

**Mandates of the Working Group on the issue of discrimination against women in law and in practice; 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; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the rights of indigenous peoples; and the Special Rapporteur on violence against women, its causes and consequences**

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Excellency,

We have the honour to address you in our capacities as Working Group on the issue of discrimination against women in law and in practice; 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; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the independence of judges and lawyers; Special Rapporteur on the rights of indigenous peoples; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 23/7, 25/2, 24/5, 25/18, 26/7, 24/9, and 23/25.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of harassment, attacks and, threats to the lives of three women human rights defenders, Ms. **Malini Subramaniam**, Ms. **Bela Bhatia** and Ms. **Soni Sori**, and two women human rights lawyers, Ms. **Shalini Gera**, Ms. **Isha Khandelwal**.

**Ms. Malini Subramaniam** is a journalist who reports on human rights violations in Bastar for the news website [www.scroll.in](http://www.scroll.in). Over the past year, she has conducted investigations into the arrests and torture of journalists by police, as well as allegations of sexual violence by security forces.

**Ms. Shalini Gera** and **Ms. Isha Khandelwal** are lawyers and members and founders of **Jagdarpur Legal Aid Group (JagLAG)**, a non-governmental organisation, which provides free legal aid to indigenous Adivasi peoples in Bastar, Dantewada, Kanker, Sukma, and Bijapur regions. They document human rights abuses in the context of the on-going conflict between State forces and the outlawed Maoist party in the area.

**Ms. Bela Bhatia** is a human rights defender, independent researcher and writer. She previously exposed two instances of gang rape and sexual assault by security forces conducting anti-Maoist operations, and provided assistance to Adivasi victims in filing

complaints. She is a member of Women against Sexual Violence and State Repression (WSS), and co-authored a recent report on looting and sexual violence by security forces in Bijapur, south Chhattisgarh.

**Ms. Soni Sori** is a human rights defender who advocates for the rights of indigenous peoples in India, with a focus on women's rights. She works in the state of Chhattisgarh, where the long-term conflict between Maoists and Government security forces has greatly affected the indigenous people in the area.

According to the information received:

*Ms. Malini Subramaniam*

On 7 February 2016, at approximately 6:00 p.m, the house of Ms. Malini Subramaniam was targeted by a group of around 20 persons who shouted slogans, such as “*Naxal supporter, leave Bastar. Death to Malini Subramanian*”. The mob allegedly tried to instigate her neighbours to attack her.

On 8 February, at approximately 2:30 a.m., unidentified people threw stones at her residence and the window of her car was shattered. Among the people, Ms. Subramaniam recognized two members of the Samajik Ekta Manch, a Jagdalpur based organisation allegedly supported by the Chhattisgarh Police, to counter Naxal influence and activities in the Bastar region

On 10 February 2016, Samajik Ekta Manch’s members visited the house of Ms. Subramaniam and warned her against writing articles that tarnished the image of the Bastar police. Furthermore, Ms. Subramaniam received late night enquiries from the local police and had to submit documents proving her identity.

On 18 February 2016, Ms. Subramaniam’s domestic help, was called-in for questioning by the police for a number of hours. Later that day, the landlord of Ms. Subramaniam was summoned to the police station for questioning, temporarily detained, and threatened into issuing Ms. Subramaniam and her family with a notice of eviction, before being released.

On 19 February 2016, fearing for her safety, Ms. Subramaniam vacated her house and left Jagdalpur with her family.

*Ms. Shalini Gera and Ms. Isha Khandelwal*

In May 2015, during a press conference organized by the Inspector General of Police of Bastar, it was stated that severe action would be taken against NGOs in Chhattisgarh, especially those aiding the political organisation called the Naxalites in the guise of providing legal aid to indigenous Adivasis. Jagdalpur Legal Aid Group (JagLAG) is the only group providing pro-bono legal services to the Adivasis in the area. Ms. Shalini Gera and Ms. Isha Khandelwal, lawyers at JagLAG, have both received personal anonymous threats. Anonymous police

complaints have been lodged against them on the grounds that they do not possess the required legal credentials.

