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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Independent Expert on minority issues; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: AL G/SO 214 (67-17) G/SO 214 (107-9) Minorities (2005-4) G/SO 214 (33-27)  
IND 4/2013

8 March 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; Independent Expert on minority issues; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 16/4, 16/5, 16/6, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the threats against and killing of human rights defender Mr. **Chandra Kant Gaikwad** and attempted killing of Mr. **Dada Shivaji Jadhav**, also a human rights defender.

Mr. Gaikwad was a Dalit rights defender who assisted victims of discrimination on the basis of their caste. He reportedly assisted Dalits who had become the victims of caste-based discrimination when trying to exercise their right to access justice, register cases with local authorities and follow up on them. In addition, it is reported that he worked as a volunteer with the National Dalit Movement for Justice (NCDHR), monitoring and documenting violations on the basis of caste.

According to the information received:

Mr. Gaikwad and two other human rights defenders, Messrs. Dada Shivaji Jadhav and Vaibhav Gite, reportedly filed a complaint against a local man alleged to have perpetrated crimes against Dalits in Indapur block, Pune district (Maharashtra), in May 2011.

Sources report that Mr. Gaikwad was also one of the witnesses to testify against the same man in two other cases of violations of Dalits' rights, both filed in 2012 and registered, like the first case, under the Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, 1989. It is alleged that the man in question was arrested for these offences in January 2012, but subsequently submitted an application for bail and was released in August 2012.

Sources have reported that continuous threats by the man were subsequently received by Messrs. Gaikwad, Jadhav and Gite. It is reported that although the threats were lodged by an Assistant Police Inspector at the Walchand Nagar Police Station, no investigation took place and no protection measures were taken. Complaints further filed with the Superintendent of Police, the National Human Rights Commission and the Ministry of the Interior were allegedly never responded.

On 12 February 2013, around 10 a.m., Mr. Gaikwad paid a visit to Mr. Jadhav in the Indapur block of Pune district (Maharashtra). A number of individuals then arrived by jeep and shot at the two human rights defenders.

It is reported that Mr. Gaikwad was fatally injured by the shots while Mr. Jadhav managed to escape. Allegedly, the shooting is linked to the man against whom the human rights defenders had taken action.

Grave concern is expressed at the allegations that Mr. Chandra Kant Gaikwad's killing was motivated solely by his legitimate and peaceful work in promoting Dalits' access to justice and the accountability for alleged caste-based crimes against them. Concern is further expressed at the allegations that no investigation took place with regard to the threats received by the said human rights defenders, nor were protection measures granted despite the human rights defender having registered on-going threats against him and others. Additionally, concern is expressed for the physical and psychological integrity of Messrs. Jadhav and Gite, given the allegations that they have received threats as well, and the possibility that the alleged shooting may also have been directed at Mr. Jadhav.

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 standards that are applicable to the issues brought forth by the situation described above.

With regard to the shooting at Messrs. Gaikwad and Jadhav, and the subsequent death of Mr. Gaikwad, we would like to remind your Excellency's Government that the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979, provides that every individual has the right to life and security of the person, that this right shall be protected by law, and that no person shall be arbitrarily deprived of his or her life (article 6). Additionally in its General Comment No. 31, the Human Rights Committee has observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities. There are circumstances in which a failure to ensure Covenant rights as required by article 2 would give rise to violations by States Parties of those

rights. This applies when a State Party permits or fails to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. (CCPR/C/21/Rev.1/Add.13, paras. 8 and 18).

We would like to further refer your Excellency's Government to paragraph 4 of the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, according to which it is incumbent upon States to provide "effective protection through judicial or other means to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats".

Furthermore, we would like to remind your Excellency's Government of the duty to investigate, prosecute, and punish all violations of the right to life. In line with principle 9 on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, there must be thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

Regarding the allegations indicating that the shooting at Messrs. Gaikwad and Jadhav, and the subsequent death of Mr. Gaikwad, were directly linked to their human rights work, 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, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, 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, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 6 point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.
- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on

the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 9 para. 3 point c) which provides that everyone has the right, individually and in association with others to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, 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. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Has a complaint been lodged on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, 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.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please clarify whether compensation has been made available to the victim's family.
6. Please explain what steps have been taken to ensure that human rights defenders in India are able to carry out their legitimate and peaceful activities in defence of human rights without fear of violence or other restrictions.

We 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, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned person 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. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

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