



November 6, 2018

To
Justice HL Dattu,
Hon'ble Chairperson,
National Human Rights Commission (NHRC)

URGENT ATTENTION: Police Brutality on Peaceful Protesters in Lucknow on November 2

Dear Sir,

It has come to our attention that the Uttar Pradesh Police is once again targeting student activists and candidates peacefully protesting procedural lapses in the selection process of assistant teachers in the state. The police employed tactics such as extreme and brutal physical assaults leading to a bloodshed at the protest spot with several protesters sustaining critical injuries.

On November 2, students, essentially candidates, were protesting two court rulings that quashed the selection of over 12,000 government teachers and also ordered a CBI probe into the process to appoint 68,500 more.

The Lucknow bench of the Allahabad High Court [had struck down](#) on November 1 the selection of 12,460 assistant teachers through an exam advertised in 2016, during the Akhilesh Yadav government's term. In the other order, the bench directed the CBI to investigate a recruitment exercise begun earlier this year by the Yogi Adityanath government to fill 68,500 posts.

Candidates who had passed the Assistant Teacher Recruitment Exam but who had not been selected for counselling had assembled in protest outside the UP state assembly in Lucknow, where they were badly beaten up by the UP Police. They were accompanied by several others demanding basic minimum of employment opportunities in the state.

Reportedly, as is evident in [photographic material](#), many of the protesters sustained grave injuries in various parts of their bodies, some even on the head. Some of them fainted at the protest spot. Injured candidates were admitted to the local civil hospital

Sir, we would like to bring it to your attention that the candidates [had passed](#) the Basic Training Certificate (BTC) exam and have alleged that even though 41,556 students had cleared the exam, the selected candidates' list featured only 34,660 names. The names of as many as 5,696 candidates were omitted and it is the view of the candidates that all of them were promised employments.

Sir, we would like to remind you that the UP police has resorted to such brutality on numerous such occasions recently.

In our [letter dated July 5](#), we had drawn your attention to the brutality meted out to student leader Pooja Shukla, who was beaten up when she was protesting the denial of her exam results in July 2018. Shukla was allegedly assaulted so badly that she fainted from dehydration and hypotension, and had to be admitted to a civil hospital in Lucknow.

In a similar manner, in June 2018, Richa Singh, former president of the student union at Allahabad University, was arrested while protesting with several aspirants for the Uttar Pradesh Public Service Commission (UPPSC). They were protesting the leak of the Hindi examination paper. While the others arrested with her were released, Singh was jailed for three days. "Seven of us were arrested, as several individuals have been brutally beaten up," Singh had then told The Citizen.

We appeal to the National Human Rights Commission (NHRC) to investigate this latest episode of police excesses against peaceful protesters, and take steps, if required, to hold those responsible for the assaults accountable.

While the Uttar Pradesh Police's behaviour is especially unlawful and violent, increasingly we find that the behaviour of the police **with peaceful protesters across the country, even in the capital city of Delhi, has been becoming violent**. It is high time that the NHRC, mandated to observe and ensure basic standards of human rights protection, issues a strong advisory to the Central and State Governments on this unrestrained police behaviour.

Some of the states, in the prescribed police manuals, have laid down guidelines for regulating the use of force by the police. For instance [the Kerala Police Manual, 1970](#) lays down a step-by-step procedure to deal with unlawful assemblies:

1. The police must invariably secure the presence of a magistrate where it anticipates a breach of peace
2. The decision to use force and the type of force to be used is to be taken by the magistrate
3. Once the order for the use of force is given by the magistrate, the extent of force to be used will be determined by the senior-most police officer
4. The extent of force used must be subject to the principle of minimum use of force
5. Use of force should be progressive – i.e. firearms must be used as a last resort if tear smoke and lathi charge fail to disperse the crowd
6. Common tear smoke which causes no bodily injury and allows recovery of affected persons should be used
7. When the crowd is large and the use of tear-smoke is likely to serve no useful purpose, the police may resort to lathi charge
8. Lathi charge can only begin if the crowd refuses to disperse after suitable warning
9. Clear warning of the intention to carry out a lathi charge should be given through a bugle or whistle call in a language understood by the crowd. If available, a riot flag must be raised. If the police officer in-charge is satisfied it is not practical to give a warning, s/he may order a lathi charge without warning.
10. Lathi blows should be aimed at soft portions of the body and contact with the head or collarbone should be avoided as far as practicable
11. The lathi blows must not cease until the crowd is completely dispersed
12. If the crowd fails to disperse through the lathi charge, the magistrate or the competent officer may order firing
13. The fullest warning in a clear and distinct manner must be given to the crowd to inform them that the firing will be effective
14. If after the warning, the crowd refuses to disperse the order to fire may be given
15. The police are not on any account allowed to fire except on a command given by their officer
16. A warning shot in the air or firing over the heads of the crowd is not permitted
17. An armed force should maintain a safe distance from a dangerous crowd to prevent being overwhelmed, or increasing the chances of inflicting heavy casualties
18. Aim should be kept low and directed at the most threatening part of the crowd
19. Firing should cease the moment the crowd show signs of dispersing
20. All help should be rendered to convey the wounded to the hospital

21. Police officers must not leave the scene of disturbance before satisfying themselves beyond reasonable doubt about the restoration of tranquillity
22. An accurate diary of all incidents, orders and action along with the time of occurrence should be maintained by the police. This will include an individual report by all officers involved in the firing.
23. The number of fired cartridges and the balance of unfired cartridges should be verified to ensure ammunition is accounted for.