On 3 October 2015, a resolution was passed at the general meeting of the Bastar Bar Association, which prohibited any lawyer, who is not registered with the Chhattisgarh State Bar Council to practice before the Jagdalpur Courts. This resolution prevented Ms. Shalini Gera and Ms. Isha Khandelwal from representing their clients in Jagdalpur, as they are registered with the Delhi State Bar Council. The request of JagLAG to receive a copy of the resolution was refused by the Bar Association. On the complaint of JagLAG, the Chhattisgarh State Bar Council passed an interim order allowing them to practice again.

On 18 February 2016, the landlord of the office of Ms. Gera and Ms. Khandelwal was summoned for questioning to the police station in Jagdalpur and detained for several hours. He was threatened and pressured to ask the women to leave the building within two days. The police also impounded his taxi. Later members of Samajik Ekta Manch, also held a demonstration against JagLAG accusing them of being supporters of ‘bloodthirsty Maoists’.

On 20 February 2016, Ms. Gera and Ms. Khandelwal were forced to vacate their office and leave Bastar.

*Ms. Bela Bhatia*

In January 2016, Ms. Bhatia assisted several Adivasi women who had been allegedly raped by police officers to file complaints in Bijapur. She then faced intimidation from representatives of Samajik Ekta Manch, previously mentioned above, who organised a mob, shouted slogans accusing her of being a Naxalite, a guerrilla group, and of not raising issues of human rights abuses by Naxals.

Since 18 February 2016, Chhattisgarh police teams visited areas surrounding the residence of Ms. Bhatia numerous times, and there are indications that her mobile phone was being traced. The head of the village and members of the community were all questioned about Ms Bhatia. Photos were taken of Ms. Bhatia’s house, motor-bike and landlady.

On 20 February 2016, the landlady of Ms. Bhatia was called to the local police station in Jagdalpur and was pressured to ask Ms. Bhatia to leave Jagdalpur.

On 26 March 2016, a group of around hundred men, women and armed police officers in plain clothes came to the village where Ms. Bhatia rents a house. The human rights defender was not at home at the time. In her absence the group questioned Ms. Bhatia’s landlady and neighbours about the human rights defender. They demanded that the landlady answer questions as to why she had rented a place to a “Naxalite terrorist” and told her to order Ms. Bhatia to vacate the house. The crowd subsequently marched through the village, shouting slogans such as “Death to Bela Bhatia”. They also distributed pamphlets calling the

human rights defender a “*Naxal stooge*”, a “*foreign stooge*”, and criticizing her husband, accusing him of being a Naxal supporter.

*Ms. Soni Sori*

Between 2012 and 2013, it is alleged that the local police lodged seven false cases against Ms. Soni Sori. She was acquitted in six of the seven cases in April 2013. Ms. Sori was imprisoned on charges of attacking police officers and released in 2014. She was allegedly tortured and subjected to sexual harassment in jail. After her release she resumed her advocacy work for Adivasi villagers who had been victims of police violence.

On 1 August 2015, following a press conference which Ms. Sori held at the Jagdalpur Press Club, to discuss the murder of an unarmed Adivasi villager, she was threatened by the Bastar Range Inspector General. At a community meeting, it is alleged the Inspector General began a slander campaign against her, warning people that the attacks against Ms. Sori would continue unless the locals decided to excommunicate her and her fellow human rights workers.

On 16 February 2016, Ms. Sori accompanied the family of the victim to the police station to lodge a complaint about his murder.

On 4 February 2016 Ms. Sori received an anonymous letter and three hand-written pamphlets to her house with a warning that if she enters Bastar area, she would be burnt alive and her naked body paraded around.

On 19 February 2016, she was threatened by civic officials from Dantewada who visited her house and informed her that the title to her house was defective and her house has been built on an "encroached land", and could therefore be demolished.

