

Human Rights Defenders Alert - India

National Coordination Office

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Special Rapporteur on the situation of human rights defenders,
Mrs. Margaret Sekagya
c/o Office of the High Commissioner for Human Rights – Palais Wilson
United Nations Office at Geneva
CH 1211 Geneva 10, Switzerland

Email: urgent-action@ohchr.org

Dear Ma'am,

Sub: HRD Alert - India - Urgent Appeal for Action –India/Assam-Cachar District: A journalist and human rights defender assaulted in Assam and now at risk of life- – Reg Greetings from Human Rights Defenders Alert - India!

HRD Alert - India is a Forum of Human Rights Defenders for Human Rights Defenders. It endeavours to initiate actions on behalf of Human Rights Defenders under threat or with security concerns.

We are now writing to express our grave concern over the assault and intimidation of a journalist and human rights defender Mr. Sibir Ahmed Barbhuiyan in Assam for exposing corruption in government works.

Incident

Name of the Perpetrators: A group of about 12 people led by one Liakat Ali Barbhuiya alleged to be organised by Dr Rumeen Nath – Member of Assam Legislative Assembly and the police abettor Mr. Robin Hazarika, Sub-Inspector of Police, In-charge, Bhangarpar Police Outpost, Borkhola Police Station, Cachar district, Assam

Place of incident: Public road in front of Ashrab Shah Mukam, Sonapur Village, Cachar District, Assam

Date and time of incident: 28 February 2012, about 9.00 pm and onwards

About the activist:

Mr. Sibir Ahmed Barbhuiyan (34 years), son of late Basarat Ali Barbhuiya and a resident of village Chandpur Part-III under the jurisdiction of Borkhola police station (PS) in

Cachar district, Assam is presently working as a local correspondent with the Dainik Jugasankha, a local daily newspaper published from Baidyanath Sarani, Rongpur, Silchar-9. Mr Barbhuiya is also the president of a village level non-government organization named Borkhola Gram Bikash Parishad that aims to work for equitable and sustainable development of the villages in Borkhola block particularly by ensuring proper implementation of the government rural development schemes. It is registered under the Societies Registration Act, 1860 vide No. RS/CA/243/G/32. Besides this he also does a part time job as an insurance agent with the Life Insurance Corporation of India (LIC).

Mr. Barbhuiya was assaulted and attacked while he was returning home after collecting information and taking photographs of alleged irregularities in works under the National Rural Employment Guarantee Act, 2005 (NREGA) in Borkhola development block area. The victim was severely beaten up resulting in him sustaining serious injuries.

The incident happened at a place a little away from the work site at Sonapur Gaon Panchayat (GP) on 28 February 2012 allegedly by workers of a political party. Although the police registered a case against the attackers, instead of investigating the case, they registered another false case against the victim allegedly due to political interference. The victim is still traumatized and cannot go out for work for fear of loss of limbs and life.

Case Narrative:

As per the information received from Mr. Waliullah Ahmed Laskar of Barak Human Rights Protection Committee (BHRPC), on 28 February, 2012 Mr. Barbhuiya went out for works in the morning as usual. After the day's work when he was returning home at about 9.00 pm some job card holders under the National Rural Employment Guarantee Act (NREGA) informed him that the Village Panchayat president (elected head of the village level local government body) Ms Nazima Begum Laskar and its secretary Mr Shew Kumar Pandey caused deployment of Excavator and Tripper machines for soil excavation at the construction work of a village road from Dispur to Ashrab Shah Mukam in Sonapur GP and that the machines were at work at the time.

The work was sanctioned under the NREGA which is an Act of Parliament of India enacted to enhance livelihood security in rural areas by providing at least 100 days of guaranteed wage employment in a financial year to every household whose adult members volunteer to do unskilled manual work. The use of machines in such works

defeats the very purpose of the legislation. The operational guidelines for implementation of the law issued by the Ministry of Rural Development, the nodal ministry of the government of India for implementation of the Act, also categorically say that no contractors and machinery is allowed and a 60:40 wage and material ratio has to be maintained. Therefore, Mr Barbhuiya felt he was duty bound as a working journalist and social worker to capture the evidence of violations of law in camera. Accordingly he went to the work site immediately and shot some photographs.

After taking photographs when he reached Ashrab Shah Mukam, a group of about 12 people led by one Liakat Ali Barbhuiya attacked him. Some of the attackers were identified by him as (1) Liakat Ali Barbhuiya, son of late Mujibur Rahman, (2) Abdul Mannan, (3) Jelu Mazumder, son of Gousul Mazumder, (4) Gousul Mazumder, (5) Anor Uddin, (6) Manjurul Haque, son of Nur Uddin, (7) Babul Ahmed, son of late Mujibur Rahman and other 4/5 unidentified persons. All of them are residents of village Sonapur under Borkhola police station and local workers of the congress party, the ruling political party in Assam. The victim stated that the attackers started beating him and continued to box and punch him till they broke one of his teeth and he fell unconscious. The attackers then took away all his belongings including a camera (canon 14:4), a gold ring (4 Ana), two mobile handsets (Nokia 3110) with SIMs bearing numbers 9401311524 and 9854901235, one HMT wrist watch and Rs. 33,000.00 (thirty three thousand) cash of insurance premium that he collected that day and some important documents etc.

