

**Mandates of 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
minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment**

REFERENCE:
AL IND 11/2018

8 June 2018

Excellency,

We have the honour to address you in our capacities as 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 minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 32/32, 34/5, 34/6 and 34/19.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the attacks against human rights defender Mr. **Lenin Raghuvanshi** and his brother Mr. **Kanad Raghuvanshi**.

Mr. **Lenin Raghuvanshi** is a human rights worker and founder and CEO of Peoples Vigilance Committee on Human Rights (PVCHR), an organisation which works to ensure basic rights for marginalised groups in Uttar Pradesh including through fighting minority and caste-based discrimination. He is also the founder of Jan Mitra Nyas, an organisation working with lower caste communities which has been previously funded by the UN Voluntary Trust Fund for Victims of Torture, managed by the Office of the United Nations High Commissioner for Human Rights.

Mr. Raghuvanshi has been the subject of four previous communications sent by special procedures mandate holders on 16 August 2005, case no. IND 14/2005; 13 December 2007, case no. IND 30/2007; 14 February 2008, case no. IND 2/2008; and 23 May 2008, case no. IND 15/2008. We acknowledge your Excellency's Government's reply to the last communication sent, received on 2 February 2009 and thank the Government for its efforts in providing protection measures to Mr. Lenin Raghuvanshi. We regret however that no detailed information was provided on the outcome of any investigations or prosecutions which had taken place further than the presentation of a charge sheet to the court. We deeply regret that the other three communications sent concerning Mr. Raghuvanshi received no response.

According to new information received:

On 21 April 2018, at approximately 11 p.m., Mr. Kanad Raghuvanshi was badly beaten by a number of assailants while attending a marriage ceremony. As a result of the attack, Mr. Kanad Raghuvanshi received severe head injuries requiring some 18 stitches. After the incident, Mr. Kanad Raghuvanshi complained to police, however no First Information Report (FIR) was filed.

On 26 April 2018, Mr. Lenin Raghuvanshi learned of the incident after returning from a trip to London, and went to the Cantonment Police Station to enquire as to why no FIR was filed, however he was directed to instead visit Pahariya Police Outpost. Upon his arrival at the outpost, one policeman began to verbally abuse Mr. Lenin Raghuvanshi, while another recorded the incident with his phone. The two policemen, along with a third, removed their nametags and began to become violent with him. When Mr. Lenin Raghuvanshi attempted to leave on his motorbike, one of the policemen twisted his left arm from behind, breaking his watch, and pushed his motorbike. When Mr. Lenin Raghuvanshi objected, one of the policemen stated “you have created lots of trouble for police by filing cases against us”. Following the attack, Mr. Lenin Raghuvanshi reported swelling and pain in his wrist, shoulder and arm.

Despite having reported the attack to personnel from the Cantonment Police Station and requesting a medico-legal test to be administered, he was told to go home.

We express concern over the alleged attack suffered by Mr. Lenin Raghuvanshi, especially due to the allegations that it was perpetrated by members of the police. Further, we cannot dismiss the possibility that the alleged attack was in retaliation to Mr. Lenin Raghuvanshi’s legitimate and peaceful work in the defence of human rights, and in particular the human rights of the Dalit minority and of other scheduled castes and tribes of India. We also express concern over the alleged unwillingness of police to investigate both the attack against Mr. Lenin Raghuvanshi and the attack against his brother, Mr. Kanad Raghuvanshi.

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 any comment(s) you may have on the above-mentioned allegations.
2. Please provide detailed information on any investigation into the attacks on Mr. Kanad Raghuvanshi and his brother Mr. Lenin Raghuvanshi, along with the results of any such investigation. Please further provide information on any prosecutions which may have taken place in connection with the above-mentioned allegations. If no investigation has taken place, please explain why.
3. Please indicate what measures have been taken to ensure that human rights defenders in India, in particular those advocating and working for the elimination of violence and discrimination based on caste and analogous systems of inherited status, 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.

Clement Nyaletsossi Voule
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Michel Forst
Special Rapporteur on the situation of human rights defenders

Fernand de Varennes
Special Rapporteur on minority issues

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to articles 7, 9, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), which India acceded to on 10 April 1979, which establish the prohibition of torture or to cruel, inhuman or degrading treatment or punishment, as well as the right to security of person, the rights to freedom of expression and the rights to freedom of association, respectively.

We would further like to draw your Excellency's Government's attention to articles 2 and 16 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), which India signed on 14 October 1997, which impose obligations on States Parties to prevent occurrences of torture or ill-treatment, as well as articles 7 and 12 which require prompt and impartial investigation wherever there is reasonable ground to believe that an act of torture has been committed along with the prosecution of perpetrators of such acts.

With regards to security of person, we recall that, as established by the Human Rights Committee, this right concerns freedom from injury to the body and the mind, or bodily and mental integrity regardless of whether the victim is detained or non-detained (CCPR/C/GC/35, para. 3 and 9). As interpreted by the Committee, "the right to personal security also obliges States parties to take appropriate measures (...) to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors. States parties must take both measures to prevent future injury and retrospective measures, such as enforcement of criminal laws, in response to past injury". Furthermore, we would like to recall that "States have a duty to prevent and redress unjustifiable use of force in law enforcement" (CCPR/C/GC/35, para. 9).

We would like to bring to your attention to the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, paragraph 1, which states that Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force against persons by law enforcement officials, keeping the ethical issues associated with the use of force constantly under review.

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 realisation 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 Article 12, paragraphs 2 and 3 of the UN Declaration on Human Rights Defenders 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.

We would like to bring to the attention of your Excellency's Government the international standards regarding the protection of the rights of persons belonging to minorities, in particular to article 27 of the ICCPR and the United Nations 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on Minorities), which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them. Article 4.1 establishes that "States will take measures where required, to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law".

In addition, we would like to refer to the 2016 report on minorities and discrimination based on caste and analogous systems of inherited status, by the Special Rapporteur on minority issues. In this report, the Special Rapporteur found that discrimination based on caste and analogous systems is "a serious human rights violation and it infringes upon the basic principles of universal human dignity and equality" and it is also "a major cause of poverty, inequality and social exclusion of affected communities" (A/HRC/31/56, paragraphs 123 and 126). The Special Rapporteur made specific reference to "community boycotts", which are often used as a means to suppress any attempt that may challenge well-established discriminatory practices in caste and caste-like systems (A/HRC/31/56, paragraph, paragraph 70). The Special Rapporteur recommended that States a) adopt specific legislation prohibiting discrimination on the grounds of caste and/or analogous systems and ensure that existing legal frameworks are adequately and fully implemented and include appropriate penalties for acts of caste-based discrimination; b) conduct awareness-raising campaigns at the national and local levels, targeting both affected communities and the wider public to sensitize them against caste-based discrimination and analogous forms of such discrimination; c) effectively address the particular vulnerability of women and girls to caste-based discrimination, and the multiple and intersecting forms of discrimination against them owing to both their gender and unprivileged caste status; d) establish ad hoc supervisory bodies or specific departments in national human rights institutions on caste-based discrimination and provide them with complaint-handling and investigation mandates; e) develop training programmes for law enforcement officers to identify and adequately respond to cases of caste-based discrimination; f) impose criminal penalties to law enforcement officers who neglect or intentionally decide not to investigate and/or prosecute complaints filed by individuals regarded as "low caste" (A/HRC/31/56, paragraphs 128, 129, 132, 133 and 134).