



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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To

Mr. Khaleel Ahmed

National Focal Point - Human Rights Defenders & Deputy Registrar
National Human Rights Commission
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023
Email: hrd-nhrc@nic.in cr.nhrc@nic.in

Dear Sir,

Sub: HRD Alert - India - Urgent Appeal for Action – Gujarat: intimidation, harassment, illegal detention and arrest under fabricated cases filed against human rights defenders and Adivasis – Regarding

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 writing to express our grave concern regarding the intimidation, harassment, illegal detention and arrest under fabricated cases filed against human rights defenders and Adivasis in Kevadiya, Rajpipla, Narmada district, Gujarat.

Source of Information on the Incident:

- Communication with the concerned HRDs
- Media sources
- HRDs in the region
- The Regional Coordinator for the West of India

About the Human Rights Defenders:

- Mr. Rohit Prajapati is the National Secretary of Peoples Union for Civil Liberties (PUCL)
- Mr. Krishnakant Chauhan is a member of the Paryavaran Suraksha Samiti (PSS) and National Alliance of People's Movement (NAPM)
- Dr. Praful Vasava (Rajpipala), Tribal Leader
- Mr. Ramkrishna Tadv (Gora)
- Mr. Shailesh Tadv (Wagadiya)

- Mr. Narendra Tadvı (Kevadiya)
- Mr. Jıkubhai Tadvı
- Mr. Naresh Tadvı (Kevadiya)
- Mr. Lakhanbhai Musafir, a local activist.
- Mr. Sudhamshu Mitra is based in Bangalore and was in Kevadiya to document the impacts of tourism development through the organisation he works for called the 'Equitable Tourism Options'. He was video and photo documenting the protest.
- The other seven are Adivasis (between 23 to 55 years in age) from Kevadiya village and were part of the peaceful protest to demand land rights -
 - Jayeshbhai Laxmanbhai Tadvı
 - Jigneshbhai Shantılal Tadvı
 - Ishwarbhai Jagubhai Tadvı
 - Nanubhai Rajubhai Tadvı
 - Ratılal Bamanbhai Tadvı
 - Sachinbhai Balubhai Tadvı
 - Jyotindrabhai Shantılal Tadvı

The Perpetrators:

- Mr. CM Gamit, Police Sub inspector, LCB Narmada who filed the false FIR
- Mr. Parmar, Police Sub Inspector, Kevadiya, the acting officer between October 31, 2019 to November 2, 2019
- Superior police officers who ordered the detention and arrest

Date of Incident:

- October 30, 2019 to November 3, 2019

Place of Incident:

- Rajpipala (District headquarters of Narmada District) and Kevadiya Village, Gujarat

Incidents:

This section has two parts. One for those arrested and kept in Amletha Police Station and those arrested and kept in Rajpipala Police Station.

Part – I

On October 30, 2019, Mr. Rohit Prajapati, the National Secretary of PUCL, reached Rajpipala around 11 am and went to the Rajpipala Social Service Society (RSSS). At 1.15 pm, Mr. Krishnakant reached Rajpipala and met Mr. Rohit at the RSSS. While they were having lunch, two police personnel came asking for Mr. Rohit, and stated that their senior officer wanted to meet him.

As soon as they boarded into the police jeep, they were asked to switch off their phones and hand them over. The accompanying police personnel were constantly over the phone

with their senior officers, seeking instructions on the next steps. On the way to Jeetnagar (District Police Training Centre), one of the police personnel received a call with the instruction to proceed to Rajpipala Town police station. However, the instruction was changed through another call and they were asked to proceed to the Jeetnagar District Police Training Centre. Mr. Rohit and Mr. Krishnakant were then kept in the training hall at the centre. No reasons for their detention was provided and they were not even told about the grounds of detention, under which sections of law were they being held and if there are any charges against them. They were strictly prohibited and restricted from making any phone calls. Every query and request made by them was responded with one reply "We have orders from above".

At about 3 pm, Dr. Praful Vasava (Rajpipala), a Tribal Leader and Ramkrishna Tadv (Gora) were brought to the Jeetnagar centre. At about 3.45 pm, Mr. Shailesh Tadv (Wagadiya), Mr. Narendra Tadv (Kevadiya) and Mr. Jikubhai Tadv were also brought there. Later Mr. Naresh Tadv (Kevadiya) was also brought. It is to be noted that none of the eight activists illegally detained on 30th October 2019 were told about the grounds of their detention. Later through Mr. Naresh, the other HRDs learnt that the Local Investigation Bureau (Local Investigation Bureau) personnel were following him since October 28, 2019.

The following day, on October 31, 2019, being the date of the function at Statue of Unity, around 12 noon, ten men and twenty two women were arbitrarily picked up and brought in a police bus to the Jeetnagar centre. At about 3 pm, eighteen women were brought and kept at the Jeetnagar centre the whole day. At about 6 pm, they were told that they would be released, however at about 7:45 pm they were put into a police bus. The women were put in a separate bus and were released at Kevadiya. The bus with eighteen HRDs and other Adivasis was taken to the Rajpipala Police Station where ten of those detained on the October 31, 2019, were asked to de-board. The eight who were in detention from October 30, 2019, were taken to Amletha Police Station, and put up for the night there.

