



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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October 15, 2021

To,

Mr CS Mawri,  
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 – Urgent Appeal for Action – Gujarat: Abduction and illegal detention of Gandhian activist and senior journalist Dr. Rakesh Pathak by Ahmedabad Police.**

Greetings from Human Rights Defenders Alert!

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 illegal detention of Dr. Rakesh Pathak, a senior journalist and Gandhian activist from Madhya Pradesh who was harassed, intimidated, and illegally detained by the Gujarat police repeatedly, to stop him from visiting Mahatma Gandhi's ashram on the banks of the river Sabarmati in Gujarat.

**Source of Information:**

- Information from HRDA West Regional Consultant
- Communication with the HRD
- Media reports

**Date of Incident:**

October 2, 2021

**Place of Incident:**

Ahmedabad, Gujarat

**Perpetrators:**

- Sub-Inspector Mr. SS Choudhary, Ranip police station, Ahmedabad
- Assistant Sub-Inspector Mr. Mahendra Singh, Ranip police station, Ahmedabad
- Constable Mr. Santosh, Ranip police station, Ahmedabad
- Assistant Commissioner of Police, Mr. Parmar, Ahmedabad

- Mr. Thamble, police station in charge, Ranip police station, Ahmedabad
- Other officials of Ahmedabad Police

**About the Human Rights Defender:**

Dr. Rakesh Pathak is a senior journalist from Madhya Pradesh with over 32 years of experience in the field. He has held key editorial positions in Hindi newspapers and news outlets such as Navprabhat, Navbharat, Nai Dunia, Pradesh Today and was the editor in chief of Dateline India. He currently runs news portal Karmveer and serves as its editor in chief.

**Background of the incident:**

Dr. Pathak had announced on Facebook that he would be visiting the Sabarmati Ashram on Gandhi Jayanti. He had written a Facebook post about the need to save the Ashram from the proposed revamp and had written to the Prime Minister and his office regarding this.

**Details of the Incident:**

Dr. Pathak reached Ahmedabad on October 1, 2021, at around 2.30 pm and checked into a hotel opposite the ashram that had been booked by a friend. He participated in an online discussion the same evening.

On October 2, at 8.30 am, he wanted to attend a prayer meeting at the ashram and called room service for tea at 6.30 am. Around ten minutes later, there was a knock on the door. When Dr. Pathak opened, a waiter along with four or five well-built men, rushed into his room. They were all in plain clothes and nobody showed any ID.

The men then surrounded Dr. Pathak and one of them seized both the mobiles he had kept near the bed. When Dr. Pathak asked who they were and what they wanted, one of the men said that they were from the Ahmedabad Police, and he would have to come with them to the police station.

Dr. Pathak asked them whether they had a warrant. The team leader said he did not and said that they had “orders from superiors” and did not give any other reason written or verbal. Dr. Pathak started getting ready to leave with the men. The police stopped him from wearing a *kurta pajama* and told him that he could not wear khadi clothes, adding that this too was an order from their superiors. He then wore a pant and a shirt.

Dr. Pathak asked them if he could make a phone call. The police refused. He was then taken to the parking lot of the hotel, where he was put into a private car. Upon being asked to enter the car, he asked the men if they were really from the police or were someone else. It is at this point that the men showed their IDs.

Dr. Pathak was taken to Ranip police station and was made to sit in a two-room police post in front of it. Sub-Inspector Mr. SS Choudhary, Assistant Sub-Inspector Mr. Mahendra Singh and a constable Mr. Santosh questioned Dr. Pathak. They asked the HRD why he had come to Ahmedabad, what he had planned to do and who was with him. They added that they had got a lead from their superiors that he had come to the ashram to stage a satyagraha.

The HRD kept on saying that he had only come to see the ashram and to have a prayer meeting. The police staff kept updating their seniors every hour. Through the course of his illegal detention, Dr. Pathak protested the action and asked them to arrest him with correct procedures and present him before a magistrate and send him to jail. He also asked them

to allow him to contact a local friend, so that he could arrange for a lawyer. However, none of his protests were heard and neither was he permitted to call his friend.

