



THE BAR ASSOCIATION OF INDIA

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8th July, 2021

Statement of Concern on Fr. Stan Swamy

1. The Bar Association of India expresses deep concern and distress at the custodial death of the 84 year-old tribal rights activist and human rights defender, Father Stan Swamy, who was being held in pre-trial detention in Maharashtra.¹
2. Stan Swamy, was arrested from his home in Ranchi by the National Investigation Agency, in October 2020, during the COVID-19 pandemic. He was kept in pre-trial detention at Taloja Central Jail, near Mumbai, for the last 8 months, during which time he also reportedly contracted COVID-19.² Despite his advanced age and deteriorating medical condition, which were exacerbated by the conditions of his incarceration, he was repeatedly, and most unusually, denied interim bail and bail on merits.³ He passed away while his appeal for bail on medical grounds was being heard by the High Court of Bombay.

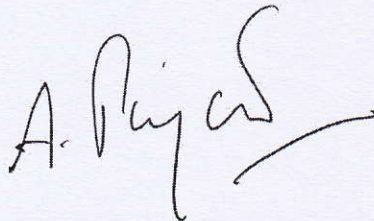
¹Stan Swamy's is death in custody: Waiting for medical bail, ailing 84-year-old passes away, Indian Express, July 6, 2021, <<https://indianexpress.com/article/india/stan-swamy-dead-elgar-parishad-case-7389891/>>

²Fr. Stan Swamy tests positive for COVID-19, The Hindu, May 30, 2021 <<https://www.thehindu.com/news/cities/mumbai/fr-stan-swamy-tests-positive-for-covid-19/article34681377.ece>>

³Elgar Parishad case: Court denies bail to activist Stan Swamy, New Indian Express, March 22, 2021, <<https://www.newindianexpress.com/nation/2021/mar/22/elgar-parishad-case-court-denies-bail-to-activist-stan-swamy-2279898.html>>

3. It is a failure of the Rule of Law and a profound institutional failure where an 84 year-old sick person is held in such a long pre-trial detention, particularly during a global pandemic. Keeping someone of his age and condition in pre-trial custody, far from his home, amounts to cruel and unusual institutional mistreatment. Stan Swamy's custodial death in these circumstances has brought disrepute to the Indian legal system and is a failure of the administration of justice.

4. The Bar Association of India draws attention to the compelling need to ensure adherence to the Rule of Law, and not just rule by law.⁴ Moreover, a legal system lacking in compassion and a humane approach towards pre-trial detention, including sensitivity to the advanced age and health conditions of those incarcerated, falls short of the high values that the Constitution of India articulates, most particularly Liberty and the Right to Life. These ideals are required to be observed even under situations where laws containing anti bail provisions, such as UAPA, are invoked. The Bar Association of India calls upon all institutional actors to uphold the Rule of Law by discharging their duties with regard to the human condition of detainees so that this dark episode is never repeated.



DR. ANINDITA PUJARI
Hony. General Secretary

⁴*Himachal Pradesh Bus Stand Management and Development Authority v. Central Empowered Committee*, 2021 SCC Online SC 15 para 51; *Navtej Singh Johar v. Union of India* (2018) 10 SCC 1, para 376.