



Human Rights Situation Update Terai Human Rights Defenders Alliance 15.07.2020

This situation update is prepared on the basis of information gathered by human rights defenders of Terai Human Rights Defenders Alliance during the period of May, 2020 to July 14, 2020. Among various human rights issues during COVID-19 effect and response from the federal, provincial and local government in Nepal, this report is focused on three particular issues of human rights of Province 2. The analysis covers the incident of a custodial death Sambhu Sada that took place in Dhanusha district on 10 June 2020, death of Raju Sada in COVID-19 Hospital in Janakpurdham on June 23 reportedly due to lack of medical care and the death of Birendra Yadav Gurmaita due to lack of access to medical care at Jatahi border and also the province 2 government's response to it. Similarly, it also briefly presents the recommendations submitted by THRDA after analyzing the policies and programs of province 2, its implementation status and gaps.

1. FIR Registered to demanding criminal investigation in a Custodial death in Dhanusha

On June 15, a First Information Report (FIR) was registered at the District Attorney Office in Dhanusha against seven persons—including In-Charge of Area Police Office, Sabaila Chandrabhusan Yadav, Chair of Sabaila Municipality Ward No 2 Paras Sah, Chair of Ward No 3 Santosh Sah, Raj Kumar Yadav, 40, of Ward No 4, Kari Yadav, 48, of Ward No 2, Kali Prasad Sah, 46, of Ward No 3 and Sanjay Sah, 44, of Ward No 2—for their alleged involvement in custodial death of Sambhu Sada Musahar, aged 23, of Sabaila Municipality Ward Number 12, Dhanusha district. Sambhu, who was facing charges of vehicular manslaughter, was found dead in police custody on 10 June 2020.

District Administration Office, Dhanusha has formed a four-member probe committee to investigate the incident. Administrative Officer of DAO Dhanusha Ganeshchandra Mishra is the coordinator of the committee, while Nepal Police Inspector Ashok Kumar Jha, APF Inspector Ganesh Pandey and National Investigation Department Officer Basant Sah are the members of the probe committee. The committee has been probing in to the incident but their investigation is yet to be completed. Government authorities have not made any arrest related to the custodial death.

On 10 June, Sambhu died in police custody at around 2 am. He had been kept in the detention since 26 May 2020 after he had surrendered himself to Area Police Office (APO), Dhanushadham on the same day. However, next day, the APO Dhanushadham transferred him to the APO of Sabaila since the incident had taken place within the latter's jurisdiction. On 25 May, the tractor that he Shambhu was driving hit two persons. A woman who was injured in the incident died on the way to hospital. Sambhu was found hanging from an iron rod in the toilet on 10 June, and the policed concluded on the basis of preliminary investigation that the man died by suicide.



Human Rights Situation Update Terai Human Rights Defenders Alliance

15.07.2020

Chandrabhusan Yadav, in-charge of Sabaila APO told THRD Alliance that the detainee hanged himself to death in the bathroom using his own T-shirt as a rope.¹

However, the family members of Sambhu told THRD Alliance that three days before the incident took place, his mother and mother-in-law had met Sambhu in the detention center of APO Sabaila. According to them, Sambhu looked scared and worried. He had told them that he might be killed if he was not released instantly.

Meanwhile, the Office of the Chief Attorney of Province-2 also conducted an investigation and made some recommendations to Province-2 Police Office of Janakpurdhama. Some of the recommendations are as follows: slab of the tiles used in toilets walls should be smooth so that no one could climb, size of the toilet window should be reduced and there should be iron rods to close the gap in the window so that people could not enter or come out of the window.

The CAO also recommended that CCTV cameras which have been out of work for long should be maintained and used properly and police personnel should be placed on the ground round-the-clock to monitor detainees. Since it is the responsibilities of all the police stations to safeguard the detainees in their respective police station, they should arrange adequate facilities to prevent custodial deaths and other incidents. The CAO further recommended that police offices of all eight districts should make security arrangements by observing behaviour, character, health condition and psychological state of detainees.

2. Investigation demanded in a death of 16 years minor due to medical negligence in quarantine and COVID-19 Hospital in Dhanusha

On July 13, an FIR was lodged at the District Police Office in Dhanusha against Doctor Kuldeep Pandit, In-charge of COVID-19 Hospital under Provincial Hospital Janakpurdhama, Dr Jamun Singh, Coordinator of COVID-19 Hospital, Dr Nagendra Yadav, Medical Superintendent of Provincial Hospital, and Chief of Quarantine facilities made in Hanshapur Municipality-7 in Dhanusha district for death of a 16 year old Raju Sada in the isolation ward of provincial hospital (CORONA Hospital) in Janakpurdhama.

The-16-year-old Raju, son of Asheshwor Sada, who hailed from Parsahi village in Hanshapur Municipality-7, Dhanusha district, died in the Isolation Ward of Provincial Hospital in Janakpurdhama at around 3:30 AM on June 23. The isolation was designed to treat coronavirus related patients.

Although, Sada's PCR test report did not come out even after 10 days, the hospital had kept him in isolation ward suspecting him to be a COVID-19 patient but the hospital staff did not provide adequate medical care to the patient. On July 22, Sada's PCR test came out negative but by that time his condition had deteriorated, as per the observation of THRD Alliance.

¹<http://www.thrda.org/situation-update/thrda-concerns-over-custodial-death-in-dhanusha-demands-for-prompt-investigation/>

Human Rights Situation Update Terai Human Rights Defenders Alliance 15.07.2020

A video which has gone viral on social media and news-portals showed that Raju was fretting and falling down on floor from the bed on June 19. His friend, who was also in the isolation, asked about his condition but no medical team members visited him. However, his friend helped him and took him to the bed.

