to genocidal tactics.

This is not an exaggeration, as the primary leaders of this campaign have also previously been involved in explicit calls for the mass-murder of Muslims, at speeches given at the Haridwar Dharma Sansad of 2022.

The common leader between the Dharam Sansad of 2022 and the hate campaigns now is Swami Prabodhanand Giri Mahamandaleshwar who is a repeat offender. This court has critically intervened when it came to the hate speeches made in Dharam Sansad and directed the state to register FIRs against the accused. A brief profile of the antecedents of Swami Prabodhanand Giri Mahamandaleshwar can be found here <https://www.thequint.com/news/india/haridwar-dharam-sansad-yati-narsinghanand-jitendra-tyagi-bjp#read-more>

*A copy of The Quint article dated June 13, 2023 is marked and annexed as **Annexure I***

This also follows from the incitement to genocide on April 20 2023, at a Dharma Sabha in Uttarakhand organised by the fundamentalist group, the Rudra Sena, where calls for an economic boycott of minorities & and a ban on the settlement of “non-Sanatani” in the state were made.

They declared that “peace cannot prevail in the world unless every ‘jihadi’ is eliminated.” The leader of the Rudra Sena, one Rakesh Tomar Uttarakhandi, has previously made speeches calling for the Van Gujjar community (a primarily Muslim tribal group) to evict the area on threat of violence.

Swami Darshan Bharti, mentioned above is leading the call for mass evictions. He was among those making hate speeches at the Dharma Sansad. His group, Uttarakhand Raksha Abhiyan, has previously circulated 1.5 lakh pamphlets inciting Hindus to stand up against alleged changes in the demography of Uttarakhand because of Muslims in 2019. He has been previously jailed after his hate-speech inspired physical attacks on Muslims.

Following are a few links corroborating the above facts:

- a) Post 1 by Swami Prabodhanand Giri Mahamandaleshwar
https://m.facebook.com/story.php?story_fbid=1176625616336285&id=100002420099047&mibextid=CDWPTG
- b) Post 2 by Swami Prabodhanand Giri Mahamandaleshwar
https://m.facebook.com/story.php?story_fbid=2491178251042485&id=100002420099047&mibextid=Nif5oz
- c) Post 3 by Swami Prabodhanand Giri Mahamandaleshwar
https://m.facebook.com/story.php?story_fbid=pfbid02CaosTehfX9bNd2dfDZHc5ajicrC7AprGugCVDEJGi8iRz1BFnCGiwsLvgy6emEVLl&id=100002420099047&mibextid=CDWPTG
- d) Post 4 by Swami Prabodhanand Giri Mahamandaleshwar
https://m.facebook.com/story.php?story_fbid=pfbid02CaosTehfX9bNd2dfDZHc5ajicrC7AprGugCVDEJGi8iRz1BFnCGiwsLvgy6emEVLl&id=100002420099047&mibextid=CDWPTG
- e) Post 5 by Swami Prabodhanand Giri Mahamandaleshwar
https://m.facebook.com/story.php?story_fbid=pfbid02mvGJdgXfnpWPQ3H3Qha76miGtrWvpF71FkXLRXXG56Lse3BmBooJkcz1vUT5V7l&id=100002420099047&mibextid=CDWPTG

All of these speeches, posts, fall squarely within the understanding of hate speech that this very court has provided in *Pravasi Bhalai Sangathan v Union of India*. As the Supreme Court observed:

“7. Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on vulnerable that can range

from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide.”.

The situation in Uttarakhand of fear amongst the Muslims, the exodus and threat of violence are the visible harms of hate speech in action as noted by this Supreme Court. More so, the reality presents alarming similarities to the ground work before a genocide.

Impact

The manner in which hate has been maliciously whipped up against the Muslim minorities in the state needs immediate attention as this behaviour causes physical and mental harm, reflects a complete break down of the constitutional mandate, Such letters and threats of intimidation that intimidate are against the law and Constitution.

Sirs, we are seeing an active pattern of alienation that has just been growing against the hapless minorities in the state. This is causing the Muslims to reportedly flee from the district, in places where they have lived for many years, doing odd jobs and sustaining themselves like any person would. Yet, they are being forced out of their homes and forced to give up their business/trade that they must have set up for many years. **This is matter of grave concern and amounts to an exodus of a community.** This forced exodus is a violation of **Articles 19, 14, 15 and 21 of the Constitution.**

Slowly these attacks have started to create a deep communal divide that the authorities clearly seem to be turning a blind eye to. Such a refusal to act of acts of provocation, intimidation and violence amount to acts of commission and omission for the police, magistracy and other authorities. These gathering and provocations endanger social peace and render a section prone to violence and targeted violence.

