



# HUMAN RIGHTS DEFENDERS' ALERT - INDIA

NATIONAL SECRETARIAT

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**HRDA/UA/NorthEast/AS/02/10/2023**

21 October 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](mailto:hrd-nhrc@nic.in)

Dear Sir,

**Sub: HRD Alert – Urgent Appeal for Action – Assam – Silsako- Illegal arrest and fabricated charges on HRDs Bidyut Saikia and Akash Doley by Guwahati police for protesting against the eviction drive in Silsako.**

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 deep concern regarding illegal arrest of HRDs Bidyut Saikia and Akash Doley for the Silsako protest, by the Guwahati city police in violation of the DK Basu guidelines, detaining them at Sonapur police station, and registering an FIR on them under fabricated charges.

## **About the Human Rights Defenders:**

- Bidyut Saikia – Social activist and Secretary of Krishak Mukti Sangram Samiti.
- Akash Doley – Member of Krishak Mukti Sangram Samiti, actively participated in the protest against the eviction drive in Silsako.

Krishak Mukti Sangram Samiti (KMSS) is a peasant organisation based in Assam. It was formed by the RTI activist Akhil Gogoi in 2005. The organisation works on a diverse range of issues from Public Distribution System (PDS) thefts, non-implementation of National Rural Employment Guarantee Act (NREGA), land rights, governmental and corporate corruption, Right to Information Act (RTI) and construction of big dams in fragile seismic territories of north east India 2021 contested the Assembly elections in Assam.

**Source of Information:**

- Communication with HRDA North-East Co-ordinator
- Communication with HRDs
- Communication with other HRDs in the region

**Perpetrators:**

Police officials of Sonapur police station, Guwahati  
Assam policeofficials

**Date of Incident:**

September 01, 2023

**Place of Incident:**

Silsako, Guwahati, Assam

**Background:**

Silsako is a wetland in Guwahati City, and has been inhabited by its residents for decades. In 2008, under the provisions of the Water Bodies Prevention and Conversation Act, the Assam government declared the area of Silsako as *Silsako Bheel* and protected the nearby areas of the Bheel by prohibiting construction and settlements.

The Guwahati Metropolitan Development Authority (GMDA) started the eviction drive in 2022 in which GMDA demolished more than 500 houses in the Bheel area in an attempt to make Guwahati artificial flood-free and Silsako wetland encroachment-free. The Government promised to compensate the evicted people.

From September 01-06, 2023, the GMDA planned a second eviction drive in Silsako for which they mobilised more than 2000 police personnel.

### **Details of the Incident:**

On September 01, 2023, at 06.00 AM, Guwahati city police arrested Mr. Bidyut Saikia and Mr. Akash Doley without any due process as they were protesting against the eviction drive at Silsako, which commenced from September 01 2023.

The Guwahati City police also detained 34 indigenous protestors, including women, at 4<sup>th</sup> Assam Police Battalion in Kahilpara and released in the night of 1<sup>st</sup> September 2023.

Mr. Saikia and Mr. Doley were taken and detained in Sonapur Police Station. On September 02, 2023, at 3 pm, (about 30 hours after their illegal arrest) they were produced before C.J.M Guwahati and released on personal bond on the same day.

On September 04, 2023, a FIR was registered in Guwahati East District, Dispur Police Station, under Section 120-B (Punishment for criminal Conspiracy), 143 (Punishment for being a member of Unlawful Assembly), 341(Punishment for wrongful restraint), 294(Obscene acts), 352(Punishment for assault or criminal force), 353(Assault or criminal force to deter public servant from discharge of his duty) and 290 (Punishment for Public Nuisance) of the Indian Penal Code 1860, based on information received by Mantu Bora on September 01 2023. The complainant stated that during the eviction at Silsako some of the locals attempted to obstruct the eviction drive by criminal means and that he was in charge of the eviction and couldn't carry it out due to the protest.

