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India: Amnesty International calls for the immediate release of APHC leaders

Amnesty International welcomes the release from detention of Shabir Shah, president of the Jammu and Kashmir Democratic Freedom Party, and the withdrawal of criminal charges filed against him by the Jammu and Kashmir government.

"The fact that charges can be dropped at will shows that they were politically motivated in the first place and should never have been brought," the human rights organization said. "We hope the harassment of Shabir Shah will now end, for good."

However, the organization expressed grave concern about the continued detention of 25 members of the All Parties Hurriyat Conference (APHC) and called for their immediate release.

Those detained include APHC chairman Syed Ali Shah Gilani, and senior members Muhammad Yasin Malik, Moulvi Abbas Ansari, Javed Mir and Abdul Gani Bhat. They are being held under the Jammu and Kashmir

Public Safety Act, which allows for detention without trial for up to two years.

The human rights organisation deplored comments on the case by the Jammu and Kashmir Chief Minister, Dr Farooq Abdullah, who said on October 8 that he would "let them rot" in Jodhpur Jail where "nobody would be able to meet them".

He alleged that the detained men had used violent means to enforce an election boycott, and added, "I am sending them to a place where they will see no hope."

"Contrary to the Chief Minister's statements, APHC leaders are being held for the peaceful exercise of their right to freedom of expression. They should never have been detained for exercising this right," Amnesty International said.

Calling peacefully for the boycott of elections is well within the scope of civil rights guaranteed to every citizen of India, the human rights organization pointed out. This has recently been confirmed by Indian election officials.

"Detention without charge or trial is often a means to deter legitimate political dissent and to imprison opponents of the government for the peaceful exercise of their basic human rights, including the right to freedom of expression and association," Amnesty International said.

"We urge the Government of Jammu and Kashmir to either release the 25 detainees or else charge them with recognizably criminal offences and try them promptly in a regular court of law."

Not only is the detention arbitrary, conditions of detention also leave much to be desired, the human rights organisation pointed out.

Several of the detainees were initially held for specified short periods, but their terms of detention have subsequently been made open-ended without explanation.

Syed Ali Shah Gilani, who has a pacemaker, and Yasin Malik, who suffers from a heart condition and high blood pressure, have not received adequate medical care. Both are now allowed standard prison medical attention but are denied scheduled examinations and specialized attention.

Finally, 15 APHC members are jailed in Jodhpur, over 1,500 km from their home in Srinagar, making it difficult and expensive for their lawyers to visit them.

"Even though the men are being held in preventive detention, the conditions of their detention and the statements of the Chief Minister indicate that they are being treated the way that common criminals are, unfortunately, treated in Indian jails," Amnesty International said.

Background

Shabir Shah has frequently been arrested or placed under house arrest during the past year. He was last arrested on 22 September and placed in preventive detention when he launched an awareness program asking people to boycott the coming parliamentary elections. Criminal charges were also filed against him for the possession of arms. He was released on November 26.

The APHC members were arrested in September and October, and were charged with criminal offences. The justification provided for their detention was that they were likely to get bail in connection with those charges and had to be deterred from carrying out "illegal anti-national and subversive activities in future ... which are prejudicial to the security of the state". Twenty-five writ petitions were filed in the High Court in

Srinagar during the first week of November challenging the legality of the detention orders.

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