Around noon, he was allowed to leave. The police team took him back to his room, where his mobile was finally returned. Dr. Pathak then made his way to the Ashram on foot, as he had intended to. Barely after he had reached there, a few men in plain clothes surrounded him. They said that their superior, who oversees the police station, was calling him.

As soon as he came on the road, he was put in the car again. For the first time since morning, a police official appeared in uniform who was Mr. Thamble, police station in charge. This time however, before the police could seize his phone, he had called his friend Dr. Dhimant Purohit, who is a senior journalist in Ahmedabad and told him that the police were taking him into custody again and were taking him back to Ranip Police station. Dr. Purohit then posted the information on Facebook, seeing which the HRD received a call from another friend and senior journalist Dr. Pankaj Chaturvedi. The HRD quickly told him about this situation. The police then confiscated his mobile again.

On getting information from Facebook, several friends arrived at the police station. No one was allowed to take any photos. Dr. Pathak was taken to the room of the Assistant Commissioner of Police Mr. Parmar, who also questioned and interrogated the HRD. The HRD in turn asked him why they were detaining him repeatedly, to which he received no satisfactory answer. He was then allowed to leave around 3.30 p.m.

The repeated harassment, intimidation, and arbitrary detention of the HRD for visiting a national monument, without any formal orders under provisions of law and restricting his travel, point towards a shocking violation of right to peaceful expression and free movement under national and international law. The Ahmedabad Police has misused powers to restrict a HRD and citizen from exercising his fundamental rights. We believe that the Ahmedabad Police has indulged in serious misuse and abuse of power and has broken multiple guidelines of the DK Basu guidelines of arrest procedures.

We strongly believe that all these efforts are directed expressly towards preventing Dr. Pathak from visiting the Gandhi Ashram, which is in direct contravention to Article 19 (1) (d). It is ironic that in Gandhi's state, visiting his ashram is considered illegal by the government.

In essence, the actions of the police amount to abduction as no formal arrest was made and yet the HRD was detained for a period of nearly 10 hours. Further, the concerned officials are also liable for prosecution under Sections 339 and 341 (wrongful restraint), 340 and 342 (wrongful confinement).

Article 22 of the Indian Constitution states that a person cannot be denied the right to a lawyer. It states, "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice." Section 41D of the Code of Criminal Procedure (CrPC) states the same.

Section 50A, CrPC states that a relative or friend should be informed about the arrest and the place of detention. It is the duty of the police to inform the arrested person of this right, and to inform the relative or friend about the arrest. This information should be entered in a designated register at the police station.

The police confiscated HRD's phone on both occasions without any warrant and prohibited him from making any phone calls. The HRD was questioned on whether he had planned to undertake a *Satyagraha* at the ashram. Questioning of an accused can be done only after a formal arrest and after the accused has been produced before a magistrate and custody has been granted to police. None of these procedures were followed and thus the seizure of mobile phone and questioning amounts to harassment by the police.

Even if the HRD intended to stage a *satyagraha*, the police action is in direct contravention of 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 international human rights law.

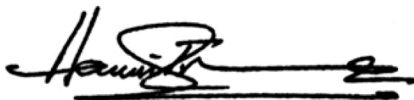
India has ratified the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which guarantees the rights of Human Rights Defenders. Article 9 of this declaration states, "*The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.*"

## Appeal

We thus request the Hon'ble Commission to urgently:

- Initiate an immediate, independent, thorough, transparent, effective, and impartial investigation through its investigative wing into the abduction, arbitrary and illegal detention of Dr. Rakesh Pathak and denying him from exercising his fundamental rights.
- Depending on the result of the inquiry, direct the Director General of Police of Gujarat to take stern action against those guilty of abducting and illegally detaining Dr. Rakesh Pathak.

Yours Sincerely,



**Henri Tiphagne**  
National Working Secretary