

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association
and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL
IND 7/2014:

29 October 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning alleged threats against and surveillance of **Mr. Mohar Ali Mondal**.

Mr. Mohar Ali Mondal is the District Human Rights Monitor for Banglar Manabdhikar Suraksha Manch (MASUM), a human rights organisation based in West Bengal. MASUM has been the subject of nine previous communications sent to your Excellency's Government by various Special Procedures mandate holders, most recently on 13 March 2013, see A/HRC/24/21, case no. IND 5/2013. We regret that no reply has been received six of these communications.

According to the information received:

At approximately 8:00 p.m. on 27 July 2014, Mr. Mohar Ali Mondal was informed that a person from Gobindapur village had been assaulted by a group of cross-border cattle smugglers that allegedly receives support and protection from the Swarupnagar police station (District-24, North) and Border Security Forces.

Approximately three hours later, Mr. Mohar Ali Mondal reportedly accompanied a relative of the alleged victim and other inhabitants of Gobindapur to the Swarupnagar police station in order to make a complaint regarding the assault.

According to reports, at approximately 11:50 p.m., Mr. Mohar Ali Mondal and the relative of the victim of the assault were called into another room by the Sub Inspector of the police station. The Sub Inspector allegedly grabbed Mr. Mohar Ali Mondal by the collar and threatened that he would have to face the

consequences for his human rights work, and that he would pay for his actions taken against the police and the Border Security Forces.

Reportedly, the group from Gobindapur was forced to leave the police station, while Mr. Mohar Ali Mondal and the assault victim's relative were detained in the police station for forty minutes. It is claimed that the two men were forced to sign a document stating that they had been arrested and charged. Allegedly, the police have not informed the men of the reasons for their arrest or of any charges being brought against them.

On 28 July 2014, Mr. Mohar Ali Mondal lodged a written complaint to the District Magistrate and Superintendent of Police of the District and sought that measures be taken to guarantee his security.

On 5 September 2014, a police officer in Gobindapur village reportedly came to his home and summoned him to the Swarupnagar police station. Furthermore, on 10 September 2014, the Sub Inspector called him and ordered him to come to the police station. However, he did not comply with these requests.

Mr. Mohar Ali Mondal is allegedly currently under surveillance and under pressure to make a settlement regarding his complaint against the Sub Inspector who allegedly threatened him.

Concern is expressed at the alleged threats against and surveillance of Mr. Mohar Ali Mondal by members of the police, which appear to result from his activities as a human rights defender.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations of threats against Mr. Mohar Ali Mondal.
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which

may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please kindly indicate what measures have been taken to ensure that human rights defenders in India are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government article 12, paragraphs 2 and 3 of the UN Declaration on Human Rights Defenders, which provides that the State shall take all necessary measures to ensure the protection of everyone 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 Declaration.

We would also like to refer to article 22 of the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests".

In this connection, we would like to refer to Human Rights Council resolution 24/5, and in particular operative paragraph 2 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law."