Based on the complaint, an FIR was registered against Bidyut Saikia, Akash Doley, Vishal Choudhury, Rakesh Rajbongshi, Bikram Koch, Dipti Saikia, Riva Deori, Palakshi Das and Ranjita Singha. No arrest has been made till now.

HRDA is deeply concerned about the illegal detention and fabricated charges on peaceful protestors and HRDs by the Assam police without any arrest memo or detention memo in complete **violation of the DK Basu Guidelines of Arrest and Detention (Guidelines 2, 3, 4,)** as directed by the honourable Supreme Court. We are also deeply concerned by the fabricated charges on HRDs by police as a means of targeting them for their work on human rights.

The right to freedom of assembly is recognized by Article 19 (1)(b) of the Indian Constitution, which provides, "*All citizens shall have the right to assemble peacefully and without arms.*" This has been reaffirmed by various judgments of the Supreme Court.

The Supreme Court, in **Himmat Lal K. Shah vs Commissioner of Police, Ahmedabad, [1972]** held the following. "*Freedom of assembly is an essential element of any democratic system. At the root of this concept lies the citizen's right to meet face to face with others for the discussion of their ideas and problems-religious, political, economic or social.... assemblies face to face performs a function of vital significance in our system, and are no less important at the present time for the education of the public and the formation of opinion than they have been in our past history.... Public streets are the "natural" places for expression of opinion and dissemination of ideas. Indeed, it may be argued that for some persons, these places are the only possible arenas for the effective exercise of their freedom of speech and assembly,*"

The right to peaceful assembly is both an individual and a collective right, enabling individuals to express themselves collectively and to participate in shaping their societies. It is the duty of the state to ensure that the fundamental rights of any groups of persons who are assembling peacefully under this law are not disrupted.

Every person has a right to life and liberty enshrined under Article 21 of the Indian Constitution 1950, Article 3 of the Universal Declaration of Human Rights 1948 and Article 6 of the International Covenant on Civil and Political Rights, 1966. The Right to life includes the right against arbitrary arrest or detention.

Article 22(2) of the DK Basu guidelines of Arrest and detention say that "every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of 24 hours". Furthermore, sections 57 and 76 of the CrPc say that a person should be produced before the nearest magistrate within 24 hours from the time or arrest or detention. The HRDs were produced before the CJM about 30 hours after they were arrested without due process, in violation of the DK Basu guidelines and the Indian law.

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.

The United Nations Declaration on Human Rights Defenders 1998 states: *Article 1, -- "everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels*

*Article 12 (2) and (3)-- "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."*

HRDA strongly believes that picking up HRDs Bidyut Saikia and Akash Doley for a peaceful protest, detaining them in Sonapur police station, and registration of FIR under fabricated charges is an act of reprisal for their activism as human rights defenders and an attempt to silence peaceful voices of dissent against the state.

**Appeal:**

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

- Intervene in the relevant court to quash the false charges against the HRDs Bidyut Saikia and Akash Doley.
- Direct the DGP Assam to order an immediate, thorough, transparent, effective, and impartial investigation into the above-mentioned incident of arbitrary detention without due process against the HRDs Bidyut Saikia and Akash Doley and submit the report in the NHRC within two weeks.

- Direct the DGP Assam to take urgent action against the police officials of Sonapur police station and other officials involved in the illegal arrest and violation of DK Basu Guidelines and the Indian law in producing them before a magistrate and submit the report to the NHRC within four weeks.
- Direct the DGP Assam to guarantee in all circumstances the physical and psychological integrity of HRDs Bidyut Saikia and Akash Doley and give this assurance to the NHRC of India in writing within two weeks.
- Recommend urgently and speedily during the pendency of this complaint, the Government of Assam to publicly acknowledge the importance and legitimacy of the work of human rights defenders, i.e. anyone who, “individually and in association with others...promote[s] and ... strive[s] for the protection and realization of human rights and fundamental freedoms at the national and international levels” (Art.1 of the Declaration on Human Rights Defenders).

We hope to hear from you soon,

Yours Sincerely,

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

(Henri Tiphagne)

National Working Secretary