

To,  
Honourable Chairman and Members,  
The National Human Rights Commission,

13 August, 2001

Subject: Arrest of HIV/AIDS NGO workers in Lucknow

Dear Sir,

The Government of India in international fora like the United Nations General Assembly Special Session on HIV/AIDS, and in its National Aids Control Policy, has clearly articulated its commitment to including men who have sex with men (MSM) in HIV intervention in India. The Union Minister of State for Health Shri C.P. Thakur stated unequivocally on television on 6 July, that the government has and will continue to include this community in its HIV prevention efforts.

The night after his statement, UP police raided the offices and arrested the staff members of Bharosa Trust and Naz Foundation International (NFI) in Lucknow. Both these are organisations working in the area of HIV/AIDS intervention with MSM, in accordance with NACP guidelines. The chief of NACO, Shri Prasada Rao himself released NFI's Situational Assessment Report. Bharosa Trust has also worked with the UP State AIDS Control Society.

The police took away literature and materials that are used for educating MSM on safer sex practices, on the basis of which the staff have been accused of criminal conspiracy (Section 120B IPC) to commit unnatural offences (Section 377), abetment (Section 109), sale of obscene books (Section 292), Sections 3 and 4 of the Indecent Representation of Women Act and violations of Section 60 of the Copyright Act. Of these, only the charge pertaining Section 377 is cognizable and non-bailable. The police have failed to produce any evidence to support the charge of conspiracy to commit unnatural offences. Even the medical report as disclosed by the police explicitly states that no clear case of sodomy has been made out. Yet both the Chief Judicial Magistrate and the Sessions Court have denied bail on the grounds that the accused are a 'curse on society'.

A dharna was held in New Delhi today to bring to the public notice this oppressive action by the UP Police, in light of which we wish to place before NHRC the following demands:

1. That sex between consenting adults be decriminalised.
2. The charges made out against the arrested staff be dropped, that they be released forthwith and the work of the organisations with the vulnerable population of MSM be allowed to go on without any interference from the police.
3. That NHRC urge the government and state agencies not to discriminate on the basis of sexual orientation. Right to life, health, privacy are basic human rights and need to be treated as such by the state.

We hope that you will give this matter your most urgent attention,

Signed,

To,  
Shri C.P. Thakur, Minister of State,  
Ministry of Health,

13 August, 2001

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On 7 July 2001, the UP police raided the offices and arrested the staff members of Bharosa Trust and Naz Foundation International (NFI) in Lucknow. Both these are organisations working in the area of HIV/AIDS intervention with MSM, in accordance with NACP guidelines. The chief of NACO, Shri Prasada Rao himself released NFI's Situational Assessment Report. Bharosa Trust has also worked with the UP State AIDS Control Society.

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A dharna was held in New Delhi today to bring to the public notice this oppressive action by the UP Police, in light of which we wish to place before you the following demands:

1. True to policy, there be no discrimination against gays, lesbians, bisexuals in state HIV/AIDS intervention efforts
2. The charges made out against the arrested staff be dropped, that they be released forthwith and the work of the organisations with the vulnerable population of MSM be allowed to go on without any interference from the police.
3. The entire state machinery speak in one voice in matters of policy, which include the various commitments made by the government of India in international forums including UNGASS, where it has asserted that MSM form part of its HIV/AIDS intervention efforts.

We hope that you will give this matter your most urgent attention,

Signed,

To,  
Shri Arun Jaitley, Minister,  
Ministry of Law and Company Affairs,

13 August, 2001

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