On 20 February 2016, at approximately 10:40 p.m., Ms. Sori, was attacked by three unidentified men near Jawbanga, Chhattisgarh. They threw a chemical substance in her face which resulted in severe burning and her hospitalisation in an intensive care unit in New Delhi. Her attackers warned her to “*stop complaining against the Inspector General Bastar and if you continue this behaviour, your daughter will also face the same consequences*”.

On 1 and 9 March 2016, the police summoned the brother-in-law of Ms. Sori for questioning and during the interrogation the officers physically and verbally abused him.

On 10 March 2016, at approximately 10:30 a.m., the brother-in-law of Ms. Sori was arrested in his home in the district of Dantewada by the Jagdalpur police. The police officers and the Chief Superintendent interrogated him regarding the attack of 20 February on Ms. Sori and threatened to charge him for organizing the assault. They released him in the morning of 12 March.

On 11 March 2016, following the arrest of Ms. Sori's brother-in-law, Ms. Sori's father as well as other members of her family went to the Inspector General of the Bastar Police to seek information about his whereabouts. In response, the Inspector General threatened the family members that he would be kept in detention and additionally the whole family would face consequences for Ms. Sori's work in defence of human rights. On the same day at 4:00 p.m., Ms. Sori's sister was also arrested and detained for questioning at the same Jagdalpur police station as her husband. She was released later that same night, after having been verbally abused and threatened. On 12 March 2016, Ms. Sori's brother-in-law was released by Jagdalpur police.

Grave concern is expressed at the systematic and repeated attacks, threats to the lives and works of the abovementioned women human rights defenders and lawyers in the state of Chhattisgarh.

Furthermore, serious concern is expressed at the alleged involvement of the authorities of Chhattisgarh in facilitating the harassment against the five women. The harassment and attacks allegedly suffered by the five women in Chhattisgarh appear to be part of a larger crackdown against human rights defenders, lawyers and journalists who are defending the rights of indigenous peoples in the region.. We are further concerned that the attacks and harassment appear to be in retaliation for speaking out against human rights violations, including cases of sexual violence by police forces and may deter individuals from exercising their legitimate rights to freedom of expression and freedom of association in India. Concern is also expressed at the broader implications this intimidation has on society as a whole, whereby information about human rights violations could be silenced, and the prosecution and prevention of such violations be hindered.

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.

In connection with the above alleged facts and concerns, please refer to the **Reference to International Law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

3. Please provide information on measures taken to improve the responsiveness and effectiveness of domestic protection mechanisms available to human rights defenders, in particular women human rights defenders, and human rights organisations, as well as measures undertaken to ensure human rights defenders do not face retaliation after having presented complaints to the relevant authorities.
4. Please provide the full details of any protective measures put in place to ensure the physical and psychological security and integrity of the aforementioned human rights defenders and lawyers and their families.
5. Please provide detailed information concerning measures which are taken to prevent human rights violations being perpetrated by members of the police force and concerning the measures adopted to provide an effective remedy, including reparation to the victims.
6. Please kindly indicate what measures have been taken to ensure that human rights defenders, including women human rights defenders, in India 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. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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.

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

Eleonora Zielinska  
Chairperson-Rapporteur on behalf of the Working Group on the issue of discrimination  
against women in law and in practice

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

Mónica Pinto  
Special Rapporteur on the independence of judges and lawyers

Victoria Lucia Tauli-Corpuz  
Special Rapporteur on the rights of indigenous peoples

Dubravka Šimonović  
Special Rapporteur on violence against women, its causes and consequences

**Annex**  
**Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer your Excellency's Government to articles 9, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which was ratified by India on 10 April 1979. These provisions concern the right not to be subject to arbitrary arrest and detention; the right to freedom of expression; and the right to freedom of association.

We would like to recall that the obligation to respect freedom of expression under article 19 of the ICCPR is binding on all branches of the State and on all public and governmental levels. The obligation also requires the state to protect persons from any acts by private persons or entities that would impair the enjoyment of the right to freedom of expression. States have an active duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression.

