



PEOPLE'S UNION FOR CIVIL LIBERTIES

Maharashtra State Unit

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PUCL MAHARASHTRA STATEMENT CONDEMNING THE ILLEGAL DETENTION OF PEACEFUL PROTESTORS, HARASSMENT AND FILING OF CRIMINAL CASE AGAINST 13 PEOPLE IN CONNECTION WITH A PEACEFUL PRAYER GATHERING IN MUMBAI TO COMMEMORATE THE CHILDREN KILLED IN PALESTINE ON THE OCCASION OF CHILDREN'S DAY

Democracy demands that right to protest be protected not punished!

People's Union for Civil Liberties (PUCL) Maharashtra expresses grave alarm and concern at the increasing trend of criminalising public protest or any form of public expression on social issues and deplores the manner in which police in Mumbai speedily lodge cases against those participating in such democratic events. Especially in the context of the ongoing Israeli war on Palestine resulting in civilian deaths, the Mumbai police has in effect imposed a *de facto* ban on any form of peaceful public protest by citizens demanding an end to the violence, including the holding of peace gatherings and prayer meetings, even candlelight vigils in public places like the Azad Maidan. In no other part of India do we see this sort of obstruction to the right to protest, as is being seen in Mumbai.

The recent example of the First Information Report (FIR) lodged by Juhu police under sections 37 (1), 37 (3) and 135 of the Maharashtra Police Act (MPA) against 13 individuals, 11 of whom are students, on November 14, 2023, for alleged violation of prohibitory orders, is a case in point. All of them were picked up on November 14, 2023, after they responded to a multi-city call emanating from an Instagram account 'solidaritymovement', to observe Children's Day in India with a quiet prayer recital of the names of children who were killed in Palestine. It appears that several persons attended the peaceful prayer gathering at Juhu beach. However, after the prayer gathering ended and participants had dispersed, Juhu police picked up 17 individuals at around 10.30 a.m. They were taken to Juhu police station and illegally detained there until 7.00 pm when they were released. 4 of them who were underage youth (2 boys and 2 girls), were allowed to leave only at 4 p.m. and their parents were called.

PUCL Maharashtra has learnt that of the 17 individuals - all from the minority community, picked up by the Juhu Police, 16 individuals being 4 minors, 11 students and 1 mother of a student, had gone immediately after the prayer gathering ended to collect the posters that they had earlier voluntarily kept in the police cabin near the beach as it was decided that the gathering was meant to be silent i.e. without any posters or banners. The police present there however started questioning them and asked them to pose with the posters and placards and photographed them. The police then told them they will escort them to the Bus Stop to ensure they leave safely. As they proceeded under the directions of the police, suddenly they found a police van had arrived and they were forcibly pushed into the van, detained and taken to the Juhu Police Station. The youth were frightened and many were crying. At the police station, none of them were allowed to contact their parents or seek any legal help and call up a lawyer. All this

is in clear gross violation of their basic legal rights. The 17th person picked up by the Juhu Police was social activist Feroze Mithiborwala. He too was picked up by Juhu police after the prayer gathering had ended and was also made to remove posters from his bag, though he had never displayed any posters at the prayer gathering. But the police were not willing to listen to any reason. In this manner, the 13 people illegally detained were finally released only at 7.00 pm on November 14, 2023, after being served with notices. They were asked to return the next day i.e. on November 15, 2023 at 11.00 am to submit their Aadhar Card xerox copy and 2 photographs. Then, on that day, the rest were allowed to leave by around 1.00 pm, but Feroze Mithiborwala was detained there till 6.30pm once again, when he was extensively questioned.

Clearly, the police action was excessive and arbitrary, and this is a clear case of police harassment. Disturbingly, the attitude of the police was also intimidatory towards the young members of the minority community, especially the young girls, who had peacefully participated in a prayer gathering for peace. The youth were asked to provide all their personal details and their parents were later summoned to the police station. Activist Feroze Mithiborwala was repeatedly questioned whether he had organised the meeting, despite his repeated denial that he had only come in response to an online call and knew none of the youth involved. Even a copy of the FIR was only provided to them after an application from their lawyers. There was no occasion or ground for the police to file an FIR, that too selectively against the 13 people after the peaceful gathering had dispersed and when there was no disturbance to public order or violation of law. Moreover, in any event, none of the 13 people were involved in organizing the event but had only responded to a humane call on social media for the prayer gathering.

Right to protest is a fundamental right of citizens guaranteed under the Indian Constitution and essential to our democracy. However, the increasing number of such instances show that the right to protest of citizens is not only being infringed upon, but even attempting to assemble peacefully in Mumbai is being met with harsh and intimidatory police action and criminal sanctions, creating an atmosphere of fear in which democracy cannot thrive or find expression. There has been continuous imposition of prohibitory orders under Section 37 (1) and (3) of the MPA, thereby providing ground to the police to criminalise peaceful gatherings and protests, and to selectively restrict protests. Meanwhile, most applications / intimations to the police for holding protests by citizens' groups and civil society organisations are being denied and met with sanctions, including the peace gatherings and anti-war public protests on the ongoing Israeli war on Palestine.

The police has been serving notices under Section 149 of the Criminal Procedure Code, 1973 (CrPC) to the applicants/organisers while denying permission to protest and the applicants/organisers have also on occasion been put under preventive detention under Section 151 of the CrPC. Just last month, the Mankhurd Police had arrested two young Mumbai activists and charged them under Section 353 and 332 of the Indian Penal Code, among other offences for violation of prohibitory orders under Section 144 of the CrPC and Section 37 of the MPA, and also detained 4 persons under Section 151 of the CrPC, in connection with a protest against the Israeli government's ongoing violent attacks impacting civilians in Palestine.

It is unfathomable that the arbitrary police action has in effect resulted in a complete restriction in Mumbai on public protests and peace gatherings against the unprecedented violence and suffering

faced by Palestinians, for which daily protests are taking place globally and even in other states in the country calling for ceasefire. Infact, it is even more shocking that public demonstrations calling for an end to the ongoing violence in Palestine are being penalized in such fashion, considering India's own history of freedom struggle from colonial rule and its long-standing recognition of the statehood of Palestine and the self-determination struggle of Palestinians.

PUCL Maharashtra expresses concern on the misuse of penal law against peaceful protestors, thereby criminalizing and silencing voices of democratic expression and dissent. PUCL Maharashtra demands that the FIR lodged against the 13 civilians by Juhu police on November 14, 2023 be dropped forthwith and that the constitutional right of citizens to protest and to give peaceful expression to their views or feelings be protected.

PUCL Maharashtra once again notes with distress, that there appears to be a concerted attempt to silence peaceful protests against war and violence. PUCL Maharashtra demands an end to the excessive, continuous and restrictive imposition of prohibitory orders under Sec 144 of the CrPC and Section 37 of the MPA. These orders, ostensibly issued to maintain public order, actually result in a curb on the constitutional right to public protest or gatherings and instead facilitate the criminalization of peaceful and democratic protests. This creates a chilling effect, amounts to censorship and is against the fundamental right to freedom of speech and expression, association and assembly. PUCL Maharashtra reiterates its demand that the legitimate right of citizens to protest be protected fiercely in the interest of our nation which is built on the fulcrum of that very right.

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