

Dated: July 27, 2020

Statement in solidarity with Mr. Prashant Bhushan on the initiation of Criminal Contempt Proceedings against him

We the undersigned citizens of the country, express our concern with the initiation of contempt proceedings against human right activist and advocate, Mr. Prashant Bhushan, by the Supreme Court of India, in respect of two of his tweets. Mr. Bhushan has been a relentless crusader for the rights of the weakest sections of our society and has spent his career in pro bono legal service to those who do not have ready access to justice. He has fought cases at the Apex Court on issues ranging from environmental protection, human rights, civil liberties, corruption in high places and has been an outspoken champion for judicial accountability and reforms, especially in the higher judiciary.

In the past few years, serious questions have been raised about the reluctance of the Supreme Court to play its constitutionally mandated role as a check on governmental excesses and violations of fundamental rights of people by the state. These questions have been raised by all sections of society—media, academics, civil society organisations, members of the legal fraternity and even by sitting and retired judges of the Supreme Court itself. Most recently, the Supreme Court’s reluctance to intervene in a timely manner to avert the migrant crisis during the lockdown came under intense public scrutiny. Concerns have also been raised regarding the decision of the court to not restart physical hearings, even in a limited manner, despite passage of five months since the onset of the COVID pandemic.

We urge the Hon’ble judges of the Supreme Court to take note of these concerns and engage with the public in an open and transparent manner. The initiation of contempt proceedings against Mr. Bhushan who had articulated some of these concerns in his tweets, appears to be an attempt at stifling such criticism, not just by Prashant Bhushan but by all stakeholders in the Indian democratic and constitutional setup. We believe the institution must address these genuine concerns.

An institution as important as the Supreme Court of a country must be open to public discussion without the fear of retribution or action of criminal contempt. Indeed, criminal contempt as an offence has been circumscribed and made redundant in most functioning democracies, such as the USA and the UK. In the landmark U.S. Supreme Court judgement in *New York Times v. L.B. Sullivan* 11 L’ed (2nd) 686, with respect to contempt of court and the freedom of speech and expression it was held: *“Injury to official reputation affords no more warrant for repressing speech that would otherwise be free than does factual error. Where judicial officers are involved, this Court has held that concern for the dignity and reputation of the courts does not justify the punishment as criminal contempt of criticism of the judge or his decision. This is true even though the utterance contains “half-truth” and misinformation”.*

Even in India, the principle that criticism of the judiciary should not be stifled by the indiscriminate use of the power of contempt has been recognized by the Supreme Court as well as by academics and advocates of repute, such as the late Senior Advocate Shri Vinod A. Bobde who had stated [*“Scandals and Scandalising”*, (2003) 8 SCC Jour 32], *“We cannot countenance a situation where citizens live in fear of the Court’s arbitrary power to punish for contempt for words of criticism on the conduct of judges, in or out of court.”*

Therefore in the interest of justice and fairness and to maintain the dignity of the Supreme Court of India, we urge the Court to reconsider its decision to initiate suo-moto contempt proceedings against Mr. Prashant Bhushan and to withdraw the same at the earliest.

Endorsed by:

1. Justice Madan B. Lokur, Former judge of the Supreme Court of India

2. Justice AP Shah, Former Chief Justice of the Delhi High Court
3. A. Selvaraj, IRS (Retd.), Former Chief Commissioner, Income Tax, Chennai, Gol
4. Aakar Patel
5. Achin Vanaik, writer and social activist, former professor at the University of Delhi
6. Admiral Ramdas, Former Chief of Naval Staff
7. Ajit Ranade, economist
8. Alok Perti, IAS (Retd.), Former Secretary, Ministry of Coal, Gol
9. Alope B. Lal, IPS (Retd.), Former Director General (Prosecution), Govt. of Uttarakhand
10. Amit Bhaduri, former Professor Emeritus at Jawaharlal Nehru University
11. Amit Singh Chadha, Senior advocate
12. Amitabha Pande, IAS (Retd.), Former Secretary, Inter-State Council, Gol
13. Anand Grover, Senior advocate
14. Anjali Bhardwaj, Social activist
15. Annie Namala, Social activist
16. Annie Raja, NFIW
17. Ardhendu Sen, IAS (Retd.), Former Chief Secretary, Govt. of West Bengal
18. Aruna Roy, Social activist
19. Arundhati Dhuru, NAPM
20. Arundhati Roy, Author
21. Ashok Khosla, environmentalist
22. Ashok Kumar Sharma, IFoS (Retd.), Former MD, State Forest Development Corporation, Govt. of Gujarat
23. Ashok Kumar Sharma, IFS (Retd.), Former Ambassador to Finland and Estonia
24. Bezwada Wilson, Safai Karamchari Andolan
25. Bobby Ramakant, Socialist Party (India)
26. Brinda Karat, CPI(M)
27. C. U. Singh, senior advocate
28. Chandrashekhar Balakrishnan, IAS (Retd.), Former Secretary, Coal, Gol
29. D. Raja, General Secretary CPI
30. Deb Mukharji, IFS (Retd.), Former High Commissioner to Bangladesh and former Ambassador to Nepal
31. Deepak Nayyar, Emeritus Professor of Economics, Jawaharlal Nehru University, New Delhi
32. Devika Singh, Social Activist
33. Dipa Sinha, Right to Food Campaign
34. Dr Dharamvira Gandhi,, Punjab Manch and former Lok Sabha member from Patiala
35. EAS Sarma, Former Secretary to GOI
36. Enakshi Ganguly, Co- Founder and Advisor, HAQ Centre for Child Rights
37. Fabian K.P
38. Fr. Cedric Prakash SJ, human rights activist
39. G. Balachandhran, IAS (Retd.), Former Additional Chief Secretary, Govt. of West Bengal
40. G.G. Parikh, Freedom Fighter
41. Ganesh Devy, National President, Rashtra Seva Dal
42. Gopal Sankaranarayanan, Senior advocate
43. Gopalan Balagopal, IAS (Retd.), Former Special Secretary, Govt. of West Bengal
44. Harsh Mander, social activist
45. Henri Tiphagne, Executive Director, People's Watch and National Working Secretary, Human Rights Defenders' Alert – India (HRDA)
46. Hindal Tyabji, IAS (Retd.), Former Chief Secretary rank, Govt. of Jammu & Kashmir
47. Indira Jaising, senior advocate
48. Jagdeep Chhokar, former Professor, Indian Institute of Management, Ahmedabad
49. Javed Anand, Journalist and civil rights activist