The next day on November 1, 2019, at 3 pm, the activists arrested on October 30, 2019, were taken to the Mamlatdar (tehsildar) Office at Rajpipala and three of them Dr. Praful, Mr. Rohit and Mr. Krishnakant were released on a bond of Rs. 3000. It is at this juncture they were told they were arrested under Section 151 of the Criminal Procedure Code (CrPC). They were under detention in police custody for about 48 hours. Their phones

were handed over to them only before leaving the Amletha Police Station for Rajpipala Mamlatdar office.

Part – II

On October 31, 2019, at 8:00 am, a few local Adivasis (men and women) including Mr. Lakhan Bhai (local resident) and Mr. Sudhamshu Mitra were walking alongside Narmada River. They were far away from the 'Statue of Unity' amidst the agricultural fields and were raising slogans, wearing paper caps which had slogans written on them and a few placards with slogans, registering their dissent and protests peacefully. The slogans were focused on - demanding land rights, expressing that they want to save Narmada River and their lands, asking for their lands to be given back, asking for employment, and that they will stay united, and they will fight for their rights. Mr. Mitra was video and photo documenting the protest.

A few more Adivasis joined them and were walking towards the river banks with no intention to disrupt the function at the 'Statue of Unity' or to go towards the road to disrupt traffic or peace. The entire protest was happening in a peaceful manner with the Adivasis taking the soil from the fields into their hands to say that they are protecting their lands and held the soil in their hands while they were walking alongside the river.

Around 10.30 am, the LIB and other officers came and asked them to stop the rally. They also asked Mr. Mitra not to take videos and photos. He was asked to stop using his phone and was forced to switch it off. He insisted that there is no legal basis for such actions.

Even when these officers were there, it is learnt that the Adivasis continued with some of the protest slogans and also talked about how they were on their lands and they were protesting peacefully. At no point did any of them push and shove the officers present or use abusive language against them. They cooperated with them peacefully even when they said they would be detained. They asked for women officers to be present. When they sent in the women officers, they were taken towards the main road. At no point was there any violence involved - either verbally or physically.

Mr. Lakhan and Mr. Mitra were put in a jeep along with some officers and the rest of the Adivasis (eight men and twenty women) were put in a police van. They were driven to the Jeetnagar centre (where HRDs detained on the previous day were present) and detained with no explanation of the grounds of the same.

At 7:45 pm all the men and women were put in separate vans. On the way back, ten men were asked to de-board at the Rajpipla Police Station, one person was allowed to walk free and the nine others were taken inside the police station including Mr. Lakhan and Mr. Mitra. The forty Adivasi women who boarded the other bus were also released at Kevadiya. In addition, the other activists and locals who were detained on October 30, 2019, were taken to the Amletha Police Station and detained there till the following day.

At the Rajpipla Police Station, the PSI Mr. Parmar, explained that an FIR (I/0039/2019) is being filed and asked the nine men to sign sheets which had the sections written on it (Sections - 143, 147, 186, 353, 504, 506 (1) of the Indian Penal Code). The detained requested for the sections to be explained and when the PSI explained, they expressed that they haven't done any violent activities but were told that they will get bail the next day and that they can fight it out in the court. They had to request multiple times to call a lawyer or a relative. Only after multiple requests the police officials at the Rajpipla Police Station made a call on behalf of the detained.

It is pertinent to mention here that all the charges are non-cognizable and bailable and none carrying a conviction period of over two years. There are clear guidelines from the Hon'ble Supreme Court in the case of *Arnesh Kumar v State of Bihar* where rules have been laid that it is not necessary to arrest a person for offences which are punishable for less than 7 years of imprisonment. Action by the police is in clear violation of the law of the land.

It was told to the police multiple times that Mr. Mitra is a researcher from Bangalore and was only there to document the local situation and had a flight the next day, the police mentioned that they cannot do anything since they had orders from above. They were put in the lock up that night at the Rajpipla Police Station which was small and dirty. Even the toilet in the lockup was stinky and unclean, but they were forced to spend the night for no legitimate cause.

On November 1, 2019, at around 10 am, the same PSI came to the police station and called each of them, one by one and asked for their details such as name, parents name, occupation and what they were doing which he wrote in his note book. They were asked to explain their activities before October 31, 2019. After this, each of one of them were asked to give their fingerprints and their photos for the FIR.

Between 12 noon to 12.30 pm, the police produced them before a magistrate and were granted bail by around 2.30 pm. The police wanted to keep them in the lock-up without any due process and they also sought a five-day remand arguing against the bail but since there were no grounds, they could not succeed.