India as a democracy is committed to an ideology of toleration but such attacks and the increasing frequency of such attacks is dangerous and needs immediate action. These incidents have gone beyond hate speech and are manifesting into violent acts against minorities who are not even perceived as victims anymore. Public order and security of the state is paramount but with these incidents that go unnoticed with no accountability, we are heading towards lawlessness.

These incidents of inciteful hate speech through posters and threat to Muslims are just another step towards something catastrophic that could even escalate into a full blown genocide and we urge you to acknowledge and investigate these issues as it affects a considerable number of people. There a brazen calls for removing them from these areas given by local right wing leaders which has created an atmosphere of fear and most Muslims are fleeing due to fear while some others due to such direct threats issued to them.

In a video surfaced on Twitter, we noticed that some goons were vandalising a closed premises with lathis bu the police did very little to stop them or use proportionate amount of force to stop them from destroying property which is a criminal offence. Such instances of lack of proper action

is worrisome and is further deepening the insecurities of the Muslim community in these areas forcing them to flee as they do not feel they will be protected by the Police in case of a violent attack by such anti-social elements. These miscreants are roaming about freely on the streets, giving threatening calls to the Muslim community but little has been done to control them.

A copy of the video dated June 11 has been downloaded by CJP from twitter and is marked and annexed as Annexure J

<https://twitter.com/meerfaisal01/status/>

We are aware that the Police has denied permission for the Mahapanchayat of June 15 which was to be organised by Devbhoomi Raksha Abhiyan and that section 144 CrPC has been imposed in Purola. This followed citizens interventions first in the Supreme Court of India and thereafter on June 15, in the Uttarakhand High Court.

Even after the abovementioned constitutional court's directive to the authorities to maintain law and order and abide by the Constitutional mandate, rogue elements and repeat offenders like Suresh Chavhanke of Sudarshan TV have openly defied the latest High Court Order and invited the "prohibited" leaders of the proposed "Mahapanchayat" to their studios to host an online Mahapanchayat at 8 p.m. on June 15.

See Tweet on evening of June 15 here:

<https://twitter.com/SureshChavhanke/status/1669309147995848706>

Law on Hate Events

The Law Commission Report No. 267 on Hate Speech also states:

"Hate speech has the potential of provoking individuals or society to commit acts of terrorism, genocides, ethnic cleansing etc. Such speech is considered outside the realm of protective discourse. Indisputably, offensive speech has real and devastating effects on people's lives and risks their health and safety. It is harmful and divisive for communities and hampers social progress. If left unchecked hate speech can severely affect right to life of every individual."

Investigations in Uttarkashi

We are aware that First Information Reports (FIRs) have been filed against 'unidentified' persons for sticking these posters, for indulging in wanton vilification of a religion and indulging in public mischief under sections 295 (a) and 505 of IPC in Purola. He said that a probe is on and they are checking the CCTV footage to identify the culprits, as informed by the Uttarkashi Circle Officer, Anuj Kumar, to *TOI*. But we are writing to raise the issue of urgency and the need for a properly monitored and intrepid investigation into all these instances and cases mentioned above.

Given this background, it is both urgent and essential that the actions by these people in Uttarkashi and those of Radha Semwal be acted upon and criminal changes are levied on them for uttering such words that can cause problems for the safety and security of the minority community in our country, threaten and intimidate Muslims and also threaten social harmony in general.

Penal Implications:

Statements and actions such as these are bound to make things worse; to further generate communal disharmony or feelings of ill will, enmity and hatred between the supporters of different political parties. The utterances also amount to an act which is prejudicial to the maintenance of harmony between different groups and is likely to disturb public tranquility. Moreover, such open intimidation and hate-filled statements only makes the targeted group more vulnerable to violent Acts. Such hate speech that is illegal and unconstitutional violates the following provisions of the Law:

120B- Criminal conspiracy

153- Wantonly giving provocation with intent to cause riot—if rioting be committed—if not committed

153A- Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

153B- Imputation, assertions prejudicial to national-integration.