The victim further stated that when he regained consciousness he found himself confined in a nearby house belonging to one of the alleged attackers Gousul Mazumder and he sensed that they were preparing weapons to kill him. At this point in time the officer In-Charge (IC) of Bhangarpar police outpost Mr Robin Hazarika reached the spot who had rushed there after receiving information about the incident and rescued the victim but did not nab the attackers and recover the stolen stuff and thus they fled away at his arrival. Mr Barbhuiya was then taken to a local hospital and later shifted to the Silchar Medical College and Hospital, Silchar (SMCH) where he was admitted in the surgery department and received treatment until he was discharged on 5 March.

The police officer told the victim that he needed to visit the police outpost in order that his complaint was registered while the victim was in severe need of urgent medical

attention. Mr Barbhuiya could not visit the outpost that night as he was at the Sonapur primary health centre (PHC). However, he managed to file a written complaint on 29 February at the Bhangarpar outpost. Still the police did not register the case promptly, let alone take any actions. When the health condition of the victim deteriorated and he had to be rushed to the SMCH on 1 March and the police was repeatedly urged to take actions the Borkhola PS registered a case against the alleged attackers vide Borkhola PS Case No. 29/12 dated 1 March 2012 under sections 341, 326, 506, 379 and 34 of the Indian Penal Code, 1860 (IPC) for wrongful restraint, grievous hurt, criminal intimidation, theft and joint commission of the offences respectively. Sub-inspector of police Mr Robin Hazarika has been made the Investigation Officer (I/O) of the case.

Mr. Barbhuiya, however, alleged that even after registration of the case the I/O did not take any actions against the accused and investigation of the case did not proceed at all. No statements of the witnesses were recorded. No stolen goods were recovered. No arrest of the accused was made though they were roaming free. It is alleged that the police facilitated grant of pre-arrest bail of the accused persons from the Gauhati High Court by sending a biased and false report of the case to the court without investigations. After being repeatedly urged to take actions as per law, the officer told that he could not take any actions as he was asked by Dr Rume Nath, the member of Assam legislative assembly (MLA) belonging to the ruling congress party and representing Borkhola constituency, not to take actions, the victim alleged in his written communication.

The victim believes that the attack on him was carried out at the behest of the MLA who wanted him to be killed because as a scribe he reported at different time stories containing allegations of corruption made by the people against her.

It is also alleged that under political influence the police registered a false case against the victim based on a complaint filed by one Ms Champarun Nessa (aged about 45 years) of village Sonapur Part-I vide Borkhola P.S. Case No. 30/12 under sections 341, 354, 376 and 311 of IPC on 1 March 2012. The sections invoked provide punishment for wrongful restraint, assault or criminal force on woman to outrage her modesty and rape. Although the case involves serious offence of rape the self-proclaimed rape victim was not medically examined and her statement was also not recorded by a judicial magistrate. Thus it is believed that the case against Mr Barbhuiya is absolutely false and malicious,

filed with malafide intention of abusing the legal process to subvert the object of law, to weaken the case against the alleged attackers of Mr Barbhuiya, to harass and intimidate him. In fact, it has become a practice for unscrupulous influential persons to procure some complainants and cause registration of serious offences against human rights defenders and anti-corruption activists.

In view of the position and intent of the people against him and the negligence of the police in their duties and their abetment in harassing and intimidating the victim, he is apprehensive of more attacks and seriously concerned for his life and limbs as well as police harassment on his family members and members of the Borkhola Gram Bikash Parishad. He said he always feels that his life and liberty is at risk as the alleged perpetrators are at large and consequently he could not freely move and work.

It is obvious that the attack was carried out, if not to kill him, to take away the sense of security under which comfort Mr Barbhuiya works legitimately and peacefully both as a journalist and president of the Borkhola Gram Bikash Parishad against corruption and irregularities in implementation of rural development scheme of the government for practical realization of the rights of the people, particularly their social and economic rights.

Appeal

We, therefore, urge you to immediately take necessary steps to

1. Guarantee in all circumstances the physical and psychological security and integrity of Mr. Sibir Ahmed Barbhuiyan and his family members and all members of Borkhola Gram Bikash Parishad and their families;
2. Conduct a prompt, objective and thorough investigation into the alleged assault on Mr Sibir Ahmed Barbhuiya;
3. Initiate a departmental inquiry against the police perpetrators who failed to perform their legal duties in investigating the allegations and the role of MLA Dr Rumeen Nath in the alleged violations of human rights;
4. Conform to the provisions of the United Nations Declaration on Human Rights Defenders, adopted by the UN General Assembly on December 9, 1998, in particular to its Article 12.2, which states that “the State shall take all necessary measures to ensure

the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration”;

5. Provide adequate reparation in terms of monetary compensation to Mr Sibir Ahmed Barbhuiya for loss of his equipments, documents and other valuables and for suffering physical and mental agony;

6. Ensure that human rights defenders in Assam are able to carry out their legitimate human rights works without fear of reprisals, and free of all restrictions including assault by goons and police harassment.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

Hon. National Working Secretary,

Human Rights Defenders Alert - India