50. Jayati Ghosh, Professor, Jawaharlal Nehru University
51. Jean Dreze, Economist
52. Julio Ribeiro, IPS (Retd.), Former Adviser to Governor of Punjab & former Ambassador to Romania
53. K. John Koshy, IAS (Retd.), Former State Chief Information Commissioner, West Bengal
54. K. Saleem Ali, IPS (Retd.), Former Special Director, CBI, Gol
55. Kalyani Chaudhuri, IAS (Retd.), Former Additional Chief Secretary, Govt. of West Bengal
56. Kamal Jaswal, Former Secretary to Govt of India, Department of Information Technology
57. Kamayani Swami, NAPM, Bihar
58. Kamla Bhasin, Social Activist
59. Kavita Krishnan, AIPWA
60. Kavitha Kuruganti, social activist
61. Lalita Ramdas, Peace, Human Rights anti-nuclear Activist
62. Lubna Sarwath, Socialist Party (India)
63. M.G. Devasahayam, IAS (Retd.), Former Secretary, Govt. of Haryana
64. M.Y. Rao, IAS (Retd.)
65. Madhu Bhaduri, IFS (Retd.), Former Ambassador to Portugal
66. Mahadev Vidrohi, President, Sarva Seva Sangh
67. Manoj Mitta, Author & Journalist
68. Martin Macwan, Dalit human rights activist
69. Medha Patkar, Social activist
70. Meena Gupta, IAS (Retd.), Former Secretary, Ministry of Environment & Forests, Gol
71. Meera Sanghamitra, Member, National Convening Committee, NAPM
72. Mihir Desai, Senior advocate
73. Mrinal Pande, Journalist and author
74. N. Ram, former Editor-in-Chief, The Hindu
75. N.C. Saxena, IAS (Retd.), Former Secretary, Planning Commission, Gol
76. Nagalsamy, IA&AS (Retd.), Former Principal Accountant General, Tamil Nadu & Kerala
77. Najeeb Jung, IAS (Retd.), Former Lieutenant Governor, Delhi
78. Navrekha Sharma, IFS (Retd.), Former Ambassador to Indonesia
79. Neeraj Jain, Lokayat, Associate Editor, Janata
80. Nikhil Dey, Social activist
81. Noor Mohammad, IAS (Retd.), Former Secretary, National Disaster Management Authority, Gol
82. P. Sainath, Journalist and author
83. P.K. Lahiri, IAS (Retd.), Former Executive Director, Asian Development Bank
84. P.R. Dasgupta, IAS (Retd.), Former Chairman, Food Corporation of India, Gol
85. Pamela Philipose, Journalist
86. Paranjay Guha Thakurta, Author & journalist
87. Paul Divakar, National Campaign on Dalit Human Rights
88. Prabhat Patnaik, Emeritus professor, Jawaharlal Nehru University
89. Prabir Purkayastha
90. Pradeep K. Deb, IAS (Retd.), Former Secretary, Deptt. Of Sports, Gol
91. Prakash Singh, former Police Chief, DG BSF, DGP UP & DGP Assam
92. Pranab S. Mukhopadhyay, IAS (Retd.), Former Director, Institute of Port Management, Gol
93. Prof. Alok Rai, Allahabad
94. Prof. Manoj Kumar Jha, Member of Parliament, Rajya Sabha
95. R. Poornalingam, IAS (Retd.), Former Secretary, Ministry of Textiles, Gol
96. Rahul Khullar, IAS (Retd.), Former Chairman, Telecom Regulatory Authority of India
97. Rajeev Bhargava, Professor, CSDS, Delhi
98. Rajmohan Gandhi, Historian and Professor

99. Rajni Bakshi, Journalist and author
100. Raju Sharma, IAS (Retd.), Former Member, Board of Revenue, Govt. of UP
101. Ramachandra Guha, Historian and writer
102. Ravi Chopra, People's Science Institute
103. Ravi Vira Gupta, IAS (Retd.), Former Deputy Governor, Reserve Bank of India
104. Reetika Khera, economist
105. S.R. Hiremath, Founder President, Samaj Parivartana Samudaya (SPS), Dharwad
106. Sandeep Pandey, Socialist Party (India)
107. Sanjay Bhasin
108. Sanjay Hegde, Senior advocate
109. Satish Deshpande, Professor of Sociology, Delhi University
110. Sevanti Ninan, Journalist and researcher
111. Shafi Alam, IPS (Retd.), Former Director General, NCRB, GoI
112. Shailesh Gandhi, Former Information Commissioner of CIC
113. Shantha Sinha, Former Chairperson NCPCR
114. Sharad Behar, IAS (Retd.), Former Chief Secretary, Govt. of Madhya Pradesh
115. Sonalini Mirchandani, IFS (Resigned), GoI
116. Subhasis Bandyopadhyay, IEST, Shibpur
117. Subodh Lal, IPOS (Resigned), Former Deputy DG, Ministry of Communications, GoI
118. Sudhir Nandrajog, Senior advocate
119. Sundar Burra, IAS (Retd.), Former Secretary, Govt. of Maharashtra
120. Surabhi Agarwal, Socialist Party (India)
121. Suresh K. Goel, IFS (Retd.), Former Director General, ICCR, GoI
122. Syeda Hameed, Former member, Planning Commission
123. Teesta Setalvad, Civil rights activist
124. V.P. Raja, IAS (Retd.), Former Chairman, MERC
125. Vandana Shiva, Scientist, RFSTE
126. Vijaya Latha Reddy, IFS (Retd.), Former Deputy National Security Adviser, GoI
127. Vipul Mudgal, Activist and media scholar
128. Vivek Mukherjee, Assistant Professor & Faculty Coordinator, NALSAR
129. Vrinda Grover, Advocate
130. Wajahat Habibullah, Former Chief Information Commissioner of CIC
131. Yogendra Yadav, Swaraj India