

## **Annexure 1**

### **Unlawful Activities (Prevention) act, 1967<sup>1</sup>**

The Unlawful activities (Prevention) act, 1967 was enacted to tackle the issue of homeland security and to prosecute the ones involved in activities against the state or its subjects. The act gives the police power to detain anyone engaging in unlawful activities like aiding and abetting terrorists, funding terrorists, inciting anti national feeling in the masses and other unlawful activities against the state. The main purpose of this act is to eradicate the anti-national elements who are responsible to cause the unrest in the population. The act has been an essential tool for the police to detain persons involved in unlawful activities in order to prevent any big catastrophic act in the state.

#### **Section 18. Punishment for conspiracy, etc.—**

Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directly or knowingly facilitates] the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

#### **Section 32. Certain transfers to be null and void.—**

Where, after the issue of an order under section 25 or issue of a notice under section 27, any property referred to in the said order or notice is transferred by any mode whatsoever, such transfer shall, for the purpose of the proceedings under this Chapter, be ignored and if such property is subsequently forfeited, the transfer of such property shall be deemed to be null and void.

#### **Section 39. Offence relating to support given to a terrorist organisation. —**

(1) A person commits the offence relating to support given to a terrorist organisation, —

(a) who, with intention to further the activity of a terrorist organisation,—

(i) invites support for the terrorist organization; and

(ii) the support is not or is not restricted to provide money or other property within the meaning of section 40; or

(b) who, with intention to further the activity of a terrorist organisation, arranges, manages or assists in arranging or managing a meeting which he knows is—

(i) to support the terrorist organization; or

(ii) to further the activity of the terrorist organization; or

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<sup>1</sup> <https://www.mha.gov.in/sites/default/files/A1967-37.pdf>

(iii) to be addressed by a person who associates or professes to be associated with the terrorist organisation; or

(c) who, with intention to further the activity of a terrorist organisation, addresses a meeting for the purpose of encouraging support for the terrorist organisation or to further its activity.

(2) A person, who commits the offence relating to support given to a terrorist organisation under sub-section (1) shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both

### **Amendment of Unlawful Activities Prevention act, 2019**

The Unlawful Activities (Prevention) Amendment Bill, 2019 was introduced in Lok Sabha by the Minister of Home Affairs, Mr. Amit Shah, on July 8, 2019. The Bill amends the Unlawful Activities (Prevention) Act, 1967. The Act provides special procedures to deal with terrorist activities, among other things.

**Who may commit terrorism:** Under the Act, the central government may designate an organisation as a terrorist organisation if it:

(i) commits or participates in acts of terrorism, (ii) prepares for terrorism, (iii) promotes terrorism, or (iv) is otherwise involved in terrorism. The Bill additionally empowers the government to designate individuals as terrorists on the same grounds.

**Approval for seizure of property by NIA:** Under the Act, an investigating officer is required to obtain the prior approval of the Director General of Police to seize properties that may be connected with terrorism. The Bill adds that if the investigation is conducted by an officer of the National Investigation Agency (NIA), the approval of the Director General of NIA would be required for seizure of such property.

**Investigation by NIA:** Under the Act, investigation of cases may be conducted by officers of the rank of Deputy Superintendent or Assistant Commissioner of Police or above. The Bill additionally empowers the officers of the NIA, of the rank of Inspector or above, to

investigate cases.

Insertion to schedule of treaties: The Act defines terrorist acts to include acts committed within the scope of any of the treaties listed in a schedule to the Act. The Schedule lists nine treaties, including the Convention for the Suppression of Terrorist Bombings (1997), and the Convention against Taking of Hostages (1979). The Bill adds another treaty to the list. This is the International Convention for Suppression of Acts of Nuclear Terrorism (2005).

### **Deep Sidhu case<sup>2</sup>**

An iconic celebrity who famous for his Punjabi songs in bollywood, was recently arrested by the Delhi Police in connection to the riots on 26 Jan 2020 in regard to the farmers protest in New Delhi. He is charged under the Unlawful Activities Prevention act for allegedly enticing the people for riot and also for using his social media accounts to glorify the riots at Red Fort on 26 Jan 2020.

### **Bhima Koregaon case<sup>3</sup>**

On 31 December 2017, activists organized a public event in Bhima Koregaon, Maharashtra. The following day, violence erupted between Dalits and Hindu nationalists. Police claim that activists at the event allegedly instigated the violence through inflammatory speeches. The police allegedly found evidence of other criminal activities as well. In 2018, the Maharashtra Police arrested nine activists including Sudha Bharadwaj, Shoma Sen, Surendra Gadling, Mahesh Raut, Arun Ferreira, Sudhir Dhawale, Rona Wilson, Vernon Gonsalves and Varavara Rao. The subsequent charge sheets filed by the police accuse the HRDs of terror-related activities. In February 2020, the National Investigation Agency (NIA) took over the case from the Maharashtra police after the newly-elected Maharashtra Government raised doubts about the police investigation and signalled a probe against the officials. In March 2020, the Supreme Court of India denied anticipatory bail applications of two other activists, Gautam Navlakha and Anand Teltumbde, who were also charged in the same case. They were both arrested on 14 April 2020. The case relies almost entirely on digital evidence obtained from the arrested activists' devices. In a breach of due process, some materials found on their devices were also released to the media in an effort to smear the activists.

### **India Penal Code, 1860<sup>4</sup>**

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<sup>2</sup> <https://www.indiatoday.in/india/story/deep-sidhu-arrested-delhi-police-1767293-2021-02-09>

<sup>3</sup> <https://www.business-standard.com/about/what-is-bhima-koregaon-case>

<sup>4</sup> <https://legislative.gov.in/sites/default/files/A1860-45.pdf>

The Indian Penal Code is the parent act for governing the ambient of criminal law in India. This act has laid down definitions and punishments for various type of criminal acts recognised by the state, it can be said that this act provides the basic structure of criminal law in India.

Section 117. Abetting commission of offence by the public or by more than ten persons.—

Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Section 120B. Punishment of criminal conspiracy.—

- (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, [imprisonment for life] or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence.
- (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

124A. Sedition.—

Whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in [India], shall be punished with [imprisonment for life], to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.

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

(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity,

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Section 153B. Imputations, assertions prejudicial to national integration.—

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise,—

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India, or

(c) makes or publishes an assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or

feelings of enmity or hatred or ill-will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Section 186. Obstructing a public servant in discharge of public functions.—

Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Section 341. Punishment for wrongful restraint.—

Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

Section 353. Assault or criminal force to deter public servant from discharge of his duty.—

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 499. Defamation.—

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person. Explanation 1. —It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. —It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3. —An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4. —No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers

the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Section 505. Statements conduced to public mischief.—

- (1) Whoever makes, publishes or circulates any statement, rumour or report, —
  - (a) with intent to cause, or which is likely to cause, any officer, soldier, [sailor or airman] in the Army, [Navy or Air Force] [of India] to mutiny or otherwise disregard or fail in his duty as such; or
  - (b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquillity; or
  - (c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community, shall be punished with imprisonment which may extend to [three years], or with fine, or with both.
- (2) Statements creating or promoting enmity, hatred or ill-will between classes.—Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.
- (3) Offence under sub-section (2) committed in place of worship, etc.—Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Exception.—It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, rumour or report, has reasonable grounds for believing that such statement, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.

Section 506. Punishment for criminal intimidation.—

Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause

death or grievous hurt, etc. and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or [imprisonment for life], or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

### **Information and Technology act, 2000<sup>5</sup>**

The Information and Technology act was enacted to provide legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as —electronic commerce, which involve the use of alternatives to paper-based methods of communication and storage of information. This act has been the first legislation introduced in order to monitor the increasing influence of technology on the society and also to safeguard the people from the negative influence of technology.

#### **Section 66A. Punishment for sending offensive messages through communication service, etc.—**

Any person who sends, by means of a computer resource or a communication device,—

- (a) any information that is grossly offensive or has menacing character; or
- (b) any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device;
- (c) any electronic mail or electronic mail message for the purpose of causing annoyance or inconvenience or to deceive or to mislead the addressee or recipient about the origin of such messages, shall be punishable with imprisonment for a term which may extend to three years and with fine.

Explanation.—For the purposes of this section, terms —electronic mail and —electronic mail message means a message or information created or transmitted or received on a computer, computer system, computer resource or communication device including attachments in text, image, audio, video and any other electronic record, which may be transmitted with the message.

