

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 Special Rapporteur on freedom of religion or belief and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
UA IND 10/2018

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; 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; Special Rapporteur on freedom of religion or belief and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 35/15, 34/18, 34/5, 31/16 and 32/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **imminent threat to life of journalist Ms. Rana Ayyub, stemming from the dissemination of false information online and pursuant death threats as well as the alleged failure by the authorities to provide effective protection.**

The case of another Indian journalist, Ms. Gauri Lankesh, who wrote critically about religious fundamentalism, the governing party and right-wing politics and was killed by unidentified men was the subject of a communication by special procedures mandate holders on 11 September 2017 (UA IND 11/2017). We regret that no response has so far been received.

According to the information received:

Ms. Rana Ayyub is an independent Indian journalist and writer. She rose to prominence for her investigative work into crimes committed by public and government officials. Her recent work titled "Gujarat Files: Anatomy of a Cover Up", which analyzed allegations of government complicity in the 2002 Gujarat riots that resulted the deaths of hundreds, made her a target of scorn, vitriol and death threats which often referred to her Muslim faith.

On April 20, 2018, an account imitating Republic TV, a popular English-language news service, published a tweet containing a fabricated statement that Ms. Ayyub allegedly made. The statement claimed that Ms. Ayyub supported child rapists and thought that an ordinance to institute the death penalty against such criminals

was a “Hindutva Government” conspiracy to “hang Muslims in large numbers.” Ms. Ayyub learned of this tweet from a friend, who called her to ask about it.

Ms. Ayyub referred to the days following the publication of the false information “a nightmare, a living hell.” She became a target of a violent hate campaign online and on social networks, including calls for her gang-rape and murder. Her phone number and home address were posted on a social network.

Ms. Ayyub clarified that the tweet was false in the hope that this would stop the death threats and hate speech. In response, at least one member of India’s ruling party criticized her in a manner that legitimized the false information about her. Soon after, a pornographic video appeared online with Ms. Ayyub’s face superimposed on one of the women in the video. A new wave of threats followed. One of the threats she received stated “Look, Rana Ayyub, what they’ve spread about you. Don’t ever dare to speak about Hindus and Modi again.”

On April 26, 2018, physically and mentally distraught, as well as fearing for her safety Ms. Ayyub filed a criminal complaint at the Saket police station in New Delhi. Ten days after she filed the complaint, on May 8 2018, the police began its investigation and requested her to provide evidence of the threats. In the meantime, she had not received police protection and continues to receive threats.

While we do not wish to prejudge the accuracy of the information received, very grave concern is expressed that Ms. Rana Ayyub has been a target of death threats for her work as an investigative journalist producing work in the public interest, and that the authorities appear to have failed to provide effective protection in response to these threats.

Concerned about her safety, we are urgently calling on your Excellency’s Government to take all necessary measures to investigate these allegations, and in the meanwhile to provide effective protection to Ms. Ayyub, including through possible police protection, for as long as is required.

In relation to these allegations, we refer your Excellency’s Government to articles 6(1) and 9 of the International Covenant on Civil and Political Rights (ICCPR), ratified by India in 1976, and article 3 of the Universal Declaration of Human Rights (UDHR), which guarantee the right of every individual to life and security, as well as provide that these rights shall be protected by law and that no one shall be arbitrarily deprived of his or her life.

We further wish to refer to article 2(1) of the ICCPR that establishes a general duty of the State to guarantee in law and practice the rights recognized by the ICCPR. This article establishes a State duty to take positive measures to protect the right to life.

The United Nations Human Rights Committee clarified that “States parties have a positive obligation to ensure the protection of individuals against violations of Covenant rights, which may be committed not only by its agents, but also by private persons or entities” in the case of *Peiris v. Sri Lanka* (CCPR /C/103/D/1862/2009).

At the heart of this positive obligation is the human rights standard of due diligence, which requires States to prevent arbitrary deprivation of life, including where there is a real and immediate risk to the life of an identified individual. In this regard, we would like to 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”.

The Human Rights Committee’s General Comment no. 35 states that the right to personal security obliges States to take appropriate measures in response to death threats against persons in the public sphere, and more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. It further notes that States must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury.

To meet the standard of due diligence, States parties must recognize that certain groups of women are at particular risk of violence due to various forms of discrimination. Ms. Ayyub has been particularly targeted because of her work as an investigative journalist, her Muslim faith and the false belief that her journalistic activities stem from a desire to undermine a Hindu government.

Additionally, the standard of due diligence, as applied to the responsibility of preventing arbitrary killing by non-State actors, relies on an assessment of how much the State knew, the risks or likelihood of harms, and the seriousness of harm. Ms. Ayyub submitted a criminal complaint about the threats she had received with the police, so the State has knowledge of risks that she faces. Second, there is a likelihood that the threat may materialize in an attempt or a successful attack on Ms. Ayyub’s life. As noted above, a journalist who reportedly wrote articles critical of the current government and who was the subject of communication UA IND 11/2017, was killed in 2017 following a massive online hate campaign, similar to the one that Ms. Ayyub has recently faced. Ms. Ayyub’s personal email and home address have been shared online, which increases the likelihood of harm. Third, the seriousness of harm must be assessed. Ms. Ayyub received death threats and thus faces the most serious type of harm.

Last, we 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.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of Ms. Ayyub in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to clarify all cases brought to our attention, we would also be grateful for your observations and considerations concerning the following points:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details about the investigation that the New Delhi Police may have undertaken to clarify the matter, identify the threats and their authors, and in the meanwhile exercise its duty of due diligence to ensure the protection of Ms. Ayyub. If the investigation has been delayed, or no effective investigation has been initiated, please explain why, and how this is compatible with India's international human rights obligations.
3. Please provide any information on measures that have been or will be taken to ensure the threats which Ms. Ayyub has been subjected to cease, and that those responsible are held accountable pursuant to India's human rights obligations under the treaties it has ratified, and in particular with regard to the universally-recognized right to life.
4. Please provide information about existing measures to ensure the respect of India's international human rights obligations engaged by this case, particularly in respect of the right to life of female and any other journalist who may belong to a religious minority.

5. 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 or retaliation directed against them or harassment of any sort.

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 responsible of the alleged violations.

We are considering publicly expressing our concerns in the near future as, in our view, the information upon which a press release would be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the human rights implications of the above-mentioned allegations. Any public statement on our part would indicate that we have been in contact with your Excellency's Government's to clarify the issues in question.

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 our highest consideration.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

David Kaye
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Ahmed Shaheed
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