268- Public Nuisance

503- Criminal intimidation

504. Intentional insult with intent to provoke breach of the peace

505 - Statements conducing to public mischief and Statements creating or promoting enmity, hatred or ill-will between classes

In addition to this, we request action be taken against the repeated hate offender Radha Semwal who, time and again live streams the harassment of Muslims. Sir, it is important to note that this is not the first time that Semwal has acted in such a manner with the Muslims. We at CJP, have regularly tracked her actions. Sir, we are also generally concerned with the overall unsafe atmosphere for the Muslim community that is being generated through the systemic and perpetrated use of hate speech and writing within the state and urge that urgent steps are taken to curtail and prosecute the same.

She records videos of her harassing the minorities and uploads on her social media page.

We request you to have a look at the same: <https://www.facebook.com/RadhaSemwalDhoni01>

Judicial Precedents:

On April 28, the Supreme Court, in a significant development, the Supreme Court extended the application of its October 2022 order (which directed the Delhi, Uttar Pradesh and Uttarakhand Police to take suo motu action against hate speech cases) to all States and Union Territories.

So now, all States/UTs, including Uttarakhand, are enjoined and bound to take suo motu action to register FIR against hate speeches, without waiting for any formal complaint. The bench comprising Justices KM Joseph and BV Nagarathna said the following:

"Respondents (states) shall ensure that immediately, as and when any speech or any action takes place which attracts offences such as Section 153A, 153B, 295A and 506 of IPC etc, without any complaint being filed suo motu action be taken to register cases and proceed against the offenders in accordance with law. Respondents will issue directions to the subordinates so that appropriate action can be taken at the earliest. We further make it clear that such action be taken irrespective of the religion of the maker of the speech, so that the secular character of Bharat as envisaged by the Preamble is preserved."

In its October 21, 2022 order, the Supreme Court had issued interim directions to the state Police wherein it had directed that:

"As and when any speech or any action takes place which attracts offences such as Sections 153A, 153B and 295A and 505 of the IPC etc., suo moto action will be taken to register cases even if no complaint is forthcoming and proceed against the offenders in accordance with law."

The court had further said that non-compliance would amount to contempt of court:

"We make it clear that any hesitation to act in accordance with this direction will be viewed as contempt of this Court and appropriate action will be taken against the erring officers," the order reads.

We would also like to highlight that on February 3, 2023, the Supreme Court issued directions with respect to an event which was scheduled to be held in Mumbai on February 5, 2023 by the Sakal Hindu Samaj, another extremist fringe Hindutva group. The petitioner, Shaheen Abdullah, had contended that similar to its anti-Muslim speech during 'Hindu Jan Aakrosh Morcha' held in Mumbai on January 29, it can be apprehended that the same will be repeated during the February 5 meeting as well. The apex court had thus sought a video of the entire event to be scrutinised by the court at the next hearing. The court has also taken an undertaking from the government of Maharashtra that if permission for this event is granted "it will be subject to the condition that nobody will make any hate speech and in defiance of law or disturbing the public order."

In *Mohd. Haroon and others v. Union of India and another* (2014) 5 SCC 252, it has been clearly held that it is the responsibility of the State Administration in association with the intelligence agencies of both the State and the Centre to prevent recurrence of communal violence in any part of the State. If any officer responsible for maintaining law and order is found negligent, he/she should be brought within the ambit of law.

In *Firoz Iqbal Khan vs Union of India [W.P (Civ.) No. 956 of 2020]*, the Supreme Court had held, “..the edifice of a democratic society committed to the rule of law under a regime of constitutional rights, values and duties is founded on the co-existence of communities. India is a melting pot of civilizations, cultures, religions and languages. Any attempt to vilify a religious community must be viewed with grave disfavour by this Court as the custodian of constitutional values.”

In the case of *Tehseen Poonawalla v UOI and ors (2018) 9 SCC 501* the Supreme Court held that, it is the responsibility of the States to prevent untoward incidents and to prevent crime. The court further given specific directions for the police to adopt preventative measures, in which a senior police officer, not below the rank of Superintendent of Police, shall work as Nodal Officer in each district. Such Nodal officers were then directed to constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes, as mob violence and lynching, or who are involved in spreading hate speeches, provocative statements and fake news.