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<sup>5</sup> <https://www.indiacode.nic.in/bitstream/123456789/1999/3/A2000-21.pdf>

Section 69B. Power to authorise to monitor and collect traffic data or information through any computer resource for cyber security.–

(1) The Central Government may, to enhance cyber security and for identification, analysis and prevention of intrusion or spread of computer contaminant in the country, by notification in the Official Gazette, authorise any agency of the Government to monitor and collect traffic data or information generated, transmitted, received or stored in any computer resource.

(2) The intermediary or any person in-charge or the computer resource shall, when called upon by the agency which has been authorised under sub-section (1), provide technical assistance and extend all facilities to such agency to enable online access or to secure and provide online access to the computer resource generating, transmitting, receiving or storing such traffic data or information.

(3) The procedure and safeguards for monitoring and collecting traffic data or information, shall be such as may be prescribed.

(4) Any intermediary who intentionally or knowingly contravenes the provisions of sub-section (2) shall be punished with an imprisonment for a term which may extend to three years and shall also be liable to fine.

Explanation.–For the purposes of this section,—

(i) computer contaminant shall have the meaning assigned to it in section 43;

(ii) traffic data means any data identifying or purporting to identify any person, computer system or computer network or location to or from which the communication is or may be transmitted and includes communications origin, destination, route, time, data, size, duration or type of underlying service and any other information.

**Shreya Singhal vs Union of India<sup>6</sup>**

The Supreme Court in a landmark judgment struck down section 66A of the Information Technology Act, 2000 which provided provisions for the arrest of those who posted allegedly offensive content on the internet upholding freedom of expression. Section 66A defines the punishment for sending “offensive” messages through a computer or any other communication device like a mobile phone or tablet and a conviction of it can fetch a maximum three years of jail and a fine.

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<sup>6</sup> <https://indiankanoon.org/doc/110813550/>

Over the last couple of years there has been many cases in which police has arrested the broadcasting of any information through a computer resource or a communication device, which was “grossly offensive” or “menacing” in character, or which, among other things as much as cause “annoyance,” “inconvenience,” or “obstruction.” In a judgment authored by Justice R.F. Nariman, on behalf of a bench comprising himself and Justice J. Chelameswar, the Court has now declared that Section 66A is not only vague and arbitrary, but that it also “disproportionately invades the right of free speech.”

In quashing Section 66A, in Shreya Singhal, the Supreme Court has not only given a fresh lease of life to free speech in India, but has also performed its role as a constitutional court for Indians. The Court has provided the jurisprudence of free speech with an enhanced and rare clarity. Various provisions of IPC and Sections 66B and 67C of the IT Act are good enough to deal with all these crimes and it is incorrect to say that Section 66A has given rise to new forms of crimes.

Although section 66A has been declared unconstitutional in 2015, it was used by the police to arrest people till 2018 and this shows the issue of enforceability and also the cruelty by police. Data shows that as of this year 799 cases still remain pending under section 66A despite declaring the provision unconstitutional.

### **III impact of Technology (Pegasus spyware)**

The act has been instrumental in providing safeguards to people in regard to protection of their privacy on the digital sphere. Although this act has been functional for a long time, we can still see the ill effects of technology on the society, for example in the case of the Human Rights defenders who were arrested in regard to the Bhima Koregaon case were also victims of technology threats like receiving emails which might install malware in the system in order to gain unlawful access to their computers or their email accounts. This has been seen from a report by Amnesty India<sup>7</sup> which shows that eight out of nine of the HRD's were victims of such spyware campaign and at least three of the nine HRDs were also targeted with NSO Group's Pegasus spyware in 2019.

