

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association
and the Special Rapporteur on the situation of human rights defenders**

REFERENCE:
OL OTH 2/2017

6 January 2017

Hon'ble Justice (Retd.) H L Dattu,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 24/5 and 25/18.

During the last few years, we have been following closely various developments regarding the Foreign Contribution Regulation Act (FCRA) and its adverse impact on the rights and work of a number of human rights defenders in India. These issues are highly relevant to our respective mandates. Since 2015, we have addressed at least three communications to the Government of India on this topic.

For your information, we are attaching one of these communications, which has now been made public (IND 7/2015, see Annex 1). The other two communications will be made public in the coming months. In June 2016, we also issued a press release calling for the repeal of **the FCRA** (see Annex 2). Moreover, as you know, on 20 April 2016, the Special Rapporteur on the rights to freedom of peaceful assembly and of association issued a detailed analysis of international law, standards and principles applicable to the FCRA.¹

In this context, we were pleased to note the press release issued by the National Human Rights Commission (NHRC) of India on 16 November 2016, informing the general public that it had taken *suo motu* cognizance of the cases of human rights non-governmental organizations (NGOs) which were denied renewal of their licence to receive foreign funding under the FCRA. We were further pleased to see a reference made to the aforementioned analysis of the FCRA.

This important intervention by the NHRC is very much in line with one of the recommendation made by the previous Special Rapporteur on the situation of human rights defenders in the report she presented to the Human Rights Council in March 2012, following her country visit to India:

“The National Human Rights Commission should intervene on the issue of the Foreign Contribution Regulation Act and should monitor the denial of registration and permission to receive foreign funding for NGOs, with a view to amending or repealing the bill.” (A/HRC/19/55/Add.1, para. 156)²

¹ <http://www.ohchr.org/Documents/Issues/FAssociation/InfoNoteIndia.pdf>

² <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/CountryVisits.aspx>

We appreciate the NHRC's actions directed at upholding the right to freedom of association, which not only includes the ability of individuals or legal entities to form and join an association, but also to seek, receive and use resources – human, material and financial – from domestic, foreign and international sources. We encourage the NHRC to continue its efforts to advocate for domestic legislation to be brought in full compliance with the State's obligations under international human rights law.

We remain at your disposal should you have any further suggestions in this regard, or require any assistance from us in the context of the ongoing case related to the FCRA.

In the meantime, we will follow closely the ongoing procedure before the NHRC, as well as the various High Court cases in relation to the cancellation of FCRA licences.

Please accept, Hon'ble Justice (Retd.) H L Dattu, the assurances of our highest consideration.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders