



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

## NATIONAL SECRETARIAT

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**Ref No:- HRDA/North East/MN/5/8/2018**

**August 22, 2018**

**To**

**Shri Srinivasa Kammath**

National Focal Point - Human Rights Defenders & Deputy Registrar

National Human Rights Commission

Manav Adhikar Bhawan,

Block-C, GPO Complex, INA,

New Delhi – 110 023

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**Subject: Urgent Appeal for Action by Human Rights Defenders Alert (HRDA)  
– Imphal – Manipur.**

### IN THE MATTER OF

1. August 9, 2018: Arbitrarily arrest, detention and illegal charges against Kishorchandra Wangkhemcha, Anchor and Sub-Editor of Information Service Television Network (ISTV), Imphal, Manipur
2. August 12, 2018: Handcuffing of the journalist while taking him to the Jawaharlal Nehru Institute of Medical Sciences for medical check-up.

**Dear Sir,**

**Greetings from Human Rights Defenders Alert - India!**

HRD Alert, India is a forum of Human Rights Defenders working towards protection and promotion of Human Rights Defenders. It endeavors to initiate action/s on behalf of Human Rights Defenders under threat or with security concerns.

We are writing to express our grave concern over arbitrarily arrest, detention and levelling of illegal charges against Kishorchandra Wangkhemcha, Anchor and Sub-Editor of Information Service Television Network (ISTV) for his Facebook post regarding state government's response to present crisis in Manipur.

<b>Source of Information:</b>	The Coordinator of HRDA for the North East of India; HRD of Manipur, statement of the victim and the media reports;
<b>The Perpetrator:</b>	Konthoujam Bobby, Officer In-Charge, Imphal West Police Station, Manipur and Government of Manipur and Sajiwa Jail police
<b>Date of Incident:</b>	August 9, and 12, 2018
<b>Place of Incident:</b>	Imphal West Police Station

**Background of the incident:**

Manipur University (MU) has been virtually shut down since May 31, 2018 following an indefinite strike by Manipur University Students Union (MUSU) demanding the removal of its Vice Chancellor (VC) Aditya Prasad Pandey (VC is a person having good political support and connection with the Central government in Delhi).

Several rounds of talks between the representatives of MUSU, MUTA, MUSA and Chief Minister of Manipur, Governor of Manipur, representatives of Government of India were held but no amicable solution was achieved till the signing of Memorandum of Understanding between the MUSU, MUTA, MUSA and official of Human Resource Development, Ministry, Government of India in presence of the Chief Minister of Manipur.

Till today, various forms of agitation including rally hunger strike, torch rally, sit-in-protest is organising and group of students who marched towards Chief Minister's office and BJP Manipur office were manhandled and brutally beaten by the police. Temporary tents built in front of the Manipur University where students, teachers, staffs and other local supporter used to hold protest was destroyed by the police in the pretext of violating prohibitory order under section 144 of Code of Criminal Procedure (CrPC). No protesters who support the demands of students are allowed to carry out any forms of democratic protest.

To counter the protest of students, some fringe groups with the support of the present government were instigated to take out massive rallies against the protesting students of Manipur University at various places without any prohibition from the police. It is important to mention here that these rallies were taken out at hyper sensitive zones without any disturbances despite their being application of prohibitory order under section 144 of CrPC in those areas.

Police were busy safeguarding the rallies of the fringe group which was carried out against the students. It is in this context that several people wrote/commented on social media against the government sponsored rallies. Towards this, Kishorechand Wanghemcha, a well-known TV anchor hosted a 30 minutes program on this issue on a local news channel, ISTV.

Of all the comments made against the government sponsored rallies Mr. Kishorechand Wanghemcha was the only person who was picked up by the police

illegally with an ulterior motive from the higher authorities and was charged under Section 500 and 505 (2) of the Indian Penal Code under which the Police has no authority to register a case / FIR without obtaining prior permission from the Magistrate.

#### **Details of the Incident:**

On 9 August 2018 the Anchor and Sub-Editor of Information Service Television Network (ISTV), Kishorchandra Wangkhemcha was meeting some of his old friends after his official work in the evening. At around 8:05 pm he received a call from Konthoujam Bobby, the Officer in Charge of Imphal West Police Station. The OC called him to come to over to Imphal West Police Station immediately for some urgent matter without mentioning the reason of calling. At around 10 pm he went to Imphal West police station along with his two friends.

He met OC, Konthoujam Bobby and asked him about the phone call. The OC then informed him about the matter related to the comments posted in his Facebook on 7<sup>th</sup> August 2018. He informed the OC that in his FB post he criticized the present government's response to state crises, there was nothing in the comments that incited communal tension in the state. He wrote this following post in his FB profile based on the background cited above,

“As they are very fool, that's is the very reason why they are called Budhu Joker Party (laughing symbols) tail less jokers. There is a story of counter protest planned by the MLA's brother party, also there is a story of instructions given from top brass to the police to insure safeguard of the rally. This is a rally by the slave of non-local/outsideers who drinks urine of cow and eat cow dung. Don't they have guts to find any means way out rather than licking outsideers ass, the rally is not organised by the government but rather sponsored” (Translated from local language).

The police officer then informed Kishorchandra that he was instructed by the higher authority to arrest him and he further told Mr. Kishorechand that he can talk to Ministers, who are his close friends and could help him with his release. Later at night, Mr. Kishorchandra was informed by the police that he could not leave the police station and that he had to be arrested and detained under police custody of Imphal West Police Station.

Next day morning i.e. on 10 August 2018, he was made to sign a document in the police station before being taken to the court. He was produced before the Chief Judicial Magistrate (CJM) at around 3:30 pm. The Imphal West Police filed a suo moto case against him, charging him under **IPC sections 505(2) and 500 with FIR No. 173(8)2018 IPS, U/s 505(2)/500 IPC**. His wife tried for his bail, but the bail move was denied and announced 15 days judicial custody in Sajiwa Jail. Thereafter from 10 August 2018 onwards he was kept under judicial custody.

After 2 days of detention under judicial custody, on 12 August 2018 he was tutored to complain of chest pain, headache, breathing problem, exhaustion and dizziness by the Jail Doctor in order to get released from the jail. He was so helpless that he had no option but to follow the advice of the Jail Doctor. The jail doctor prepared a document stating the above health complaints and later referred to Jawaharlal Nehru Institute of Medical Sciences (JNIMS). The police officials took him to JNIMS by **handcuffing** him at around 11 am. The whole medical checkup was planned so that the doctors could make a report of sickness in his case.

On 13 August 2018 at around 10 am he was released on condition of executing the **“personal bond of Rs. 50,000 and surety of Rs. 50,000.”** He was also directed to be present in person in the Court on the 24<sup>th</sup> August, 2018 as stated in the Form of Release Order, Memo No. CJM/IW/2018/715, dated 12/08/2018.

### **Appeal**

We, therefore urge you to immediately take steps and exercise powers granted under the Protection of Human Rights Act 1993 and:

- Order an immediate, thorough, transparent, effective and impartial investigation through NHRC's investigation wing into the above-mentioned incident of arbitrary detention and arrest of the defender by the OC of Imphal West Police Station.
- Take immediate legal action on the perpetrator, in this case, OC of the Imphal West Police Station who arrested the defender on an oral note without producing arrest warrant and also the jail doctor who asked to report false sickness so as to release him from the jail.
- Take immediate legal action against the perpetrator, in this case, OC of the Imphal West Police Station and Sajiwa Jail police who handcuffed Mr.

Kishorchandra while taking him for medical checkup at Jawaharlal Nehru Institute of Medical Sciences. Handcuffing like a very hard-core criminals in public while producing before court is a clear violation of the Supreme Court judgment of Prem Shankar Shukla V. Delhi Administration (**Annex**).

*(Annex: In the Supreme Court judgments such as Prem Shankar Shukla V. Delhi Administration, AIR 1980 SC 1535, that the police shall not handcuff or use handcuffs in a routine manner, it must be used only when there is a danger of the prisoner becoming violent or when the person being arrested is likely to escape from custody.)*

- Ensures provision of reparation, compensation, apology to the defender for this deliberate, ulterior motive to harass, shame, humiliate and defame the life and career of the defender who is also a public figure that causes psychological trauma and destroying the integrity and sanctity of the personal life of the defender and family during the course of the arrest.
- Puts an end to all acts of harassment against all human rights defenders in general in Manipur to ensure that in all circumstances they can express their opinion, carry out their activities without any hindrances;
- Take appropriate steps to maintain peace, law and order situation of the state without violating the fundamental rights of freedom of expression and assembly;
- Conform with 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 Manipur to be made functional and then to also take necessary steps to establish a focal point for HRDs in Manipur in order that HRDs in Manipur have a new protection mechanism for them;
- Recommend urgently and speedily during the pendency of this complaint, the Government of Manipur in collaboration with the NHRC Focal Point on HRDs 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 Government of Manipur 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); and,
- More generally, ensure in all circumstances the respect for human rights and fundamental freedoms in accordance with the Universal Declaration of Human Rights and with international human rights instruments ratified by India is strictly adhered to in Manipur.

Looking forward to your immediate action in this regard,  
Yours sincerely,



(Henri Tiphagne)  
National Working Secretary