In October 2019, Mr. Rathod who was one of the lawyers who were representing the arrested person in the Bhima Koregaon case and ever since he had taken up the case he was receiving calls from unknown international numbers, which when he would answer got disconnected immediately, furthermore he received various texts on WhatsApp, which seemed to be suspicious, on checking with an technology expert he got to know that he was also a victim of the Israeli made Pegasus spyware because of which his personal data could potentially be accessed by the hackers anytime, it can be seen how the human rights defenders and the people associated with them are subjected to such cruelty where the person's data and privacy are at risk. A similar case was seen where Jadhav, who has been associated with an anti-caste cultural group Kabir Kala Manch (KKM) also started receiving such WhatsApp messages, these scenarios

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<sup>7</sup> <https://www.amnesty.org/en/latest/research/2020/06/india-human-rights-defenders-targeted-by-a-coordinated-spyware-operation/>

clearly show that the Human Rights defenders are at risk and can be attacked via technology at any time and hence we need better safeguards from technology in order to protect the privacy and data of the people.<sup>8</sup>

### **Foreign Contribution Regulation act, 2010<sup>9</sup>**

This legislation was enacted to keep a check on the incoming contributions to various organisations from abroad. This act primarily aims to maintain a check on the incoming contributions and to make sure that any of the contributions is not against the national interest of the state.

#### Section 3. Prohibition to accept foreign contribution.—

- (1) No foreign contribution shall be accepted by any—
  - (a) candidate for election;
  - (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
  - (c) Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
  - (d) member of any Legislature;
  - (e) political party or office-bearer thereof;
  - (f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;
  - (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000) or any other mode of mass communication;
  - (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

Explanation.—In clause (c) and section 6, the expression “corporation” means a corporation owned or controlled by the Government and includes a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956).

- (2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.
- (b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such

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<sup>8</sup> <https://thewire.in/tech/pegasus-spyware-bhima-koregaon-activists-warning-whatsapp>

<sup>9</sup> <https://legislative.gov.in/sites/default/files/A2010-42.pdf>

other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

#### Section 5. Procedure to notify an organisation of a political nature.—

(1) The Central Government may, having regard to the activities of the organisation or the ideology propagated by the organisation or the programme of the organisation or the association of the organisations with the activities of any political party, by an order published in the Official Gazette, specify such organisation as an organisation of a political nature not being a political party, referred to in clause (f) of sub-section (1) of section 3: Provided that the Central Government may, by rules made by it, frame the guidelines specifying the ground or grounds on which an organisation shall be specified as an organisation of a political nature.

(2) Before making an order under sub-section (1), the Central Government shall give the organisation in respect of whom the order is proposed to be made, a notice in writing informing it of the ground or grounds, on which it is proposed to be specified as an organisation of political nature under that sub-section.

(3) The organisation to whom a notice has been served under sub-section (2), may, within a period of thirty days from the date of the notice, make a representation to the Central Government giving reasons for not specifying such organisation as an organisation under sub-section (1)

Provided that the Central Government may entertain the representation after the expiry of the said period of thirty days, if it is satisfied that the organisation was prevented by sufficient cause from making the representation within thirty days.

(4) The Central Government may, if it considers it appropriate, forward the representation referred to in sub-section (3) to any authority to report on such representation.

(5) The Central Government may, after considering the representation and the report of the authority referred to in sub-section (4), specify such organisation as an organisation of a political nature not being a political party and make an order under sub-section (1) accordingly.

(6) Every order under sub-section (1) shall be made within a period of one hundred and twenty days from the date of issue of notice under sub-section (2)

Provided that in case no order is made within the said period of one hundred and twenty days, the Central Government shall, after recording the reasons therefor, make an order under sub-section (1) within a period of sixty days from the expiry of the said period of one hundred and twenty days.

### **Indian Social Action Forum vs Union of India<sup>10</sup>**

This landmark judgement has been instrumental in defining the difference between ‘Political Nature’ and ‘Political Organization’. The judgement was primarily based on the powers of the Central Government over the Foreign Contribution Regulation act, 2010. The court laid down that the government has no power to declare any organization as political. The court held that there exists a very fine line between the scope of Political Nature and Political Organisation, and the two should not be clubbed together as this will cause an non-democratic action by the government. The impact of this particular judgment is that the Government cannot arbitrarily categorize any organization which is critical of its workings or schemes as organization of political nature just to prevent their foreign funding under FCRA Rules. Blanket Labeling of the voice of dissent as anti-national or anti-democratic strikes at the very “heart” of the country’s commitment to protect the basic constitutional values which the Supreme Court has upheld. The Supreme Court has ruled that the right to peaceful protest is a fundamental right guaranteed by the Constitution. A distinguishing feature of democracy is the platform provided for sincere dissent which should be compressed by any executive action. Not allowing the right to protest by any government violates rule of law as it violates the idea of justice, fairness and inclusiveness for all by discriminating on specific grounds.