The Human Rights Committee has in General Comment No.34 highlighted the importance of the State's duty to protect against attacks on persons exercising their right to freedom of expression, in particular persons who engage in the gathering and analysis of information on the human rights situation, and who publish human rights-related reports. (CCPR/C/GC/34).

We would also 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups
- article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;



- article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights; and

- article 8 (2) which provides for the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

- article 9 (3) (c) to offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

Moreover, we refer to Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights.

In addition, with regard to the case of Ms. Shalini Gera and Ms. Isha Khandelwal, we would like to refer to the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular: principle 16, according to which governments shall ensure that lawyers are able to perform their professional functions without intimidation, hindrance, harassment or improper interference; principle 17, which states that the security of lawyers shall be adequately safeguarded by the authorities; and principle 18 which stipulates that lawyers shall not be identified with their clients or their clients' causes.

We would furthermore like to draw the attention of your Excellency's Government to the United Nations Declaration on the Rights of Indigenous Peoples, adopted by the General Assembly on 13 September 2007, in particular to the provisions set out in Art 2; that indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity, in Art. 7; that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person and in Art. 22; that States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

We would also like to refer to the Convention on the Elimination of all Forms of Discrimination against Women ("CEDAW Convention") (article 7(c)), which provides for the right of women to participate in non-governmental organizations and associations without discrimination.

We wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of

human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination against Women (ratified by your Excellency's Government on 9 July 1993), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

We would, moreover, like to bring to Your Excellency's attention Article 4 (o & p) of the United Nations Declaration on the Elimination of Violence against Women which notes that States should recognize the important role of the women's movement and non-governmental organizations worldwide in raising awareness and alleviating the problem of violence against women, and should, moreover, facilitate and enhance the work of the women's movement and non-governmental organizations and cooperate with them at local, national and regional levels.

We would like to draw your attention General Assembly resolution 68/181 whereby States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. (OP5, 19 and 20) and would also like to refer to the Human Rights Council resolution 31/28.

We also wish to recall paragraph (z) of its 2013 Agreed Conclusions (E/2013/27-E/CN.6/2013/11), whereby the Commission on the Status of Women has recommended that States "support and protect those who are committed to eliminating violence against women, including women human rights defenders in this regard, who face particular risks of violence."

We would like to refer to the report of the Special Rapporteur on violence against women, its causes and consequences highlighted on her official visit to India (A/HRC/26/38/Add.1), in which she highlighted that "human rights defenders, including women's organizations, face numerous challenges, including harassment, intimidation and reprisals" (para. 36). The Special Rapporteur on Human Rights Defenders also emphasized in her report on her official visit to India (A/HRC/19/55/Add.1) that "women human rights defenders [...] are at particular risk of persecution, especially those in rural areas" (para. 103). The latter expert also recommended in her report on Women human rights defenders and those working on women's rights or gender issues (A/HRC/16/44) that States should, inter alia, "Protect women defenders and those working on women's rights or gender issues from violations perpetrated by State and non-State actors by acknowledging such violations and by offering effective security measures"; "ensure that

violations against women defenders and those working on women's rights or gender issues committed by State and non-State agents are promptly and impartially investigated and that those responsible are punished in an appropriate manner" (para. 109).

We would like to further refer to the 2012 report of Working Group on the issue of discrimination against women in law and in practice on political and public life (A/HRC/23/50), which mentions that "for women to have the capacity to participate in political and public life on equal footing with men, including to build autonomous movements for their own empowerment, they must be able to exercise their rights to freedom of thought, conscience, religion, expression, movement and association. It is imperative to recognize and secure these rights as individual rights for women's effective participation in political and public life, in the light of the complex tensions between collective rights and women's rights" (para.34). The Working Group further recommended States to "accelerate efforts to eliminate all forms of violence against women, including through a comprehensive legal framework to combat impunity, in order to fulfill women's human rights and to improve the enabling conditions for women's participation in political and public life" (para.97 (i)).

We would also like to refer your Excellency's Government to Human Rights Council resolution 24/5 (operative paragraph 2), in which the Council "reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, 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 and of association are in accordance with their obligations under international human rights law."