After the bail, around 3-4 pm, they were taken back to the Rajpipla Police Station without explaining the grounds for the same and were forced to sign sheets which said they are applying Sections 151 and 107 of the CrPc. None of them were not told any reasons for doing this after the bail was granted. The PSI was questioning all of them and writing down in his note book information regarding the protest held. Mr. Lakhan told him that the Adivasis were protesting away from the 'Statue of Unity', roads and helipad etc. They were on their own private property in a peaceful protest and had no intention to disrupt anything or caused any disruption. They were only exercising their fundamental rights guaranteed by the Indian Constitution. Within a matter of a few minutes, they were all put inside the lock up once again and were kept here till the next day.

On November 1, 2019, until 7 pm, the police officials hadn't officially detained any bags and phones. The nine arrested had no option but give away the personal items to the local adivasis who had come from Kevadiya village. They were the same ones who gave the surety bond for the bail. Mr. Mitra and Mr. Lakhan's bags were given to two people, who didn't leave the police station immediately. After sometime, the officials asked the persons who had the bags, to deposit the same at the police station barring the wallets.

Upon enquiring, Mr. Lakhan and Mr. Mitra understood that the officials had confiscated their bags including phones. The persons who submitted the bags were made to sign on something which they did not know and were also not told the reasons for confiscation of the bags.

Within an hour, the PSI over a phone call directed the local constable to get the pin codes/patterns for the phones of Mr. Lakhan and Mr. Mitra. When asked by the constable, they both rightly refused. He spoke to both, Mr. Lakhan and Mr. Mitra directly on the phone and again asked for the phone pattern/pin codes. They said they will not give them, to which the PSI replied that he will figure a way out. It seemed like the phones may be used either to erase evidences (photos and videos that were taken of the protest on October 31, 2019) or to concoct more cases.

On November 2, 2019, around 12 noon, the nine arrested men were then taken to the Mamlatdar Office in Garudeshwar and an interim release for 15 days for CrPC Sections 151 and 107 was granted and they were asked to be present again on November 18, 2019.

After this around 2pm, Mr. Lakhan and Mr. Mitra went directly to the Kevadiya Police Station and requested for their bags to be returned, which they received. Their phones were not returned and when they enquired with the PSI, he explained that they were confiscated under the IPC sections. Mr. Lakhan explained that the phones were taken when they were arrested under sections 151 and 107 of the CrPC and not when they were put in lockup under the FIR to which the PSI even whilst admitting to the same, refused to hand the phones back. Throughout all of these incidents, police officers continued to mention that they had orders from above and they were just following it.

The nine men had to demand multiple times to get the lockup cleaned. They also insisted that they could clean the lock up too since it was dirty with gutka spit on all sides and the toilet hadn't been cleaned for a while. After multiple requests, the lock up was cleaned a bit. They weren't given any order or document regarding the preventive detention too.

Appeal

Considering the gravity of the matter, on account of the gross infringement of the fundamental rights enshrined in Article 19 of the Indian Constitution guaranteeing the right to peacefully assemble and express dissent and the illegal and arbitrary detention and criminalisation of HRDs by the police in misuse of provisions of the law, we urge you to immediately take necessary steps, and:

- Order constitution of an independent team to undertake an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incidents of intimidation, harassment, illegal detention and arrest under fabricated cases filed against human rights defenders and other Adivasis. The fact-finding team should –
 - Record the statements of the affected HRDs and Adivasis who were detained and arrested.
 - Obtain copies of the FIRs registered against the HRDs and Adivasis and, if Section 107 of the CrPC is applied, also produce a true copy of the Executive Magistrate's order.

- o Summon production of general/daily diary register showing entries of the Rajpipla and Amletha police stations between October 30, 2019 – November 3, 2019.
- o Summon production of Wireless log book record of the Rajpipla and Amletha police stations between October 30, 2019 – November 3, 2019.
- o Summon production of Wireless log book record of the district police wireless headquarters between October 30, 2019 – November 3, 2019.
- o Summon production of Log book records between October 30, 2019 – November 3, 2019 of government vehicles used by all police officers in Narmada District.
- o Summon production of Call Details Records (CDR) between October 30, 2019 – November 3, 2019 of all mobile phones used by all the police officials in Narmada District.
- Take measures to ensure that HRDs Mr. Lakhan Bhai and Mr. Sudhamshu Mitra are immediately returned their mobile phones back safely and the mobile phones are not tampered with.
- Take measures to immediately withdraw all false and fabricated cases against the human rights defenders and Adivasis.
- Take immediate punitive and disciplinary actions on the perpetrators using all provisions of law.
- Take measures to ensure that the human rights defenders and Adivasis are not harassed or attacked in future and provide a written re-assurance from the state officials of not engaging in such acts against HRDs and Adivasis for exercising their fundamental rights.

Looking forward to your immediate action in this regard,

Yours sincerely,



Henri Tiphagne

Honorary National Working Secretary