By allowing direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and mandate accountability from state authorities as well as powerful entities makes the very basis of a democracy. Thus, prevention of legitimate dissent does not expose flaws in policy making, schemes and deliverables by the government and this helps the government in misleading its people by giving false information about progress in different sectors.

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<sup>10</sup> [https://main.sci.gov.in/supremecourt/2011/36648/36648\\_2011\\_9\\_1503\\_21281\\_Judgement\\_06-Mar-2020.pdf](https://main.sci.gov.in/supremecourt/2011/36648/36648_2011_9_1503_21281_Judgement_06-Mar-2020.pdf)

## **Human Rights Defenders lawyer<sup>11</sup>**

The State of Jammu and Kashmir has witnessed a lot of blood-shed and violence ever since the partition of India and Pakistan. The rights of indigenous people had been suppressed because of the constant terrorist activities in the state, in order to change the condition in the valley, few human rights defenders have started various initiatives to bring about peace and harmony in the state and for the welfare of the people of the state. One of such human rights defenders was Babar Qadri, he was a lawyer based in the capital city of Srinagar and was known for taking up various human rights cases specially the cases of forced disappearance of Kashmiri people. He was one of the personalities who were working to make a difference in the conditions of the state. On the eve of 24 Sept 2020 Mr. Qadri was visited by two unknown men at his residence under the context of discussion on a legal matter, but 2 men shot him down in the yard of his own house. This was a shocking and dreadful moment for his family and known people as just one day before his murder he had made a twitter post stating the he was under the threat of death and he urged the state police to take steps to save him. It is the fault on the part of the State Police to not to take measures to prevent the murder of the human rights lawyer, who was working to make the state a better place. It is disheartening to see such cases were the human rights defenders ask for help but are not assisted by anyone from state which further results in such tragic events. A similar case was seen valley earlier also when a famous journalist named Shujaat Bukhari, who was the founder journalist of “Rising Kashmir”. Mr. Bukhari was involved in promoting exchange of various peace dialogues in the state with the motive of eradicating the terrorism from the state. He was a famous personality of the state and used to telecast a lot of interviews based on human rights of the Kashmiri people. Sadly on 14 June 2018 one eve before the holy festival of id-ul-fitar, Mr. Bukhari was shot by three unidentified men. His death was a very controversial because of the various theories developed by the people about his murder. It can be clearly seen that the risk of life of any human rights defenders is ever present because of some negative factors in the society who don't want to bring about a change in the society these people have to suffer drastically.

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<sup>11</sup> <https://www.timesnownews.com/india/article/assassination-of-jk-lawyer-babar-qadri-order-to-kill-came-from-srinagar-central-jail-reveals-pprobe/695648>

### **Disha Ravi Case<sup>12</sup>**

In the most recent Farmers Protest on the borders of New Delhi, a 21-year-old Bangalore based environmental activist was arrested by the police under the charges of Spreading a ‘tool kit’ on social media which in turn had allegedly resulted in amplifying the farmers protest. She was taken into custody and was charged with sedition and promoting enmity and criminal conspiracy towards the state. As of now she is still facing the charges but is currently out on bail.

### **Prof Sai Baba Case<sup>13</sup>**

Prof Saibaba is a lecturer in Delhi University was arrested on 9 May 2014 for having connection with Maoists militants, he is currently detained and is facing the prosecution for being charged under Unlawful Activities Prevention act. He is a senior citizen who suffers from 90% disability and 19 ailments. All his bail pleas on medical ground have been rejected and he is in jail ever since his arrest. The OHCHR has taken a due notice of his condition and has urged the government of India to release Prof. Saibaba on account of his poor health. He is one of the longest detained person with disabilities.

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<sup>12</sup> <https://scroll.in/latest/989823/disha-ravi-case-hc-gives-last-chance-to-police-centre-to-reply-to-plea-concerning-media-leaks>

<sup>13</sup> <https://www.thehindu.com/news/national/five-years-on-no-relief-for-jailed-delhi-university-professor-saibaba/article27084472.ece>