



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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Ref No: HRDA/North/UP/06/02/2020

February 10, 2020

To

Mr. Debindra Kundra

National Focal Point - Human Rights Defenders & Assistant 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 – Uttar Pradesh – Brutal lathi-charge and ill-treatment of human rights defenders during a peaceful protest against Citizenship Amendment Act at Azamgarh, Uttar Pradesh - 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 over the brutal use of force and ill-treatment of protestors in Bilariaganj, Azamgarh district of Uttar Pradesh by the Uttar Pradesh police on February 5, 2020. Protestors were protesting peacefully against the controversial Citizenship Amendment Act. The police also registered an FIR at Bilariaganj police station against at least 135 people, of which only 35 have been named and the rest are unidentified, for allegedly using foul language against Hindus and Prime Minister Mr. Narendra Modi. Twenty people named in the FIR have also been arrested. The measures taken by the police to forcefully disperse protestors as well as charge them with several charges including rioting are blatant violation of their rights to freedom of assembly and association and their right to peaceful protest. The police action also flouted all provisions of the operating procedures the UP police has to adhere in the management of assemblies.

Protestors included human rights defenders, women and citizens from varied social backgrounds and civil society groups, attending the sit-in rally, who were subjected to brutal lathi charge, ill-treatment and teargas. Those arrested also include a 16-year old boy who works as a cleaner, a woman who identified as Munni Bano who was released later due to health condition and National General Secretary of Ulema Council Maulana Tahir Madani.

Source of Information on the Incident:

- The Coordinator of HRDA for the North of India
- Media Reports

The Perpetrators:

- District Magistrate & Superintendent of Police, Bilariaganj, Azamgarh district of Uttar Pradesh
- Police of Azamgarh District, Uttar Pradesh

Date and Place of incident:

February 5, 2020

Bilariaganj, Azamgarh, Uttar Pradesh

Details of the Incident:

According to the information received, on February 4, 2020, local citizens and civil society groups organised a peaceful protest against the controversial Citizenship Amendment Act (CAA) at the Maulana Jauhar Ali Park in Bilariaganj, Azamgarh district in Uttar Pradesh. While women were staging a sit-in at the said park, they were joined in by other local groups. As several other people joined the protest in the night making it a bigger crowd, at around 4 AM onwards on February 5, 2020, the police force present at the site, flouting all mandatory operating procedures, opened a brutal lathi-charge on the unarmed protesters gathered there.

Several women were severely injured in the police action which was followed by the use of teargas shells to disperse and forcibly remove the protestors from the site. Sources informed that water was thrown at a later stage on the protesting venue to prevent the return of the protestors.

In addition to the excessive use of force by the police to disperse the protestors, an FIR was registered at Bilariyaganj police station in Azamgarh against at least 135 people. It is alleged by the police that the protest was a platform for inflammatory speech as well as derogatory comments on the Prime Minister Narendra Modi along with rioting and other charges. Among the 135 people, 35 have been named so far and 20 have already been arrested, other 100 are unnamed and HRDA fears this will be used to target HRDs and those who express dissent against CAA and government policies in Azamgarh.

FIR has been filed under sections 147 (rioting), 153-A (promoting enmity between different groups), 124-A (sedition), 504 (insult with intent to provoke breach of the peace), 307 (attempt to murder), 120-B (criminal conspiracy) of the Indian Penal Code and under Prevention of Damage to Public Property Act and section 7 Criminal Law Amendment Act (CLA). Such serious charges against peaceful protestors exercising their fundamental rights to assemble and express is highly condemnable, which are guaranteed by the constitution as well as in International law through several instruments.

Appeal:

We, therefore, urge you to immediately take necessary steps and ensure that this Hon'ble Commission urgently:

- Orders an immediate, thorough, transparent, effective and impartial investigation into the above-mentioned incident of brutal use of force on peaceful protestors, fabricated case against them and in particular human rights violations arising from the indiscriminate use of force completely contrary to established national and international standards;
- Order immediate legal action on the perpetrators – in this case personnel of Uttar Pradesh police of Azamgarh district – for the brutal assault, ill-treatment and denial of the right to assemble and associate freely, in complete disregard to the standard operating procedures to be followed by the police personnel;
- Ensure provision of reparation, compensation, apology to each of the defenders for the physical and psychological sufferings they underwent because of the use of brutal force, ill - treatment and fabricated case filed against them and provide a re-assurance of not engaging in such acts against HRDs;

- Put an end to all acts of denial, attack and harassment against all acts of denial of assembly and association as well as right to hold peaceful protest of all human rights defenders in Uttar Pradesh and ensure that in all circumstances they carry out their activities as defenders of human rights without fear of reprisals and free from all restrictions;
- Take steps to ensure the provisions contained in the Code of Conduct for Police in India under Sec 4 which says, 'In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.' The provisions should also be ensured in conformity with Art 4 and 5 of the UN Basic Principles on the use of force and firearms;
- Take steps to ensure the provisions contained in the Human Rights Council resolution 15/21 adopted in October 2010 which reaffirms that everyone has the rights to freedom of peaceful assembly and of association free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law;
- Conform in any circumstances 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 its Article 1 and 12.2;
- 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 the state of Uttar Pradesh.

Looking forward to your immediate action in this regard,

Yours sincerely,



(Henri Tiphagne)

National Working Secretary

Copy to:

Mr. Michel Forst

Special Rapporteur on the situation of human rights defenders,

c/o Office of the High Commissioner for Human Rights Defenders – Palais Wilson

United Nations Office at Geneva

CH 1211 Geneva 10

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Mr. Clément Nyaletsossi Voule

Special Rapporteur on the rights to freedom of peaceful assembly and of association

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Mr. David Kaye

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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Working Group on Arbitrary Detention,

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Prof. Nils Melzer

Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Ms. Dubravka Šimonovic

Special Rapporteur on Violence Against Women, its causes and consequences

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Front Line-The International Foundation for the Protection of Human Rights Defenders

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Observatory for the Protection of Human Rights Defenders

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Asian Forum for Human Rights and Development (FORUM-ASIA)

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The Norwegian Human Rights Fund (NHRF)

P.O. Box 6890 St. Olavs plass, N-0130 Oslo, Norway

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Dear Sir / Madam,

Greetings from Human Rights Defenders Alert - India!

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We are writing to express our grave concern over the brutal use of force and ill-treatment of protestors in Bilariaganj, Azamgarh district of Uttar Pradesh by the Uttar Pradesh police on February 5, 2020.

HRDA has sent an Urgent Appeal regarding this incident to the National Human Rights Commission of India (NHRC), Special Rapporteur on Human Rights Defenders, Special Rapporteur on the rights to freedom of peaceful assembly and of association, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Working Group on Arbitrary Detention, Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Special Rapporteur on Violence Against Women, its causes and consequences and various international organisations.

Looking forward to your immediate action in this regard,

Yours sincerely,

Henri Tiphagne

National Working Secretary