



Human Rights Defenders Alert - India

National Coordination Office

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The Chairperson
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: covdnhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Uttar Pradesh: Shooting of tribal leader Mr. Aklu Chero and assault, illegal arrest and detention of Human Rights Defenders by UP Police – Regarding

Greetings from Human Rights Defenders Alert - India!

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

We are now writing to express our grave concern regarding the murderous assault on tribal Human Rights Defender Mr. Aklu Chero and illegal arrest and detention of Human Rights Defenders Mr. Gambheera Prasad (President, Kanhar Dam Virodhi Sangarsh Samiti, Sonbhadra), activists Mr. Pankaj Gautam and Mr. Asarsi Yadav by the Uttar Pradesh police for protesting against the Kanhar Dam construction.

Source of Information on the Incident:

- The Regional Coordinator of HRDA for the North of India
- Media reports

The Human Rights Defender:

Mr. Aklu Chero is an active member of Kanhar Dam Virodhi Sangarsh Samiti, Sonbhadra, Uttar Pradesh which is a people's organization formed in 2002 to protest

the construction of Kanhar Dam which will submerge 87 villages on completion. He has been fighting for the rights of the poor tribal villagers of the region whose livelihood is affected by the dam. Mr. Aklu Chero has been involved for over 6 years now in mobilizing and educating the tribal people to defend their rights.

Mr. Gambheera Prasad is the President of Kanhar Dam Virodhi Sangarsh Samiti, Sonbhadra and is leading the movement against the dam construction.

Mr. Pankaj Gautam and Mr. Asarsi Yadav are active members of the Samiti.

The Perpetrators:

Uttar Pradesh Police – Mr. Kapil Dev Yadav of Duddhi Police Station, Sonbhadra in particular

Date of Incident:

14th of April, 2015

Place of Incident:

The Kanhar Dam Site in Babin block in the Sonbhadra District of the Northern Indian State of Uttar Pradesh

Incident detail:

According to the sources, on the 14th of April, 2015 Mr. Aklu Chero, a member of the Chero Parhaiyya tribe and resident of Sundari village was shot from point blank range by Inspector Mr. Kapil Dev Yadav of Duddhi police station in Sonbhadra, Uttar Pradesh. It took place at the Kanhar dam project site, 13 kilometres from Duddhi town where tribal villagers were protesting against the dam project under the banner of Kanhar Dam Virodhi Sangarsh Samiti, Sonbhadra, Uttar Pradesh.

According to sources the police inspector fired three shots, one in the air, one shot at Aklu Chero with the intention to kill him and one shot at his own hand to establish that he was attacked by the protesters and he opened fire in self - defense. The bullet pierced through the upper left part of Mr. Chero's chest and came out from the back. He was rushed to the city hospital from where he was referred to the Benaras Hindu University hospital. Mr. Chero barely managed to survive this attempt on his life. He was asked to be admitted in the hospital for 45 days for treatment. The villagers have preserved the spent bullet shells. Mr. Chero has been provided any

financial help by the district administration for his treatment. Villagers are collecting money to help him.

The sources also claim that two defenders who accompanied Mr. Aklu Chero to the Benaras Hospital went missing. After the protest and intervention by Mr. Sandeep Pandey (Roman Magsasay Awardee), the district magistrate came out with an order. The two missing defenders are suspected to be in police custody. In the incident 16 women human rights defenders were also injured. Mr. Gambheera Prasad, the President of Kanhar Dam Virodhi Sangarsh Samiti, Sonbhadra, Uttar Pradesh who is representing the case against the dam in UP High Court was arrested by the Special Task Force, UP police from Allahabad on 21st April along with activist Mr. Mr. Pankaj Gautam village Korchi, Duddhi and Mr. Asarsi Yadav of Bhisur village who were picked from Robertsganj. They have not been granted bail so far. Another activist Mr. Shiv Prasad Kharwar has been reported missing after the police action.

Background to the incident:

The villagers are against the project as it will destroy around 2,500 hectares of dense forests and submerge 87 villages once it comes up. Tribes like Bhooinus, Kharwars, Gondhs, Cheros and Panikas who dominate the region have also not been informed about the environmental and social impacts of the project as mandated by laws.

