



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

No.32, Besant Road, Chokkikulam, Madurai - 625 002, Tamil Nadu, India.  
P: +91-452-2531874 & 2539520 Fax: +91-452- 2531874 Mobile: 99943-68540  
E.mail: hrda.india@gmail.com Web: www.hrdaindia.org

Ref No: HRDA/North/UP/08/01/2020

January 09, 2020

To

**Mr. Debindra Kundra**

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- Uttar Pradesh: Arbitrary Arrest and Detention of Advocate Mohammad Shoaib, in Lucknow, Uttar Pradesh– Regarding***

Dear Sir,

**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 deep concern over the arbitrary arrest and detention of social activist and human rights defender Mohammad Shoaib in Lucknow.

## **Status of the Human Rights Defender**

Mohammad Shoaib is a lawyer and is a well-known human rights activist associated with Rihai Manch and is also President, Socialist Party (India). Since its inception, the organisation 'Rihai Manch' has helped over 18 people out of "illegal" detention so far. Advocate Mohammed Shoaib bore the brunt of physical attacks from his own fraternity from 2007-2008 onwards; he was fighting cases of terror suspects in a state, UP, where the local Bar Association(s) had 'banned' lawyers from appearing for them. Despite threats of a social boycott, lawyer and human rights defender Mohammad Shoaib firmly decided to continue to help accused framed in such cases.

**Source of Information on the Incident:**

- The Coordinator of HRDA for the North of India
- Communications with HRDs in Uttar Pradesh
- Media Reports

**The Perpetrators:**

Police personnel of Hazratganj police station in the state capital Lucknow

**Date and Place of Incident:**

19 December 2019

Hazratganj police station, Lucknow, Uttar Pradesh

**Details of the Incident:**

According to the sources on December 18, 2019 Mohammad Shoaib was placed under house arrest without any formal order in order to prevent him from joining the protest against the Citizenship (Amendment) Act and National Register of Citizens on 19 December 2019. On December 18, 2019 an order under Section 149 of CrPC was passed, restraining him from participating in the ongoing protests. On the midnight of December 19, 2019 four policemen took him with them stating that the Circle Officer has summoned him. However, he was never produced before a Magistrate, as per the mandates of CrPC. When Mohammad Shoaib did not return, his wife Ms. Malka called the District police chief and informed him about his ill health. Later two police men came to collect his medicines and assured Ms. Malka that her husband would return in an hour or by the next morning. However, for the next two days his whereabouts were unknown.

A writ of Habeas Corpus was filed, asking the authorities to present Mohammad Shoaib before the court. The government officials quoting police records said he was arrested at 8:45 am on December 20, 2019 from Hotel Clark Avadh intersection, two kilometres away from the advocate's residence. In the FIR filed against him in the Hazratganj Police Station he has been accused of rioting, attempt to murder and criminal conspiracy, though his name does not feature in it. The arrest memo was not signed by the police or any witnesses, thus violating the norms prescribed under the DK Basu case as well as Section 41B of CrPC. Moreover, the remand order under Section 167 CrPC, submitted by the State, was a collective remand order for 36 people which did not even have the name of Social activist and Human Rights Defender Sr. Advocate Mohammad Shoaib.

Hearing the habeas corpus petition of Mohammad Shoaib on January 6, 2020, the Lucknow bench of the Uttar Pradesh High Court has granted the Uttar Pradesh government a week's time to file an additional counter affidavit giving the exact time and place from where he was arrested and also the details of his production before the judicial magistrate in the civil court before sending him to jail under judicial custody. Mohammad Shoaib is currently lodged in Lucknow jail.

**Appeal:**

We, therefore urge you to immediately take necessary steps to ensure that this Hon'ble Commission to urgently:

- Order an immediate, thorough, transparent, effective and impartial investigation into the abovementioned incident of illegal arrest and detention of social activist and human rights defender Sr. Advocate Mohammad Shoaib by the police personnel of Hazratganj police station in the state capital Lucknow;
- Take necessary steps to ensure that the defender is released unconditionally, and the cases filed against him are withdrawn and the complaint is entrusted to the Special Rapporteur to handle as an investigator on behalf of the Hon'ble Commission;
- Recommend strict and immediate legal action on the perpetrators in this case Police personnel of Hazratganj police station, Lucknow for illegal arrest and detention of social activist and human rights defender Sr. Advocate Mohammad Shoaib;
- Take necessary steps to ensure that the cases filed against social activist and human rights defender Sr. Advocate Mohammad Shoaib are withdrawn and defender is not harassed or intimidated or falsely implicated in future and give this assurance to the NHRC of India in writing immediately and urgently;
- Put an end to all acts of harassment, intimidations and attacks against all human rights defenders in general in the state of Uttar Pradesh to ensure that in all circumstances they carry out their activities as defenders of human rights without any hindrances;

Looking forward to your immediate action in this regard,  
Yours sincerely,



**(Henri Tiphagne)**  
National Working Secretary