In addition to this, the Nodal Officer, along with the Station House officers, have been directed to take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting tendencies leading to mob-violence and lynching.

The court further said,

17. There can be no shadow of doubt that the authorities which are conferred with the responsibility to maintain law and order in the States have the principal obligation to see that vigilantism, be it cow vigilantism or any other vigilantism of any perception, does not take place. When any core group with some kind of idea take the law into their own hands, it ushers in anarchy, chaos, disorder and, eventually, there is an emergence of a violent society.

Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion... No one has the authority to enter into the said field and harbour the feeling that he is the law and the punisher himself. A country where the rule of law prevails does not allow any such thought. It, in fact, commands for ostracisation of such thoughts with immediacy.

20. Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated; lest it results in a reign of terror. Extra judicial elements and non-State actors cannot be allowed to take the place of law or the law enforcing agency. A fabricated identity with bigoted approach sans acceptance of plurality and diversity results in provocative sentiments and display of reactionary retributive attitude transforming itself into dehumanisation of human beings. Such an atmosphere is one in which rational debate, logical discussion and sound administration of law eludes thereby manifesting clear danger to various freedoms including freedom of speech and for expression. One man's freedom of thought, action, speech, expression, belief, conscience and personal choices is not being tolerated by the other and this is due to lack of objective rationalisation of acts and situations’.

In the case of *Amish Devgan vs Union Of India 2021 1 SCC 1*, the Supreme Court quoted Benjamin Franklin, “It remains difficult in law to draw the outmost bounds of freedom of speech and

expression, the limit beyond which the right would fall foul and can be subordinated to other democratic values and public law considerations, so as to constitute a criminal offence. The difficulty arises in ascertaining the legitimate countervailing public duty, and in proportionality and reasonableness of the restriction which criminalises written or spoken words. Further, criminalisation of speech is often demarcated and delineated by the past and recent significant events affecting the nation including explanation of their causes. Therefore, constitutional and statutory treatment of ‘hate speech’ depends on the values sought to be promoted, perceived harm involved and the importance of these harms. Consequently, a universal definition of ‘hate speech’ remains difficult, except for one commonality that ‘incitement to violence’ is punishable.”

Such incidents in Uttarakhand have increased manifold. Therefore, we urge you to take cognizance of the videos enclosed herewith, register a case against the perpetrators identified and arrest them for the cognizable offences. Any action against them and regular updates against these perpetrators to the wider public would go a long way in re-building faith and confidence in the rule of law in general and a police-citizen relationship in particular.

We humbly suggest the following actions:

- A) The Initiation of a thorough investigation regarding the role of organisations such as Rudra Sena, Devbhoomi Raksha Abhiyan, Vishwa Hindu Parishad, Bajrang Dal among others, into the incidents of hate speech, vigilantism, and violence targeting the minority community in Uttarakhand taking place in an unabated manner with the full and tacit support of the state administration and police.
- B) Directions to ensure the implementation of Supreme Court orders regarding hate speech and mob violence, including the appointment of nodal officers to eradicate hostile environments against targeted communities as spelt out by this court in Tehseen Poonawala case and Shaheen Abdulla cases.
- C) Directions for the provision of adequate protection to the minority community and individuals, both in their residence as also in their shops and business areas, who are at risk due to the ongoing campaign of hatred.
- D) The issuance of clear directives to the state government and law enforcement agencies to maintain law and order, protect minority rights, and prevent any further incidents of violence.



In anticipation,

Yours sincerely,

Nandan Maluste, CJP President

Teesta Setalvad, CJP Secretary

List of Annexures

- Annexure A: A copy of the Times of India article dated June 6, 2023
- Annexure B: A copy of the Hindustan Times article dated June 6, 2023
- Annexure C: A copy of the Amar Ujala article dated June 6, 2023
- Annexure D: A copy of the video posted by Zakir Ali Tyagi on June 11, 2023
- Annexure E: A copy of the letter of VHP and Bajrang Dal dated June 5, 2023
- Annexure F: A copy of the Hindustan article dated June 9, 2023
- Annexure G: A copy of the video posted by Pyara Uttarakhand on June 8, 2023
- Annexure H: A copy of the video of Radha Semwal Dhoni on June 4, 2023
- Annexure I: A copy of The Quint article dated June 13, 2023
- Annexure J: A copy of the video dated June 11