



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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January 11, 2022

To  
Mr. C.S Mawri,  
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](mailto:hrd-nhrc@nic.in)

Dear Sir,

***Sub: HRD Alert -India – Urgent Appeal for Action – West Bengal: Aribtrary detention, illegal arrest and custodial torture of HRDs.***

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 concern over the arbitrary detention, illegal arrest and custodial torture of HRDs Mr. Jiaul Mondal, Mr. Tirtharaj Trivedi, Mr. Alfred D'cruz, Mr. Rakesh Ali and Mr. Bablu Halder under fabricated charges by the West Bengal Police.

**About the Human Rights Defenders:**

Mr. Jiaul Mondal, Mr. Tirtharaj Trivedi, Mr. Alfred D'cruz, Mr. Rakesh Ali and Mr. Bablu Halder are members of Shramik Krishak Ekta Mancha, a civil society group in West Bengal working to secure the rights and interests of workers and peasants.

The HRDs reside in Joynagar-II block of South 24 Parganas district. They have organised numerous demonstrations and programmes seeking proper implementation of government schemes and social sector benefits. After the arrival of the pandemic in March 2020, they also undertook a campaign demanding better infrastructure and treatment facilities at government health centres in the area.

**Source of Information:**

- Communication with other HRDs in the region
- Communication with HRDA Eastern Regional Consultant
- Media reports

**The Perpetrators:**

- Mr. Avijit Paul, Officer in Charge, Bakultala Police Station
- Other personnel attached to Bakultala Police Station

**Date of Incident:**

December 12-15, 2021

**Place of Incident:**

Joynagar-II block, South 24 Parganas district, West Bengal

**Background of the incident:**

In October 2021, anticipating the third wave of the COVID-19 pandemic, Shramik Krishak Ekta Mancha (SKEM) activists Mr. Bablu Halder, Mr. Jiaul Mondal and others began a campaign demanding better infrastructure and treatment facilities at the Mayahauri Primary Health Centre.

They distributed leaflets among locals and conducted a door-to-door signature campaign demanding availability of doctors and nurses at the health centre for all 24 hours, adequate number of beds and oxygen supply. In mid-November 2021, they met the Block Medical Officer of Health, Joynagar-II and handed over a letter enlisting their demands endorsed by around 7500 residents.

While authorities took no action addressing these demands, the HRDs continued with their door-to-door campaign in December 2021.

**Details of the Incident:**

On December 12, 2021, late evening, SKEM members conducted the door-to-door campaign demanding better healthcare in the Jiban Mandal Haat (market) neighbourhood of Joynagar-II block. Some activists who lived far away decided to spend the night at fellow activist Mr. Halder's shop in the market, while others returned to their respective houses.

At around 11.30 pm, when HRDs Mr. Tirtharaj Trivedi, Mr. Alfred D'cruz and Mr. Rakesh Ali reached Mr. Halder's shop after having dinner, they were intercepted by 8-10 uniformed policemen who arrived in a police vehicle. The policemen entered the shop forcefully; searched the premises, and said they wanted to question Mr. Trivedi and others, but did not provide any details or say if there was a case against the HRDs despite repeated queries. They pushed and shoved Mr. Trivedi, Mr. D'cruz and Mr. Ali into the police vehicle and took them to Bakultala Police Station, where they were detained illegally for more than 36 hours.

Police tortured the HRDs after they reached the police station around midnight on December 12-13, 2021. For 2-3 hours, they questioned the HRDs repeatedly about what were their real motives, who were the leaders of SKEM, which areas did the organisation work in, who were their members and so on. Despite Mr. Trivedi and others answering these questions to the best of their ability, police thrashed them with batons and kicked them repeatedly, leaving them in pain.

On December 13, at around 1 PM, policemen led by Bakultala PS Officer in Charge Mr. Avijit Paul reached Mr. Halder's house. They entered the house forcibly, conducted a search and seized some items, misbehaved and spoke abusively with family members who objected. They nabbed Mr. Halder and dragged him into the police

vehicle waiting outside. They did not tell the HRD where they were taking him, why, or if he was being arrested despite repeated pleas.

Mr. Halder was taken to the Bakultala Police Station, where he was detained overnight along with Mr. Trivedi, Mr. D'cruz and Mr. Ali. The HRDs asked several times why they were detained and if there was a case against them, however, the police personnel on duty did not provide them any answers or give them access to a lawyer.

On December 14, 2021, all four HRDs were administered a medical check-up and produced in the Baruipur Court at around 4 PM, where they learned of the case against them (M case no 2807/2021, 2808/2021) under Section 108 of Code of Criminal Procedure. They were granted bail the same day against a bond of Rs 25,000 and submission of a land ownership deed each, but since the same could not be arranged at short notice, they were remanded in Baruipur jail overnight and released the next day.

Meanwhile, at around 9 PM on December 13, 2021, police had raided Mr. Halder's house and conducted a search again. Similar searches were conducted on December 14 and 15, 2021, as well. Police did not show family members a search warrant on any occasion, neither did they provide any seizure memo to articles seized during the search operations.

On December 15, 2021, around 11 AM, a police team led by Mr. Paul, without women personnel, raided senior SKEM activist Mr. Mondal's house and arrested the HRD. They entered his house forcefully, conducted a search and seized some items and documents, including from the cupboard. They locked the cupboard and kept the keys with themselves, and asked the HRD to accompany them to the police station, where he was detained overnight. Mr. Mondal was produced in Baruipur Court on December 16, 2021, granted bail the same day subject to conditions (bail bond of Rs 25,000 and a land ownership deed), and released from Baruipur Jail the next day.

From December 15 till December 17, 2021, around 2-3 policemen kept watch on Mr. Mondal's house round the clock. They did not tell his family members or other villagers why they were there, except saying they were following orders of higher authorities. Although out on bail, all five HRDs are immensely concerned for their security, and fear they will be implicated in other cases and/ or arrested without due procedure by police again.

We firmly believe police acted with malafide intentions and implicated the HRDs in a case and arrested them in reprisal for their activism on questions of public health. All detentions and arrests were made in violation of DK Basu guidelines, as the accused were not informed about the FIR against them, not shown any arrest warrant and memo, and not allowed to inform their family or lawyer. Their houses were repeatedly searched without search warrants and articles and documents were seized without issuing a seizure memo, in violation of the CrPC. Further, three HRDs were tortured in police custody and detained for over 36 hours before being produced in a court, whereas one HRD's house was placed under police surveillance round the clock for three days.

These instances amount to a gross abuse of the HRDs' fundamental right to life and personal liberty granted by Article 21 of the Indian Constitution as well as a complete violation of their human rights as guaranteed by national and international laws. Torture is a serious violation of human rights law in national and international law. The Supreme Court has called torture "one of the worst crimes in a civilised society governed by the rule of law."

Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights both provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Whereas Article 2 of the United Nations Convention against Torture prohibits torture, and requires state parties to take effective measures to prevent it in any territory under their jurisdiction.

Further, the Declaration on human rights defenders adopted in 1998 by the UN general Assembly was Clauses 2 and 3 of Article 12 of the declaration state: *"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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."*

When HRDs like Mr. Mondal, Mr. Halder and others are subjected to legal actions by misusing laws and powers, and illegally detained, arrested, subjected to raids, searches and surveillance for demanding better public health facilities, these rights are grossly violated. The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution. The Human Rights Council resolution 15/21 adopted in October 2010 reaffirms that everyone has the right to freedom of peaceful assembly free of restrictions that is subject only to the limitations permitted by international law, in particular international human rights law.

### **Appeal:**

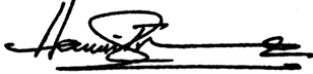
We thus request the Hon'ble Commission to urgently:

- Direct the Director General of Police of West Bengal to initiate an independent inquiry into the police action including the illegal detention and arrest of HRDs, repeated raids and searches in their houses and surveillance, and submit a report within four weeks.
- Direct the Director General of Police of West Bengal to initiate an inquiry into the torture of the HRDs in police custody.
- Depending on the result of the inquiry, take stern action against errant police officials.

- Ensure the physical safety of the HRDs and their protection from arrest. Direct to remove any form of surveillance on them and ensure they are able to continue with their public health activism freely.

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**  
National Working Secretary