



HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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September 28, 2022

To,
Mr. Indrajeet Kumar,
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 - India - Urgent Appeal for Action – Gujarat: illegal detention and violation of right to peaceful protest of HRDs Mr. Sandeep Pandey, and others for taking out a peace march in Gujarat

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 the arbitrary and illegal detention of HRDs- Mr. Sandeep Pandey, Mr. Sandeep Pandey, Mr. Nitesh Gangaramani Bharatiya, Ms. Tanushree Gangopadhyay, Mr. Hanif Haji Kalandar, Ms. Noorjehan Diwan, Mr. Kausar Ali, Mr. D. Gopal Krishna, who were detained repeatedly by Gujarat police for taking out a peace march in solidarity with a rape victim; and their peace march stopped by the police.

Source of Information:

- Communication with local HRDs
- Media Reports

Date of Incident:

September 25, 2022

Place of Incident:

Godhra, Gujarat

The Perpetrators:

- Police Personnel of Godhra Police Station, Gujarat
- Police Personnel of Kakanpur Police Station, Gujarat

- Police Personnel of Kheda Police Station, Gujarat
- State government of Gujarat

About the Human Rights Defenders:

Mr. Sandeep Pandey is a well-known Gandhian social activist and an educationist. He is a recipient of the prestigious Ramon Magsaysay award in 2002 – considered the ‘Asian Nobel’. He also works on right to information and other forms of citizen participation in removing corruption and improving the efficiency of governance and is the co-founder of the well-known grassroots organization National Alliance of People’s Movements (NAPM).

Others who have been detained along with him are noted human rights defenders who have worked for fought for the rights of the marginalised communities.

Background of the Incident:

On March 3, 2003, Bikist Bano was gang-raped while fleeing the violence during Gujarat riots. She was five months pregnant. Seven members of her family, including her three-year-old daughter, were killed.

On August 15, 2022, the Gujarat government, on the recommendation of a Jail Advisory Committee, remitted the sentences of the 11 convicts. The convicts were greeted with garlands outside the jail.

Mr. Sandeep Pandey, Mr. Nitesh Gangaramani Bharatiya, Ms. Tanushree Gangopadhyay, Mr. Hanif Haji Kalandar, Ms. Noorjehan Diwan, Mr. Kausar Ali, Mr. D. Gopal Krishna decided to do a 180 km long peaceful march/*pad yatra* in solidarity with Bilkis Bano. The nine-day march was supposed to begin from Bilkis Bano’s village Randhikpur in Dahod district under the banner of Hindu-Muslim Ekta Samiti and was to end at Ahmedabad’s Ajith Mill on October 4.

The participants of the peaceful march were staying at the home of Mr. Hanif Haji Kalandar, a local corporator and were to start their weeklong peaceful march/*pad yatra* in solidarity with Bilkis Bano, from September 26, 2022.

Details of the Incident:

At around 10.15 pm on September 25, 2022, two jeeps with police officials in plain clothes came to the residence of Mr. Hanif Haji Kalanadar. All the HRDs were just finishing with their dinner at the time. The police officials were from the local divisions of Godhra Police station and Mr. Kalanadar recognised them and invited them in and offered them water. In less than 10 minutes after this exchange, a large contingent, between 150 to 200, police staff surrounded the home of Mr. Hanif Haji Kalanadar. They came in 6 vehicles. They were all in uniform. The police then forcibly took all the HRDs to Godhra B-Division police station in Gujarat.

After pressure from people who had assembled outside the police station, the two women HRDs — Tanushree Gangopadhyay and Noorjehan Diwan — were released along with Mr. Hanif Haji Kalandar around midnight. The three then walked back to their home. The rest continued to be in police detention and were taken to Kakanpur Police station, 25 kms from Godhra. The HRDs were held overnight at that police station.

On September 26, 2022, Tanushree Gangopadhyay and Noorjehan Diwan and Hanif Haji Kalandar's visited the Godhra police station around 8 am and they were detained there for around an hour. They then proceeded to Kakanpur police station where the other HRDs were held.

At around 3 pm all HRDs were all released. The police stated they will leave them at Sevaliya, which is in Kheda district.

The HRDs proceeded to start their pad yatra from Sevaliya. The Kheda police again detained all the HRDs in the evening. These included Mr. Sandeep Pandey, Mr. Kaushar Ali Sayyad Ms. Tanushree Gangopadhyay, Mr. Nitesh Gangaramani Bharatiya, Mr. D Gopal Krishna, Mr. Haresh Rawal, Mr. Rajeshwar Brahmbhat, Mr. Rajiv Khushwa, Mr. Krisnendu Chetergy, Mr. Pravin Patel. According to reports, people who had been aiding the HRDs and arranging for food for them had also been allegedly detained. The yatris were brought to Ahmedabad and released. The yatra has not been allowed to continue for now.

The repeated harassment, intimidation, and arbitrary detention of the HRDs and WHRDs for a peace march is a shocking violation of right to peaceful assembly under national and international law. We believe that the Godhra Police has indulged in serious misuse and abuse of power and has broken multiple guidelines of the DK Basu guidelines of arrest procedures.

The Godhra police have also flouted Section 46(4) of the Cr.P.C. which prohibits women from being in custody or detained after sunset or before sunrise. Only under exceptional circumstances can a woman be arrested or detained after sunset or before sunrise and in such cases, it needs prior permission of Judicial Magistrate 1st Class. As per section 160 of Cr.P.C, women of any age cannot be called to the police station. Her statements can only be recorded at the place she resides in the presence of a women constable and her family members. Their actions, even for those two hours, amount to illegal confinement.

We strongly believe that all these efforts are directed expressly towards preventing the group of HRDs from having their peaceful march/ pad yatra, which is in direct contravention to Article 19 (1) (d). It is ironic that in Mahatma Gandhi's state, where he had held the historic salt satyagraha, which was a pad yatra, such action was met with police reprisal. In essence, the actions of the police amount to abduction as no formal arrest was made and the HRDs were detained overnight.

Article 19 (1) (b) of the Constitution guarantees the right to peacefully assemble and Article 21 of the Constitution ensures all its citizen right to life – a life to live without fear, intimidation, harassment, or mental torture. A peaceful assembly is protected under Article 21 of the International Covenant on Civil and Political Rights (ICCPR). According to the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule, "states and their law enforcement agencies and officials are obligated under international law to respect and protect, without discrimination, the rights of all those who participate in assemblies, as well as monitors and bystanders. The potential for violence is not an excuse to interfere with or disperse otherwise peaceful assemblies."

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.

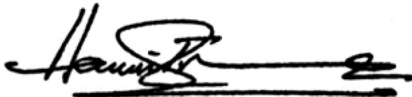
India has ratified the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, which guarantees the rights of Human Rights Defenders. Article 9 of this declaration states, "*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 appeal to the Hon'ble Commission to urgently take action and:

- Initiate an immediate, independent, thorough, transparent, and impartial investigation into the detention of the HRDs Sandeep Pandey and others for peacefully exercising their Constitutional right to assemble and protest peacefully and submit a report to the NHRC within two weeks.
- Direct the Director General of Police of Gujarat to let the peace march continue and ensure that the HRDs are not subject to any harassment and intimidation by the police and submit a report to the NHRC within two weeks.
- Depending on the result of the inquiry, direct the Director General of Police of Gujarat to take urgent action against police officials under whose orders WHRDs were taken to the police station and detained after sunset.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Henri Tiphagne', with a horizontal line underneath it.

Henri Tiphagne

National Working Secretary