



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No. 555, West Cross 4th Street, K.K.Nagar, Madurai - 625 020, Tamil Nadu, India.

Mobile: 99943-68540

E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

HRDA/UA/East/OD/03/09/2023

21 September 2023

To,
Mr. Indrajeet Kumar,
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

Dear Sir,

Sub: HRD Alert – Urgent Appeal for Action – Odisha - Abduction and torture of environmental HRDs Mr. Dasa Kora and Mr. Abhi Sadapelli by Chhattisgarh 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 concern regarding the abduction, illegal detention and torture of Environmental Human Defenders Mr. Dasa Kora and Mr. Abhi Sadapelli of Maliparbat Surksha Samithi by Chhattisgarh police.

About the Human Rights Defenders:

Maliparbat Suraksha Samithi (MSS) is a community NGO which is working against the illegal mining operations in Maliparbat hills.

- Mr. Dasa Kora, aged about 50 years, senior community Leader Bhitarkota village, Maliparbat hills is the vice president of MSS.
- Mr. Abhi Sadapelli, aged about 42 years, from Kankadamba village, Maliparbat hills is the Secretary of MSS.

Source of Information:

- Communication with the HRDs
- Communication with HRDA Regional Co-ordinator East
- Communication with other local HRDs

Perpetrators:

Police officials of Chhattisgarh

Date of Incident:

August 23, 2023

Place of Incident:

Bhitarkota village, Maliparbat hills, Odisha

Background:

Bauxite mining lease in the Maliparbat hills has been granted to the Hindalco group . Then it was sub leased to Maitri infrastructure and mining India Pvt Ltd. The lease was allotted without the permission of Gram Sabha as per forest rights act, 2006 and the public hearing for the environmental clearance has not been done. Hence, HRDs allege that in order to get environmental clearance through public hearing, Maitri infrastructure and mining India Pvt Ltd is trying to allure the tribals in Maliparbat hills with the promise of money.

Details of the Incident:

On August 23, 2023, at around 07.00 PM Chhattisgarh police abducted the EHRD Abhi Sadapelli from Kankadamba village and at around 08.45 PM, they abducted Dasa Kora from Bhitarkota Village without any arrest procedures.

According to the HRDs, after being picked up they were taken to a big house where they were chained, kicked, and subjected to torture for 3 days by the police officials. According to the EHRDs the place of detention remains unknown and the police officials interrogated them in Hindi and the tribals could not understand. They were not given food for one day and beaten by the police. Later they were released by the police on August 26, 2023 at the border of the Chhattisgarh without any FIR or any legal procedures of arrest or detention.

We are deeply concerned by the abduction followed by custodial torture of the environmental HRDs Mr. Dasa Kora and Mr. Abhi Sadapelli by the Chhattisgarh police and believe that the police have indulged in abuse of its power. This violates a host of rights, including multiple violations of DK Basu guidelines of Arrest and Detention.

Such illegal arrest also violates 'Article 21' – Right to life and Dignity guaranteed by the Indian Constitution.

Section 41B, CrPC, requires every police officer to prepare, an arrest memo at the time of arrest which is to be attested by at least one witness and countersigned by the arrested person, and inform one family member of the arrest. It appears these procedures have not

been followed. Section 54, CrPC, further mandates medical examination of every arrested person soon after an arrest. It prima facie appears that none of the above were followed in the case.

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 also to inform the relative or friend about the arrest. This information should be entered in a designated register at the police station. While the family and friends state that the HRD was picked up by the Dhurki police at night no memo was given to any of his family.

The CrPC in sections 57 and 76 lays down that a person should be produced before the nearest Magistrate within 24 hours from the time of your arrest. The police picked up the HRDs on August 23, 2023 and not produced before the magistrate and later released on August 26, 2023. This amounts to abduction by the police and should be treated as such.

Torture of any kind and under any circumstances is illegal. Torture is a serious violation of human rights law in national and international law. The Hon'ble Commission itself asked the State to criminalise torture. D.K. Basu vs. State of West Bengal, the Supreme Court of India called torture "*one of the worst crimes in a civilised society governed by the Rule of Law*".

Every person has a the right to life and liberty enshrined under Article 21 of Indian Constitution 1950, Article 3 of Universal Declaration of Human Rights 1948, Article 6 of International covenant on civil and political rights, 1966. The Right to life includes right against arbitrary arrest or detention. These instances amount to complete violation of the DK Basu guidelines of arrest, Indian laws, Constitution of India and the fundamental right to life and personal liberty granted by **Article 21** of the Indian Constitution.

The **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.

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."

Further, we believe that this is also a case where the HRDs was abducted, subjected to illegal detention and brutal torture because of they are tribals and fighting for environmental cause. It is in this light, important to note that prima-facie the police personnel of the Chhattisgarh violated Section 3 (1) (p) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

HRDA strongly believes that the abduction and torture of the EHRDs is an act of reprisal for their activism as Environmental human right defenders. As these two EHRDs are the leaders of the MSS, they were systematically targeted by the police and illegally arrested, detained and subjected to torture.

Appeal:

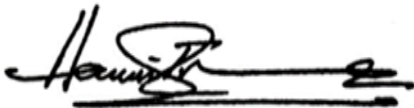
We urge the Hon'ble Commission to take cognisance of the above case and urgently:

- Direct the Director General of Investigation of the NHRC to initiate a transparent, independent inquiry in the illegal arrest and custodial torture the environmental HRDs Mr. Dasa Kora and Mr. Abhi Sadapelli and submit the report to NHRC within two weeks.
- Direct the Director General of Police of Chhattisgarh to produce within 48 hours copies of all relevant documents pertaining to the abduction and torture for an independent examination by the Hon'ble Commission.
 - Arrest memo as required under Section 41 B of CrPC, including name and designation of the police officer who prepare the arrest memo.
 - Medico-legal certificate prepared under section 53 of CrPC, as well as report of the medical examination conducted under section 54 of CrPC.
 - Inspection memo prepared at the time of arrest as required under the guidelines laid down by the Supreme Court in DK Basu vs State of West Bengal [1997 (1) SCC 416], as well as the name and designation of police officer who prepared the said Inspection Memo.

- Names, duty records and registers of all officers involved in detention and arrest.
- Examine compliance with all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, particularly with Sections 41A, 41B and 41D, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code were followed by the police.
- Examine compliance with the NHRC Guidelines on Arrest.
- Based on independent examination of abduction, illegal detention, and custodial torture recommend strict and immediate legal action against the perpetrators, including prosecution under appropriate sections of the IPC and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- Based on the result of the inquiry, direct the Director General of Police Chhattisgarh to immediately suspend and file a cause of torture against policemen who illegally picked up HRDs in violation of DK Basu guidelines and tortured them in custody and submit a report to the NHRC within two weeks.
- Based on independent examination of abduction, illegal detention, arbitrary arrest and custodial torture, recommend immediate interim compensation of Rs. 5,00,000 and further in accordance with the provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
- Direct the Director General of the Police of Odisha to ensure the safety of HRDs and their family to protect them from further harassment by the police.

We hope to hear from you soon,

Yours Sincerely,



(Henri Tiphagne)

National Working Secretary