

**Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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: UA  
IND 8/2015:

12 August 2015

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 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 24/7, 19/10, 25/2, 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 the alleged arrest and detention of women human rights defenders Ms. **Roma Mallik** and Ms. **Sukalo Gond**.

Ms. Roma Mallik is General Secretary of the All India Union of Forest Working People (AIUFWP). The AIUFWP works for the promotion and protection of the rights of the tribal and indigenous forest working community, on issues concerning land and environmental rights, forced evictions and access to natural resources. Ms. Mallik has worked to raise awareness of the rights of the tribal and indigenous people of the forested regions for over a decade.

Ms. Sukalo Gond is a national committee member of the AIUFWP. She is a senior tribal leader of indigenous groups in Sonbhadra, Uttar Pradesh, and has worked to inform indigenous peoples of their rights as citizens, as well as their community rights under the Forest Rights Act. She has also worked to protect indigenous peoples from forced eviction by providing them with information on their rights under the Land Acquisition Act 2013.

Both Ms. Mallik and Ms. Gond have been prominently involved in recent non-violent protests against the construction of a dam at Kanhar in Sonbhadra, Uttar Pradesh,

which is opposed by local tribal and indigenous communities in connection with the forcible acquisition of land in Uttar Pradesh.

According to the information received:

On 30 June 2015 the AIUFWP had planned a large protest against forcible land acquisition in Sonbhadra and the prosecution of peaceful activists. At approximately 6:10 a.m, around 20 armed police officers of the Sonbhadra, Uttar Pradesh district forcibly entered the house of Ms. Roma Mallik, in Tagore Nagar, Robertsganj, Sonbhadra, where several other activists (mainly women), including Ms. Sukalo Gond, were spending the night. At the time of the police raid, the women were sleeping. Male police officers have kept female police officers outside and allegedly harassed the women activists. Activists repeatedly objected to the use of force against them. Policemen allegedly threatened everyone present in the house, used foul language and beat one of the women.

Four of the women human rights defenders, including Ms. Mallik and Ms. Sukalo Gond, were arrested and taken to the office of the Superintendent of Police in Sonbhadra, where they were questioned about the AIUFWP and their individual human rights activities. Ms. Mallik and Ms. Sukalo Gond were subsequently taken to Robertsganj police station in Sonbhadra, before being transferred to Mirapur Jail on judicial remand. The remand order was based on three allegations made against Ms. Mallik and Ms. Gond in First Information Reports (FIRs) filed between 13-15 April 2015, as well as two accusations previously filed against Ms. Mallik.

Ms. Mallik and Ms. Gond are facing charges of various offences under the Indian Penal Code, including rioting, unlawful assembly and intentional insult with intent to provoke breach of the peace (Sections 147-148, 149 and 504), wrongful confinement of persons, wrongful confinement to extort property (345 and 347) and obstructing/assaulting public servants (186 and 353). They are also accused of serious offences, such as attempt to murder (Section 307), conspiracy (Section 120B), dacoity (Section 395) and robbery, or dacoity with attempt to cause death or grievous hurt (Section 397). These crimes carry potential penalties of up to life imprisonment.

The source claims that these charges are false and relate to an incident in Ambedkar Jayanti in April 2015. In this instance, the Uttar Pradesh police fired indiscriminately on several hundred Dalits and Adivasis, including a large numbers of women and children, who were peacefully protesting against the land acquisition for the Kanhar Dam project. Several women were injured during this incident. Following this, charges were filed against a number of individuals. On 18 April 2015, there was a second round of violence with the use of firearms by the police, in which several people were seriously injured and some of the leaders of the movement were arrested. Those arrested remain deprived of their liberty to this date.

On 28 July 2015 Ms. Gond was granted bail at the District Court. However she remains in detention, allegedly as a result of a delay in the completion of legal formalities relating to her release.

On 3 August 2015 and 5 August 2015, the Lower Court reserved judgment in the bail applications made by Ms. Mallik. Further bail hearings concerning Ms. Mallik are scheduled for 12 August 2015 and again on 17 August 2015.

Serious concern is expressed at the alleged arbitrary arrest and detention of Ms. Mallik and Ms. Gond. Concern is also expressed that the actions taken against them may be motivated by their legitimate work to protect the environment and the human rights of tribal and indigenous forest communities in Sonbhadra, Uttar Pradesh, and, in particular, their recent involvement in non-violent protests in the district. Further concern is expressed that the actions against Ms. Mallik and Ms. Gond are restricting their legitimate enjoyment of the right to freedom of expression and opinion.

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.

We would firstly like to refer to the articles 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR) that India acceded to on 10 April 1979, which guarantee the rights to freedom of opinion and expression, freedom of peaceful assembly and freedom of association, respectively.

Furthermore, the above allegations appear to be in contradiction with Article 9 of the Universal Declaration of Human Rights (UDHR) and Article 9 of the ICCPR, which concerns the right not to be deprived arbitrarily of liberty.

We would also like to refer to 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 articles 1, 2, 5 and 6.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information concerning the legal grounds for the charges against and the pre-trial detention of Ms. Mallik and Ms. Gond. Please

provide information on how these measures are compatible with international norms and standards.

3. Please provide any additional information and any comment you may have on the above-mentioned allegations.
4. Please provide information concerning the legal grounds for the charges against and the pre-trial detention of Ms. Mallik and Ms. Gond. Please provide information on how these measures are compatible with international norms and standards.
5. Please indicate what measures have been, or will be, taken to ensure that the rights to assemble peacefully and associate as well as to freely express an opinion are respected in India.
6. Please kindly indicate what measures have been taken to ensure that human rights defenders 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(s) 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.

Seong-Phil Hong  
Chair-Rapporteur of the Working Group on Arbitrary Detention

John Knox  
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

David Kaye  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

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