We urge that not only a notice be issued, but an overall examination of the conduct of the Uttar Pradesh Police with its citizenry is initiated by the NHRC.

The right to peaceful assembly including for the purposes of a protest has been founded by the courts to be a fundamental right, traceable to the freedom of speech and expression under Articles 19(1)(a) and 19(1)(b) of the Indian Constitution[1] as held by the Supreme Court in several landmark rulings (Ramlila Maidan Incident and the Kerala High Court in Peoples' Council for Social Justice v. State of Kerala). In one of these, a Full Bench of the Kerala High Court considered a writ petition in which reliefs were sought against the State to ensure that all demonstrations and public processions within the Cochin area were carried out without obstructing free movement and pedestrian traffic. The High Court observed that the right to assemble and protest was recognized by the Constitution and laid down certain directions for the conduct of public demonstrations/protests, including the giving of advance notice to the highest Police Officer of the district in which the protest was proposed.

The Supreme Court has also held that the State "cannot abridge or take away the right of assembly by prohibiting assembly on every public street or public place" but "can only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interests of public order." It was also held that it was acceptable for the regulatory authority to require that parties secure prior permission before holding a public meeting on a public street for "the right which flows from Article 19(1)(b) is not a right to hold a meeting at any place and time. It is a right which can be regulated in the interest of all so that all can enjoy the right."

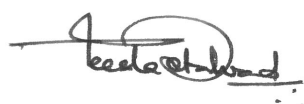
([1] See Anita Thakur v. Govt of J&K & Ors. 2016 SCC Online 814 and In Re Ramlila Maidan Incident 2012 5 SCC 1)

We urge you Sir to look into this matter with the urgency that this deserves.

Yours Sincerely



Anil Dharker, President



Teesta Setalvad, Secretary

Reference articles:

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Annexure/Background:

However, there are numerous cases of police violence and brutality which take place. In an incident of violent behaviour of the police, missing JNU student Najeeb Ahmed's mother was [forcefully evicted](#) from outside the Delhi High Court in October 2017.. Najeeb, 27, a student of M.Sc Biotechnology, had gone missing from the Mahi-Mandvi hostel of the Jawaharlal Nehru University (JNU) on October 15 last year after a scuffle with some students, allegedly affiliated to the Sangh Parivar student wing Akhil Bharatiya Vidyarthi Parishad, the previous night. Fatima Nafees, Najeeb's mother, was forcefully evicted along with 30 others, mostly students, on October 16 by the Delhi Police. They were protesting outside the high court. JNU students also alleged that the police "manhandled" Nafees in the name of detaining her and others. Delhi Police officers told Nafees that this was not the only case they were handling and brutally manhandled her while detaining her, former JNUSU president Mohit Kumar Pandey alleged.

On October 28, 2017, in a spectacular, display of force and violence, the Delhi Development Authority (DDA) started a brutal and legally questionable demolition drive, destroying buildings that had been standing for 40 years. Activists and students defending them were brutally hurt. In an [interview with Sabrang](#), Annie Raja, leading political activist and general secretary of the National Federation of Indian Women (NFIW), described the manner in which she was assaulted as follows:

"They kicked in my lower abdomen. Look I know Delhi police for last 40 years, they use that typical lathi but this time they had a newer version. They had steel lathis with them this time. The policemen and women kept hitting me and then turned me over to the Goondas of the DDA. They were instructed to throw me in a garbage heap saying, "Isko maaro yehi sabko bhadka rahi hai ". I could not get up, I was feeling nauseous. They were also saying, "isko maaro yeh Ac mein rehti hai aur humko DDA se ghar nahi lene de rahi hai ". It was a brute assault. After a while, they left me there and went away. I was lying in that sense for an hour and shivering. Meanwhile, tear gas shells were being fired from all sides and people were in extreme distress. I was taken to the hospital after that."

Similarly, a police firing that took place on Tuesday, May 22, 2018, [killed more than 11 protesters](#). Over 20,000 people were demonstrating against the ground water pollution caused by the Sterlite copper plant in Tamil Nadu's Thoothukudi (Tuticorin) district. The plant was having adverse impacts on the health of the residents, which is why the citizens took to the streets to protest. A [People's Inquest](#) into the firing exposed the discriminate actions of the police force while dealing with the protestors.