The FIRs were filed following the continued protests and struggles of the Dalits communities against the custodial death and death in the isolation ward.

Earlier, on June 25, Ministry of Social Development of Province-2 formed a three-member probe committee under Harishchandra Shah. Other members of the committee were Director of Health Directorate of Province-2. Nawal Kishor Jha, Chief of the Department of Hospital Development and Medical Service of Ministry of Social Development, and Dilip Kumar Pradhan, Under Secretary (Law) of Office of the Chief Minister and Council of Ministers, Province 2. .

However, further updates and progress have not been made public yet.

3. Compensation Awarded

On June 17, Provincial Council of Ministers decided to award NPR 500,000 to each family of Sambhu Sada and Birendra Yadav Gurmaita. Sambhu Sada was found dead in custody, while Birendra Yadav Gurmaita died due to lack of access to medical care at Jatahi border while returning from India.

On May 26, the 30-year-old Birendra Gurmaita Yadav of Shahid Municipality-9, Dhanusha district, died at the Jatahi border on Indian side after failing to get treatment on time. Around 200 people had been stuck at the Jatahi border after they were prohibited from entering Nepal. However, media reported that Birendra had, on May 25, called his family members to come to the border and receive him as he was not feeling well. His brother Dhirendra and other family members reached there at 11:00 PM on May 25 with an ambulance but they were not allowed to enter India by the security personnel. According to Dhirendra, he even tried to go to the Indian side on foot but he was not allowed to do so. Birendra died at the border at around 4:00 AM May 26. Birendra had gone to Gurajat of India for employment but due to lockdown he returned home. His family members claimed that he ate only dried foods on the way back home and he died due to starvation.² Shahidnagar Municipality on May 27 decided to provide NPR 100,000 as financial support to his family members.

Similarly, on June 26, Ministry of Internal Affairs and Law of Province-2 decided to provide NPR 500,000 to the family member of Raju Sada, who died in isolation of COVID-19 Hospital under Provincial Hospital of Province-2.

4. Policy recommendations submitted to province

On July 13, THRD Alliance submitted a policy brief to the Office of the Chief Attorney of Province-2 analyzing the policies and programme of Province-2 regarding COVID-19.

² <https://www.onlinekhabar.com/2020/05/867962>



Human Rights Situation Update Terai Human Rights Defenders Alliance 15.07.2020

Based on the analysis, THRD Alliance made following recommendations:

- 1) To collect data for contact tracing: Such data should be collected in close coordination with local governments and data should include a person's identity, address, age, gender, health condition, information about their movement and contact address. Local youths and students should be roped into the collection of such data.
- 2) To do feasibility study: A feasibility study should be carried out to know whether private sector could produce VTM and kits to conduct coronavirus test. If private hospitals or laboratories can do these all the COVID-19 tests, then provincial government should bear the costs of the tests conducted by private hospitals and labs.
- 3) Update quarantine and isolation facilities as per the standard set by the Government of Nepal and World Health Organization. Rent schools, public building, hotel and private buildings and convert them into quarantine and isolation facilities.
- 4) Maintain quarantine and isolation facilities for COVID-19 as per the standards set by the WHO. Ensure better health facilities, physical distancing, sanitization, relief materials for people affected by lockdown as stipulated in the WHO guidelines. Monitoring team led by government officials, including representatives from civil society.
- 5) Manage home quarantine and isolation if the numbers of COVID-19 infected people rise sharply. Coordinate with local bodies, youths and students to monitor home quarantine and isolations.
- 6) Manage better water facilities for drinking and sanitation purpose, soaps, sanitizer and other essential materials for quarantine and isolation with the support and help of public, private and social sectors.
- 7) Provide financial support to the families of those people who died of coronavirus. Provide temporary or permanent jobs to at least one person of the families that lost their members to COVID-19 or pay some ex gratia payment to the deceased's families.
- 8) Coordinate with the local bodies and collect data of the families who are at risk of starvation and provide financial support to them
- 9) Investigate COVID-19 deaths following the unavailability of ambulance and lack of medical equipment, lack of isolation facilities and care, unavailability of required facilities in isolation and punish those responsible for wrongdoings.
- 10) Provide relief to workers of unorganized sectors, daily wage workers, farmers who are unable to manage two meals for their families due to prolonged lockdown. Address the problems of those who are unable to find jobs due to lack of identity documents. Provide identity cards to them.
- 11) Provide financial support to the poor and marginalized communities who fall under the poverty line (\$1.25 a day or \$38 a month earning).
- 12) Follow/implement the COVID-19 related decisions of the Supreme Court as well as ensure the fundamental rights to all the citizens without any discrimination.
- 13) Ensure access to justice for all as per the decisions of the Supreme Court and form a committee to monitor the implementations of the court decisions. Such committee



Human Rights Situation Update Terai Human Rights Defenders Alliance

15.07.2020

should be formed by incorporating legal experts and staffs of courts and they should submit their reports to the Provincial Assembly.

5. Conclusion

It is important to see that the chief attorney office which is an important actor of province government, is initiating detention monitoring in Province-2. Regular custody monitoring from this provincial agency will help reducing torture, ill treatment in detention centers and prisons and will help to improve the condition of police detention center and prisons. THRDA expect that the criminal investigation in those cases will be held properly.

THRDA also believe that the Province-2 government will take necessary steps to improve quarantine centers, isolation wards and hospitals and provide necessary support to poor and vulnerable population of the province.