



Human Rights Defenders Alert – India

National Coordination Office

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January 26, 2016

To

Shri A. K. Parashar

National Focal Point - Human Rights Defenders & Joint Registrar

National Human Rights Commission

Manav Adhikar Bhawan, Block-C, GPO Complex, INA,

New Delhi – 110 023

Email: hrd-nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India – Urgent Appeal for Action – Chhattisgarh: Seeking Hon'ble National Human Rights Commission's intervention in respect of continued incarceration, persecution and harassment of journalists and human rights defenders, Mr. Somaru Nag and Mr. Santosh Yadav of South Chhattisgarh by Chhattisgarh police and administration – 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 express our deep concern over the lengthy arbitrary detention and custodial harassment of two journalists of South Chhattisgarh Mr. Somaru Nag and Mr. Santosh Yadav who have been held in prison of Chhattisgarh since July and September 2015 respectively, in connection with their legitimate work. Recently on January 7, 2016 a trial court denied bail to Mr. Santosh Yadav again.

Mr. Somaru Nag, an Adivasi journalist with the Rajasthan Patrika was arrested on July 16th 2015. He has been languishing in a prison of Chhattisgarh ever since he was arrested and charged under the Indian Penal Code and the Arms Act. Arrested in September 2015, Mr. Santosh Yadav has been charged under the Indian Penal Code, the Arms Act, the Unlawful Activities Prevention Act and the Chhattisgarh Public Security Act (CPSA). There is no clarity as to the charges against them, or the evidence which the police hold about their alleged involvement with Maoists. Mr. Somaru Nag was charged with keeping a look out on the movements of the police, while a group burnt a crusher plant employed for road construction in Chote Kadma on 26th June, 2015.

Mr. Santosh Yadav's name was added in a case where 18 villagers were arrested and charged with an encounter, which took place on 21st August 2015 during a road-opening operation by the security forces in which a Special Police Officer was killed. It is alleged that police had been harassing Mr. Santosh Yadav for several months, ever since he began reporting on the conflict between the police and the Maoists.

The arrests and continued incarceration of the two journalists have only brought to the fore the extremely difficult and hostile environment for journalists who are reporting from these conflict areas, in particular journalists who live and work in rural areas. The situation in Chhattisgarh remains dramatic with journalists, social activists and human rights defenders several of them either imprisoned, exiled or silenced.

The arrests of Mr. Somaru Nag and Mr. Santosh Yadav have contributed in injecting a deep sense of insecurity amongst journalists in the state and a fear that, not just their work, but their own lives, will be in danger if they venture out to do any independent investigation, or stories that are critical of either the security forces or the Maoists. Either way, they face a threat, and these arrests suggest that journalists cannot expect any protection under the law from police and security forces.

HRDA anticipates that there is a grave apprehension about the safety of the two arrested journalists. HRDA would most humbly highlight that draconian provisions of the Chhattisgarh Public Security Act are being misused to criminalise the work of journalists, who are reporting on the legitimate issues and grievances of people. We would like to point out that a complaint petition from HRDA regarding the arrests was filed in your good office on 4th October, 2015.

Therefore, in the light of above mentioned facts and circumstances, HRDA most respectfully appeals that this Hon'ble Commission to urgently:

- Intervene in the matter of journalists and human rights defenders, Mr. Somaru Nag and Mr. Santosh Yadav under section 12(b) of the Protection of Human Rights Act (1993) which empowers the NHRC to intervene in any proceedings involving any allegation of violation of human rights pending before a court, with the approval of such court;
- Orders an immediate, thorough, transparent, effective and impartial investigation by the NHRC investigative wing into the above-mentioned cases of illegal arrests and detention of the human rights defenders under section 17 (i) (a) of the Protection of Human Rights Act (1993) which empowers the NHRC "if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own";

- Takes necessary steps to ensure that the two defenders are released immediately and unconditionally from prison and the cases filed against them are withdrawn and the complaint is entrusted to a Special Rapporteur to handle as an investigator on behalf of the Hon'ble Commission;
- The immediate appointment of a competent senior lawyer practicing on the criminal side in the state of Chhattisgarh to defend the HRDs in all the criminal cases registered against them at state cost with the counsel so appointed reporting to this Hon'ble Commission in periodic intervals as determined by the Hon'ble Commission on the development in these cases;
- Guarantees in all circumstances the physical and psychological integrity of Mr. Somaru Nag and Mr. Santosh Yadav who are still under risk of further reprisals from the perpetrators and ensure that all human rights defenders under detention are granted access to appropriate medical care;
- Ensures provision of reparation, compensation, apology to the defenders for the physical and psychological sufferings they are undergoing because of their long incarceration and provide a re-assurance of not engaging in such acts against HRDs such as Mr. Somaru Nag and Mr. Santosh Yadav;
- At this juncture, we most humbly would like to recall to the hon'ble commission about the recommendation by the previous UN Special Rapporteur on HRDs, Ms. Margaret Sekaggya after her visit to India in 2011. Specific to the functioning of NHRC and its responsibility to protect HRDs she recommended that –
 - (153) The supportive role of the Commissions for human rights defenders should be strengthened by inter alia, conducting regular regional visits; meeting human rights defenders in difficulty or at risk; undertaking trial observations of cases of human rights defenders wherever appropriate; denouncing publicly on a regular basis violations against defenders and impunity. The defenders focal point should play a leading role in that regard. This focal point should be a member of the Commission, and have a human rights defender background to fully understand the challenges faced by defenders. A fast-track procedure for defenders within the National Human Rights Commission and State Human Rights Commissions should be considered;
- In this particular case concerning HRDs Mr. Somaru Nag and Mr. Santosh Yadav, we appeal to the NRHC to stand by the HRDs. We also humbly submit that as journalists they were merely peacefully exercising their right to freedom of expression and therefore, their arrests are unlaw-

ful and unjustified. We urge you to take steps to declare their arrest and continued detention a gross violation of their human rights, including the right not to be arbitrarily detained as protected by Article 9 of the International Covenant on Civil and Political Rights (ICCPR) and their rights as human rights defenders as protected under the United Nations Declaration on Human Rights Defenders of 1998.

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 it.

(Henri Tiphagne)

Honorary National Working Secretary