In 1973, the Central Water Commission proposed a dam on the Kanhar river which originates in Chhattisgarh, passes through Jharkhand and then enters Uttar Pradesh. The Kanhar dam project was first conceived in 1976 to provide irrigational facilities to Dudhi and Robertsganj tehsils of Sonbhadra district in southeast Uttar Pradesh. Land was partially acquired between 1978 and 1982 and people received compensation at the time. However, the project remained a non-starter due to the alleged non-availability of funds for several years.

The Uttar Pradesh government finally started construction work on December 5, 2014. Nineteen days later, the National Green Tribunal (NGT) stayed further construction at the dam site after a petition was filed before it by Debadiyo Sinha. Sinha alleged that the project could not be started based on clearances obtained in the 1980s. It required a fresh assessment taking into account the significant environmental changes which occurred in the past 30 years, he argued.

As part of protest against the state government's decision, the gram sabhas of all the affected villages also filed a petition in the Allahabad High Court regarding discrepancies in the land acquisition process.

In January 2015, Sinha approached the court with a contempt petition against the Uttar Pradesh government for its non-compliance with the NGT's directive. On February 4, 2015, NGT sought a reply from the state government, but the latter failed to comply within the stipulated 10-day period.

On February 21, NGT sought a report from the Union environment ministry within a week and set March 4, 2015, as the final hearing date, according to news reports. At this hearing, the project proponent was asked to produce the forest clearance report. Since the state government failed to do so, NGT granted them time to produce the valid forest approval at the next hearing on March 12, 2015.

However, for the second time in a row, the ministry failed to comply with the green body's directive. It was first asked to submit a compliance report on February 19 about the progress made by the UP government on the Kanhar dam construction. The matter was reserved for judgement by NGT in its order dated March 24, 2015.

Appeal :

We, therefore urge you to immediately take necessary steps to ensure that the Superintendent of Police and the District Collector and District Magistrate of Sonbhadra

- Order an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned events of attempt on the life of Mr. Aklu Chero and the arrest, detention and assault on the other protestors of the Kanhar Dam project.
- Take immediate action on the perpetrators for the attempt on the life of Mr. Aklu Chero and the arrest, detention and assault on the other protestors of the Kanhar Dam project and using all provisions of law, ensure that the defenders are not harassed or assaulted in future.
- Guarantee in all circumstances the physical and psychological integrity of Mr. Aklu Chero and others who are still under risk of further attacks from the perpetrators.

- Ensure provision of reparation, compensation, apology to the defenders for the physical and psychological sufferings they underwent because of the assault and provide a re-assurance of not engaging in such acts against HRDs such as Mr. Aklu Chero and the others;
- Put an end to all acts of attack and harassment against all human rights defenders like Mr. Aklu Chero in the State of Uttar Pradesh to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;
- Takes steps to conform to the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, especially:
 - Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels
 - Article 12.2, which provides 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”;
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Uttar Pradesh to also take necessary steps to establish a state focal point for HRDs in order that HRDs in the have a new protection mechanism in their own state.
- Recommend urgently and speedily during the pendency of this complaint, the SHRC in Uttar Pradesh to convene a meetings of all state human rights institutions in the state [women, minorities, right to information, disability, children etc] to ensure that a co-ordinated strategy is developed within the State of Uttar Pradesh for the protection of the rights of human rights defenders.

- Recommend urgently and speedily during the pendency of this complaint, the State Government of Uttar Pradesh in collaboration with the NHRC Focal Point on HRDs and the SHRC Uttar Pradesh to provide sensitization training to law enforcement and security forces on the role and activities of human rights defenders as a matter of priority, with technical advice and assistance from relevant United Nations entities, NGOs and other partners.
- Recommend urgently and speedily during the pendency of this complaint, the State Government of Uttar Pradesh in collaboration with the SHRC Uttar Pradesh to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others, promote[s] and strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (Art.1 of the Declaration on Human Rights Defenders).
- More generally, ensures in all circumstances the respect for human rights and fundamental freedoms in accordance with in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India.

Looking forward to your immediate action in this regard,

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath.

Henri Tiphagne
Honorary National Working Secretary