



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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November 08, 2021

To
Mr. CS 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

Dear Sir,

Sub: HRD Alert-India – Urgent Appeal for Action – Tripura: UAPA and other draconian charges on HRD lawyers by Tripura Police for undertaking a fact-finding inquiry regarding communal violence.

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 about an FIR registered by the Tripura Police on human rights lawyers Mr. Mukesh and Mr. Ansar Indori under UAPA and other draconian charges, for being a part of a fact-finding team which had gone to Tripura to investigate the recent incidents of communal violence.

About the Human Rights Defenders:

- Mr. Mukesh (35) is a lawyer in the Delhi High Court. He is also associated with the Peoples Union for Civil Liberties (PUCL), an organisation to protect human rights.
- Mr. Ansar Indori (37) is a lawyer and practices in the Supreme Court of India. He is also associated with the National Confederation of Human Rights Organizations (NCHRO), which works for human rights.

Source of the Information:

- Media Reports
- Communication with HRD and local HRDs
- Communication with the HRDA North Regional Consultant

The Perpetrators:

- Director General of Police, Tripura
- Mr. Srikanta Guha, Sub-Inspector, West Agartala Police Station, Tripura

- Police Personnel of West Agartala Police Station, Tripura

Date of Incident:

November 03, 2021

Place of Incident:

West Agartala Police, Agartala, Tripura

Background:

In October 2021, violence erupted at a Durga Puja pandal in Dhaka, Bangladesh, over allegations of hurting religious sentiments. Many people were killed and hundreds were injured in this violence. In reaction, right-wing organizations in Tripura took out rallies to protest against the violence in Bangladesh. Soon these rallies took a violent form and nearly five out of eight districts of Tripura came under the grip of violence. Sipahijala, Gomti, Unakoti, West Tripura and North Tripura. There was vandalism and arson in areas through which the rally passed. Dozens of shops, homes and mosques were targeted.

On October 29, 2021, the Tripura High Court took suo moto cognisance of incidents of violence in North Tripura, Unakoti and Sipahijala districts. The Court order noted that the Advocate General of Tripura had submitted a note stating that a Vishwa Hindu Parishad rally of over 3500 people had been organised in Panisagar of North Tripura district to protest against attacks in Bangladesh on Hindus during the Puja period. During the rally, clashes occurred in which three shops were burnt down, three houses and mosques were damaged.

Details of the Incident:

On October 30, 2021, a fact-finding team of four lawyers from Delhi went to Tripura including Supreme Court lawyers Mr. Ehtesham Hashmi and Mr. Amit Srivastava. The fact-finding team of advocates visited the affected areas and gained a first-hand understanding of how events unfolded. They spoke to victims and groups, and also with the police officials.

On November 02, 2021, the fact-finding team held a press conference and released a fact-finding report at Press club of India, Delhi titled "Humanity under attack in Tripura #MuslimsLiveMatter". The report documented the attacks on Muslim establishments, vandalization of mosques and the terrible impact of creating insecurity and a sense of fear among the minority population.

On November 03, 2021, Tripura Police issued notices to Delhi based Human Rights Lawyers Mr. Mukesh and Mr. Ansar Indori who were part of the fact-finding team under sub section (1) of **section 41A** of the code of criminal procedure and Indian Penal Code Sections **153A** (Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc), **152B** (Imputations, assertions prejudicial to national-integration), **469** (Forgery for purpose of harming reputation.), **471** (Using as genuine a forged 1[document or electronic record), **503** (Criminal intimidation), **504** (intentional insult with intent to provoke the breach of peace), **120B** (Punishment of criminal conspiracy) and **Section 13 of Unlawful Activities Prevention Act** for their social media posts and statements.

The notice also said that *“during the investigation, your involvement has been in the connection with the case. As such, there are reasonable grounds to question you to ascertain the facts and circumstances relating to the case. Hence, you are hereby asked to immediately delete these fabricated and false statements/ comments made/ circulated by you in the social media and also to appear before me by 10/11/2021 hrs at West Agartala Police Station”*

Mr. Hashmi, who led the fact-finding team, said he stood by his report. Both Mr. Mukesh and Mr. Ansar said that they have not removed any post from their social media. According to them, if the government sees even the slightest seditious content, then the courts and the government can investigate.

Mr. Manik Das, Superintendent of Police of West Tripura district, said that a group of Supreme Court lawyers visited Tripura and after their visit, we noticed that several posts were made on social media expressing dissatisfaction about the recent communal incidents. Police have registered a case and want to know whether the posts were made by them or were fake posts.

We strongly believe that this is a case of vindictiveness by the Tripura Police and government for highlighting the violence which took place in the state. The fact-finding report received wide national publicity.

What is most shocking is that the West Agartala Police Station has sent a notice u/s 41 A of the Criminal Procedure Code to advocates imputing that it was their social media posts, statements and report which were responsible for promoting enmity between religious groups as well as provoking people of different religious communities to commit breach of peace. This allegation is absurd to say the least as the fact-finding team visited Tripura on October 29-30, 2021, after the outbreak of communal violence which occurred between October 12-26, 2021. The team neither abetted nor provoked the violence, so even the lodging of the FIR by the police is nothing but a case of abuse of police power.

The legal basis to the notice is untenable as the fact-finding did not provoke any violence and there is no reason to consider it an unlawful activity. They went to study and document the violence that had already occurred. By considering the legitimate freedom of speech and expression offline and online as unlawful activity, the Tripura Police are abusing their legal authority and violating constitutionally protected rights. By asking that advocates to remove their social media posts, they overstep the limited authority they have been conferred in Section 41-A of the IPC.

A fact-finding exercise is within the fundamental rights of the citizens on the freedom of opinion, expression, assembly and movement and to criminalize fact-finding is to in effect criminalize human rights work itself. This is also a well-recognised right in the UN Declaration on Human Rights Defenders. To criminalise a fact-finding and subject lawyers and activists to provisions of draconian laws like the UAPA, would violate India's international commitments.

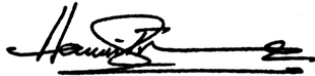
Appeal:

Thus we appeal to the NHRC to urgently to:

- Direct an immediate, independent, thorough, transparent, effective, and impartial investigation into the above-mentioned incident violating the constitutional rights of HRDs and abuse of power by the Tripura Police.
- Direct the Director General of Police, Tripura, to take measures to withdraw the notice under the UAPA with immediate effect.
- Direct the Director General of Police, Tripura, to take measures to quash the appearance of lawyers before November 10, 2021.
- Based on the results of the inquiry, initiate strict punishment against the officials who misused their powers and initiated criminal proceedings against lawyers.
- Ensure that social activists and human rights defenders in the state of Tripura and elsewhere are allowed to carry out their genuine human rights work as per the fundamental rights enshrined in the Constitution.

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