



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

March 23, 2021

To
Mr. C.S 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 – West Bengal:
Disproportionate use of force on HRDs by Kolkata Police leading to the death of
Mr. Maidul Islam Midya***

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 concern over the excessive use of force by West Bengal Police on participants in a peaceful march in Kolkata which was protesting against corruption, unemployment and political violence leading to the death of HRD Mr. Maidul Islam Midda.

About the Human Rights Defenders:

Mr. Maidul Islam Midda (31) was an auto-rickshaw driver and the only bread-winner in a family of four, including his wife and two children. He was also an activist with the Democratic Youth Federation of India, the youth wing of the Communist Party of India (Marxist). A resident of Katulpur village in Bankura district of West Bengal, he regularly participated on programmes and demonstrations on social and political issues, including in Kolkata.

Source of Information:

- Communication with other HRDs in the region
- Social media posts
- Media reports

The Perpetrators:

- West Bengal Police personnel

Date of Incident:

February 11, 2020

Place of Incident:

Kolkata, West Bengal

Background of the Incident:

Ten youth and student organisations associated with Left parties including the Students' Federation of India (SFI) and the Democratic Youth Federation of India (DYFI) organised a march to the West Bengal state secretariat on February 11, 2020, to protest against widespread corruption, unemployment and political violence in the state.

Thousands of activists participated in the march, including many who came from other districts. Among them was Mr. Maidul Islam Midda, who travelled from Bankura to Kolkata to participate in the peaceful protest.

Details of the incident:

On February 11, 2020, the West Bengal Police barricaded and stationed water cannons on all roads leading to the state secretariat and maintained constant drone surveillance in these areas to hold back protestors. When the marchers arrived at Dorina Crossing, 6 km away from the secretariat, around midday, the police resorted to lathi-charge, and fired tear gas and water cannons to disperse the crowd, which left hundreds of protestors severely injured whereas many were hospitalised. While media reports quoting participants in the march said Mr. Midda was assaulted with boots and lathis including in his abdominal area. A video widely shared on social media showed him writhing in discomfort in the aftermath of police action. Even as other marchers tried to revive him, he was heard saying, "I will not live."

Mr. Midda battled for life in a hospital for four days and died on February 15, 2021. Kolkata-based physician Dr. Fuad Halim, who treated him, said, "*He developed acute kidney failure following excessive assault on the muscles. The injury to the muscles released proteins in the muscles, which, mixing with the bloodstream, blocked the functioning of the kidneys, resulting in acute renal failure. There is no doubt this is because of the beating he received on February 11. He was a 31-year-old young man with no prior history of kidney problems.... He sustained massive muscle injury.*"

The West Bengal Government ordered a probe into the incident, and the Chief Minister announced that Mr. Midda's wife will be given a government job, but the left leaders alleged political bias in the investigation and no financial compensation was provided to the family.

The right to exercise freedom of speech and expression is enshrined under Article 19(a) and the right to assemble peacefully under Article 19(b) of the Indian Constitution.

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 particular international human rights law.

The UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels; (article 1). That "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”; (Article 12.2)

The Code of Conduct for Police In India under Sec 4 says, ‘In securing the observance of law or in maintaining order, the police should as far as practicable, use the methods of persuasion, advice and warning. When the application of force becomes inevitable, only the irreducible minimum of force required in the circumstances should be used.’ The provisions should also be ensured in conformity with Art 4 and 5 of the UN Basic Principles on the use of force and firearms.

If unarmed protestors are subjected to excessive use of force by police such that young activists with no history of medical ailments like Mr. Midda succumb to their injuries, these rights are grossly abrogated. They are abrogated further when there is political bias in investigations on excessive use of force by police, and when no financial compensation is offered to families of HRDs who die due to police violence.

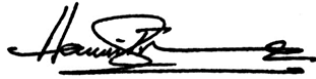
Appeal:

HRDA urges the Hon'ble Commission to protect human rights defenders, especially in this situation where they were exercising their Constitutional rights. We thus urge the Hon'ble Commission members to:

- Initiate an immediate, independent, thorough, transparent, effective and impartial investigation through its investigative wing into the assault and killing of Mr. Maidul Islam Midda by West Bengal Police and assess if all procedures were followed in terms of management of assembly.
- Direct the Director General of Police of West Bengal to provide footage from drone surveillance cameras used by police to watch over protestors and traffic surveillance cameras to identify policemen who brutally assaulted Mr. Maidul Islam Midda and others.
- Depending on the result of the inquiry, direct the Director General of Police of West Bengal to take stern action against those guilty of excessive use of force, including suspension for assaulting human rights defenders leading to death.
- Direct the Chief Secretary of West Bengal to pay immediate compensation to Mr. Maidul Islam Midda's family to help them cope with the loss of the only-breadwinner and ensure Mr. Midda's wife is provided a government job, as promised by the Chief Minister, at the earliest.

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