

## Mandate of the Special Rapporteur on the situation of human rights defenders

REFERENCE:  
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20 June 2017

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolution 25/18.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the 'Look out Circular' issued against Mr. **Kartik Murukutla**, allegedly linked to the human rights lawyer's cooperation with United Nations human rights mechanisms.

Mr. Kartik Murukutla is a human rights defender based in Srinagar, Indian-administered Jammu and Kashmir. He is a lawyer by training and has previously worked with the Office of the Prosecutor, United Nations International Criminal Tribunal for Rwanda. Since 2011, Mr. Murukutla has been working as a legal counsellor with the Jammu Kashmir Coalition of Civil Society (JKCCS). With JKCCS, he conducts legal research on human rights reports, represents victims of human rights violations before local courts and engages with United Nations human rights mechanisms, particularly with the Universal Periodic Review and Special Procedures.

According to the information received:

On 14 September 2016, Mr. Murukutla travelled to Geneva to attend the 33<sup>rd</sup> session of the United Nations Human Rights Council and brief the United Nations bodies and foreign missions on the human rights situation in Jammu and Kashmir. Although one of his colleagues from the JKCCS was prevented from travelling at the New Dehli airport, Mr. Murukutla was permitted to travel to Geneva together with another colleague. Whilst in Geneva, JKCCS submitted its stakeholders report to the Universal Periodic Review.

On 24 September 2016, upon his return from the 33<sup>rd</sup> session of the United Nations Human Rights Council, Mr. Murukutla was detained at the immigration gate for half an hour, and was informed that a 'Look Out circular' (LOC) had been issued in his name. No further information was provided to him and no markings were left in his passport.

On 2 April 2017, Mr. Murukutla left New Delhi for Geneva in order to attend a training session with the Universal Periodic Review mechanism, as well as to meet with staff members of the Office of the High Commissioner for Human Rights. On both his departure and return to India, Mr. Murukutla was stopped and forced to wait at the immigration gate due to the LOC in his name. No further information was provided to him as to the nature or reason for the LOC. Upon his

return, he was asked to provide details of his temporary address and phone number.

To date, Mr. Murukutla has not been informed of the reason a Look Out Circular had been issued against him.

Look Out Circulars are opened in circumstances where a case has been registered against an individual by a police authority, in order to verify whether a travelling person is wanted by the police. They are opened to prevent and monitor the entry or exit of persons who may be required by law enforcement agencies.

Concern is expressed that the Look Out Circular against Mr. Murukutla may have been issued in order to monitor his human rights activities. Moreover, concern is expressed at allegations that the Look Out Circular may have been issued as an act of intimidation or reprisal for his cooperation with the human rights mechanisms of the United Nations, including the Universal Periodic Review and Special Procedures.

While I do not wish to prejudge the accuracy of these allegations, I 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 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. Please provide any additional information and/or any comment(s) you may have on the above-mentioned allegations.
2. Please confirm the legal basis for the Look Out Circular issued against Mr. Murukutla and explain how these measures are compatible with international human rights standards. Please also explain the procedure by which a Look Out Circular may be challenged or a request for its removal be made.
3. Please indicate what measures have been taken to ensure that the legitimate right of freedom of expression and opinion, as well as freedom of assembly and association are respected and that the physical and psychological integrity of those exercising said rights are guaranteed.
4. Please indicate what measures have been taken to ensure that 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 directed against them or their family members and harassment of any sort.

I would appreciate receiving a response within 60 days.

While awaiting a reply, I 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.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Michel Forst  
Special Rapporteur on the situation of human rights defenders

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

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

I wish to bring the attention of your Excellency's Government to article 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979, which guarantee the right to freedom of opinion and expression, which includes the right to seek, receive and impart information, as well as the right of peaceful assembly. In particular, I would like to remind your Government that any restrictions to these rights may only be imposed for one of the grounds set out in article 19 and subparagraphs (a) and (b) of paragraph 3 and in article 21, and must conform to the strict tests of necessity and proportionality. In this regard, I reiterate the principle in Human Rights Council Resolution 12/16, which calls on States to refrain from imposing restrictions which are not consistent with article 19(3) of the ICCPR, including on reporting on human rights; discussion of government policies and political debate; government activities and corruption in government; and peaceful demonstrations or political activities.

I also wish to underline that Human Rights Council resolutions 12/2 and 24/24 call on Governments to prevent and refrain from all acts of intimidation or reprisal against those who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights. Human Rights Council resolution 22/6 provides for the right to "unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights, including the Human Rights Council, its special procedures, the universal periodic review mechanism and the treaty bodies, as well as regional human rights mechanisms". Moreover, in his 2016 report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/33/19), the Secretary-General reiterates his firm position that all such acts, no matter how seemingly subtle or explicit, are without exception unacceptable and must be halted immediately and unconditionally, effective remedies provided and preventive measures adopted and implemented to prevent reoccurrence. (para. 49).

I would further 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, I 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, I 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 point c), which provides for the right to communicate with non-governmental or intergovernmental organizations;

-article 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;

-article 6 points 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;

-article 9, paragraph 4, point a), which provides for the right to unhindered access to and communication with international bodies;

-article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

I would further like to draw the attention of your Excellency's Government to the Human Rights Council resolution 12/16, calling on States to recognize the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society, and providing that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities