



PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandate of the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

REFERENCE: AL Assembly & Association (2010-1)
IND 5/2013

13 March 2013

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolution 15/21.

In this connection, I would like to bring to your Excellency's Government attention information I have received concerning the alleged attack against **Ms. Basanti Mondal**, while she was taking part in a peaceful gathering in Domkal, Murshidabad district, in West Bengal.

According to the information received:

On 22 January 2013, around 2.000 persons peacefully gathered in front of the office of the Sub Divisional Officer (SDO) in Domkal, in order to protest against living conditions of the population in the Char area of Raninagar II Block. The protest was reportedly organized by Banglar Manabadhikar Suraksha Mancha (MASUM), a human rights defenders organization.

Ms. Basanti Mondal, an agricultural laborer, was taking part in the event. Around 1:00 p.m., Ms. Mondal was reportedly standing beside the road with 5 or 6 women. Suddenly, a police vehicle of Domkal Police Station allegedly headed towards this group of persons and ran over Ms. Mondal, causing her to fall down on the road. While the police agents in the vehicle took the victim to Domkal Sub Divisional Hospital, it is alleged that they did not register the incident, and no proceeding against the driver of the vehicle was initiated.

An x-ray showed that Ms. Mondal left foot was fractured. The doctor reportedly proceeded to put her leg in a plaster. At the date of this communication, Ms. Mondal remains unable to perform any work. It has been further reported that she had to bear the costs of the treatment.

On 30 January 2013, [REDACTED], sent a written complaint to the Inspector-in-Charge of the Domkal Police station and Superintendent of Police. No answer has reportedly been received to date.

While I do not wish to prejudge the accuracy of these allegations, concern is expressed about physical and psychological integrity of Ms. Basanti Mondal due to the injury allegedly deliberately caused by a police car while she was participating in a peaceful assembly. Serious concern is further expressed that this incident could be connected to her activity in the defense of human rights, including the rights of the residents of the Char area of Raninagar II block, in the subdivision of Domkol.

In this regard, I would like to remind your Excellency's Government of article 21 of the International Covenant on Civil and Political Rights, which provides that "[t]he right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Similarly, I would like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully..., 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...are in accordance with their obligations under international human rights law."

Moreover, as it is my responsibility under the mandate provided to me by the Human Rights Council to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries 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 will be undertaken in relation to the present case. Will penal, disciplinary or administrative sanctions be imposed on the alleged perpetrator(s)?
4. Please indicate whether compensation will be eventually provided to Ms. Basanti Mondal.

5. Please kindly explain what measures have been taken to ensure that activists and human rights defenders, including those that wish to exercise their right to freedom of peaceful assembly in Murshidabad district, operate in a free and enabling environment for the defense of human rights and fundamental freedoms.

I would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Ms. Basanti Mondal are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

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