



Commonwealth Human Rights Initiative

New Delhi, India. London, UK. Accra, Ghana

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NGO with Special Consultative Status with the Economic & Social Council of the United Nations

16th May 2020

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To,
Justice (Retd.) H.L. Dattu,
Chairperson
National Human Rights Commission,
Manav Adhikar Bhawan,
Block-C, GPO Complex, INA,
New Delhi – 110 023

Subject: Urgent – Seeking investigation into 15 deaths following alleged police excesses during Covid-19- lockdown (March 25-April 30, 2020).

Dear Chairperson,

We write from the Commonwealth Human Rights Initiative (CHRI) to draw your attention to deaths of 15 individuals which have transpired during the imposition of the nationwide lockdown, specifically between 25 March and 30 April, 2020. All of these 15 deaths occurred following police action – 12 individuals were subjected to beating/caning by the police on the streets and three died in police custody. The 15 victim families allege the deaths of their loved ones were a direct result of excessive force by police. We urge an immediate inquiry by the Commission into the allegations of excessive force and to ascertain the culpability of the police. Without the effective intervention of an external authority like the Commission, we fear there may be apathy, or attempts to cover-up leading to impunity.

These cases have been compiled by CHRI through a systematic daily scan of media reports¹ from 25th March to 30th April 2020. All the information presented in this petition is gathered from these credible media sources. A table with specific details for each case is annexed to this petition.

The victims are 15 men. Five lost their lives in March and ten in April. Five of the deceased were from Andhra Pradesh, three from Uttar Pradesh, two from Madhya Pradesh, two from Maharashtra, one from Tamil Nadu, one from Punjab, and one from West Bengal. While we do not have full demographic information for all of them, the available information indicates that the majority came from weaker socio-economic sections – five were daily wage workers, one farmer, one driver, and one vegetable vendor. These families have lost an income-earning member. Four were Muslims, at least two were Dalits, and one Tribal. The available information of their ages reveals that six were aged between 18-22 years and three were above 50.

¹ CHRI scanned the online editions of 15 leading English newspapers, one mainstream Hindi daily, and five online media portals for each day from 25th March till 30th April. Several city editions of each leading daily paper were looked at towards geographical coverage. The newspapers were: The Times of India, The Hindustan Times, The Hindu, The New Indian Express, The Deccan Herald, The Tribune India, The Telegraph, The Assam Tribune, The Sikkim Express, The Imphal Fress Press, Morung Express, The Shillong Times, The Arunachal Times, The Mid-Day, Kashmir Times, Rising Kashmir and Dainik Bhaskar. The online news portal scanned were The Wire, Scroll, The Print, The Quint and Caravan. Our aim was to cover all reported cases of death caused/induced by police action in this period, but some may have inadvertently been missed.

As per the media reports, the circumstances around the deaths vary. As stated above, three victims died in police custody and 12 died subsequent to beatings/canings by the police on the streets ostensibly as “punishment” for being out in public during the lockdown. Of the 12, in nine cases victims succumbed to their injuries, and three committed suicide.

(i) Deaths in Police Custody (3)

Kalapala Krupakar, Muni Kulla, and Raju Velu Devendra died in police custody. As reported, their families allege excessive force by police as inducing these deaths. As these took place in custody, it is essential to ensure that the police are adhering to all mandated processes which require them to report and inquire into the cause of these deaths, namely compliance with the NHRC guidelines on custodial death, the police inquest under Section 174² of the Code of Criminal Procedure (CrPC), and the mandatory judicial inquiry under Section 176(1-A)³ CrPC. According to the known information, police have initiated a S.174 inquiry in one case (Kalapala Krupakar); and six police personnel have been suspended in Muni Kulla’s case but there is no stated information that inquiries have commenced. There is no information available on whether the mandatory inquiries have been initiated in Raju Velu’s case.

(ii) Deaths subsequent to alleged excessive force in public

a) Victims succumbed to injuries (9)

In nine cases, the victim’s families recount that their family members had stepped out of home to get essential services like food and medicine; or had gone out for some work. The victims were stopped and beaten by the police on the streets, and told to return home. It is telling that in six of the nine cases, the victim died the same day they came in contact with the police. Two others died after three days, and one after four days. Six victims sought medical attention following the beating and yet succumbed. In four of these cases, the victim was pronounced dead on arrival. In one case, he died the day he was released from the hospital. In the last of these six, it is not clear whether he died in hospital or at home. As per the media reports, implicated police personnel have been suspended in only one case. The police deny the family’s allegations in all cases.

b) Victims committed suicide (3)

Roshan Lal from Uttar Pradesh, Peddada Srinivas Rao from Andhra Pradesh and Bhupinder Singh from Punjab committed suicide subsequent to

² Section 174 CrPC mandates that when the Station House Officer (or police officer designated by the state government) receives information that a person has committed suicide, been killed by another, or by an animal, or machinery, or by accident, or “has died under circumstances raising a reasonable suspicion that some other person as committed an offence”, s/he is to immediately report the death to the nearest Executive Magistrate empowered to hold inquests and then proceed to the spot and make a report of the apparent cause of death, in the presence of two or more respectable inhabitants of the neighbourhood.

³ Section 176 (1A) CrPC mandates that where any person dies or disappears while in the custody of the police, in addition to the inquiry/investigation held by the police, a Judicial Magistrate (could be the Metropolitan Magistrate according to jurisdiction) shall hold an inquiry into the cause of death.

being subjected to beating and excessive force by the police. Roshan Lal and Peddada Srinivas Rao hung themselves from a tree. Roshan in three audio clips, and Peddada in a selfie video, narrated the police brutality meted out to them, before committing suicide. While Roshan referred to his bloodied pants, Peddada categorically stated that the police is responsible for his death. Bhupinder Singh after being allegedly assaulted and humiliated came back home and committed suicide later in the evening.

The suspicious circumstances and the families' serious allegations require immediate intervention, comprehensive inquiry, and external monitoring of all steps taken by the police. As per law, all 12 cases require inquiry under S.174 CrPC. Media reports indicate the police are conducting the S 174 inquiry in two cases. While the reports also refer to other inquiries being conducted, it is not clear whether they refer to magisterial enquiries, judicial inquiries, departmental proceedings, or any other.

According to the available information, post-mortem reports have been done in five cases, and are still awaited in four. We did not come across the post-mortem report in other cases. Considering the deeply contrasting narratives of the police and victim families, the reliability of the post-mortems conducted is not assured.

Limited ex-gratia relief has reportedly been provided in one case only. As immediate financial assistance, the family of Tibu Meda was given Rs. 20,000. The police had assured the family of Shaikh Mohammed Ghouse that compensation would be given, though the basis of this assurance is neither clear nor known; nor is it known if compensation was given.

Media reports also reveal that while all the families initially alleged police brutality, some have chosen not to file complaints against the police. In one case, after staging a dharna against the police, the family later submitted a letter stating the death was due to natural causes. We urge the NHRC team visits the victim families to ensure they are not being subject to threats, reprisal, or intimidation by anyone.

Appeal

Given the Covid-19 lockdown, restrictions on movement, and limited access to courts, the families have very limited recourse to seek justice. At present, the NHRC is the best hope for the families to be assured of a thorough and fair inquiry into these grave allegations of excess force by police, which could include torture in custody. In fact, these allegations point to possible violations of each victim's Right to Life and Liberty as guaranteed in Article 21 of the Constitution of India. In view of the seriousness of the matter, and recognizing that these are cases across several states, we strongly suggest that the NHRC immediately designates an investigating team for inquiry, accompanied by an experienced civil society activist that the NHRC deems fit and proper from its NGO Core Group, and the appropriate state Special Rapporteur of the Commission based on the state(s) being visited. To ensure rigorous inquiry, each case could be registered and inquired into individually.

As the apex human rights institution of India, we call on the Commission for the following:

1. Award interim compensation in accordance with NHRC powers under the Protection of Human Rights Act 1993
2. Direct the Director General of Police of each state to report on the status of all inquiries being conducted into the deaths within 48 hours
3. Where found, issue notice to the Director General of Police of each state to respond within 48 hours on non-compliance with the requirement to conduct inquiry under Section 174, CrPC and call for strict disciplinary action against the Station House Officer and district Superintendent of Police for non-compliance
4. Ensure that the names⁴, designations, and duty records of the implicated police personnel in each case, on all the relevant dates, are collected, listed and secured within one week
5. Obtain certified copies of all presently available medical examination reports and post-mortem reports conducted in every case within five days. Where possible and necessary, direct the Director General of Police to preserve victims' bodies to enable the video-graphing and conduct of post-mortems in full compliance with the NHRC guidelines; and the post-mortem reports are handed over directly to the NHRC within five days
6. Order a team of doctors empaneled by the NHRC to review and provide written opinions on the medical examination and post-mortem reports with regard to the cause of death for each case
7. Direct the Director General of Police of each state to order that all forensic evidence and other evidence is seized and secured within a stipulated timeline (the time taken to submit these should not deter submission of other documents)
8. Direct the Director General of Police of each state to direct that a First Information Report (FIR) is registered against the implicated police personnel in each case and the investigation into the FIR is conducted by police from outside the district, preferably by a Special Investigation Team comprising of senior officers with known integrity. Direct the Director General of Police to send certified copies of the FIRs within one week to the NHRC.
9. In the applicable cases, direct that the appropriate sections of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989 are added in the FIR against the implicated officers
10. Ensure the protection of all victim families and witnesses in accordance with the NHRC's own mandate as well as the Supreme

⁴ Wherever the media reports stated names and ranks of implicated police, the names are included in a column in the annexed table.

Court judgment in *Mahender Chawla v. Union of India* (W.P. CrI. 156/2016)

11. With a view to ensure all inquiries and investigations proceed as per the provisions of the CrPC, direct the State Legal Services Authority in each state to take necessary steps to direct the District Legal Services Authority of the concerned district to ensure a competent senior criminal lawyer is appointed to assist the victim families, and mandate regular reporting to the NHRC by the DLSA counsel through the duration of the investigation and trial of each case
12. Make available the NHRC inquiry reports into each death within 60 days maximum of the initiation of inquiry into each case

Additional measures for the deaths in custody:

- Ensure that the names, designations, and duty records of all arresting/detaining officers and Station In-Charges on all the necessary dates are collected, listed, and secured
- Ensure that the S. 176 of CrPC inquiry by a Judicial Magistrate is held at the earliest in each case, and a copy of the report is submitted to the NHRC as required under law
- Inspect the General Diaries, FIR and arrest registers of the police stations to scrutinise whether the needed entries recording arrests/detentions were made
- Seize and examine all relevant CCTV footage on the necessary dates from the police station premises
- Ensure that all the mandatory procedures on arrest and detention laid down in Sections 41 of the CrPC, particularly with Sections 41B and 41D, and Sections 50, 50A, 51, 54, 55A, 56, 57, and 60A of the Code were followed by the police. Call for all documents/reports required to be produced by the police in compliance with these Sections
- Ensure that the constitutional rights of all arrested persons guaranteed under Article 22 of the Constitution of India were fully adhered to
- Ensure that the NHRC guidelines on arrest and on custodial deaths were complied with. On reviewing the NHRC's online complaint portal on 14th May, with reference to the three custodial death cases, the mandatory intimation of the death by the Superintendent of Police or District Magistrate to the NHRC was not found, which could suggest non-compliance with the NHRC guidelines on custodial death
- Demand and examine copies of Inspection Memos that are to be drafted by the police that are to list any injuries or marks on the bodies of any arrested/detained person (DK Basu guideline)
- Inquire whether the district Legal Services Authority was informed by each police station of the arrests and detention

- Determine whether any of the victims were detained under preventive arrest sections and ensure that orders on preventive arrest or detention were issued in writing and gave legal grounds for preventive arrest or detention

Additional measures for the deaths induced by beating/excess force

- Direct the Director General of Police to seize all available CCTV footage in and around each area where beatings allegedly took place and hand over directly to the NHRC
- Speak to and record the statements of independent eyewitnesses at the scenes
- Collect and verify any video footage available in the suicide cases

Lastly, CHRI is continuing the daily media scan, particularly to collate incidents of excess force or death with regard to police actions, during the lockdown period to the best of our efforts. While our endeavor is to be as comprehensive as possible, some cases may inadvertently get missed. We urge the Commission to monitor media reports daily while restrictions are in place as a way to keep a check on excess force or any other illegalities by police in this time when fundamental rights and access to remedy are severely restricted.

We trust this will be treated as urgently as required, and stand ready to assist.

With sincere regards,



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