

**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 torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA IND 27/2018

11 December 2018

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 torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 35/15, 34/18, 34/5, 31/16 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 extrajudicial executions of 15 Muslim individuals, in Uttar Pradesh between 2017 and 2018, allegedly killed intentionally by the Police whilst in their custody and then covered up as encounter killings; the failure to conduct adequate investigations into these cases; the harassment and intimidation of two human rights defenders, involved in promoting an investigation of the cases namely Mr. Rajeev Yadav and Mr. Akram Akhtar Chaudhary, as well as of family members of victims; and statements from state government and police officials seemingly inciting, justifying and/or sanctioning the killings.**

According to the information received:

It is alleged that at least 59 people were extrajudicially killed in "police encounters" between March 2017 and June 2018. According to the Additional Director General (Law and Order) of the state, 59 alleged "criminals" who were subject to a bounty have been killed by police and 534 others have been injured. Final or closure reports have been filed in 23 cases of which 16 were accepted by the courts. The number of alleged extrajudicial killings is higher compared with the previous period - according to the National Crime Records Bureau from 1 January 2016 to 31 December 2016, three civilians were killed and one injured in 19 encounters in Uttar Pradesh. The majority of those killed appear to belong to marginalized, mostly Muslim communities living in poverty.

Alleged false-encounter killings

Details of the 13 incidents concerning the cases of 15 victims belonging to Muslim communities are included in annex I. The victims are **Mr. Gurmeet Singh, Mr. Naushad, Mr. Sarvar, Mr. Ikram, Mr. Mohammad Nadeem, Mr. Jaan Mohammad, Mr. Shamshaad, Mr. Muhammad Mansoor, Mr. Waseem Kala who was a minor at the time of the incident, Mr. Sumit Kumar, Mr. Aslam, Mr. Ramzani, Mr. Shamim, Mr. Akbar and Mr. Noor Muhammad.**

The police allege that they killed these individuals in self-defence, in the context of violent “encounters.” However, credible evidence casts serious doubts on the veracity of the police version of events and points to the cases being “false encounter” killings. Analysis of the evidence for all 13 cases reveal the following patterns:

- In most cases the victim was abducted by unknown individuals or in some cases taken in custody and forcibly disappeared by the police or their informers before the alleged “encounter”; in several cases there were witnesses to their abduction.
- In cases where post mortem reports are available, they document injuries indicative of torture and that the individuals were killed through firing at close range which point to the unlikelihood of a shoot-out between police and the alleged victims. In cases where the post mortem reports were not provided to the families, torture marks were visible on the bodies of the victims including multiple fractures and evidence of beatings. The gunfire wounds were indicative of direct, close range firing.
- A number of the cases present an almost identical sequence of events recorded in the First Information Reports (FIRs) filed by police. In some cases exactly the same text is used in the FIRs, which indicates there may be a common template in use. All FIRs identify the victims as the aggressor; indicate that after a tip off, police attempted to stop the individuals who were usually in cars or motorcycles; that the individuals fired at police; that the vehicles were forced to stop; that the individuals abandoned them and fired again at police and were killed by the police in self-defence. In all cases minimal injuries were sustained by the police despite reportedly being subjected to indiscriminate firing. According to most FIRs, the victims’ alleged accomplices escaped, usually on foot. There are no witnesses to any of these alleged encounters reported by the police
- In four cases media reports published after the “encounters” stated the victims were known criminals subject to bounties.

In a number of cases, witnesses or family members reported incidences of police corruption prior to the killings, with the police demanding money to spare the life of victims or stop ill-treating them.

Failure by the authorities to investigate killing cases

In none of the cases, have the guidelines laid down by the Supreme Court of India in the People's Union of Civil Liberties (PUCL) vs state of Maharashtra (2014) 10 SCC 635 been followed. The authorities failed to inform families of the incidents and deaths of their relatives; a FIR was registered only against the victim, with none against the police for any of the incidents; the scene, bullet proof vests or other materials were not subject to forensic examination; the case was not transferred to any independent investigative agency; nor does it appear that an inquiry by a judicial magistrate has been held. In some cases, when a post-mortem examination was conducted, the report was not provided to the families. In at least two cases, an officer involved in the incidents received a promotion. Thus far, none of the cases have been subjected to independent, impartial, prompt, effective, thorough and transparent investigations.

On 7 May 2018, 17 cases (including those in annex I) were sent to the National Human Rights Commission (NHRC). On 9 May 2018 the NHRC ordered an investigation which is currently ongoing. The reference number is 10824/24/0/2018-AFE.

In July 2018, the Supreme Court of India took cognizance of the cases and directed the State of Uttar Pradesh to submit a response. The applicant had sought a writ from the court for an independent agency to monitor the investigations into the police encounters in Uttar Pradesh and to grant compensation to the victims' next of kin. On 16 November the details of the seventeen cases, all of which were also submitted to the NHRC, were registered with the Supreme Court. In its response, the Uttar Pradesh government denied the allegations calling them baseless and insisted they were genuine cases of death and injuries during police action and that the police officials were only performing their duties. The cases are likely to be next listed by the Supreme Court in the second week of December 2018.

“Encounter” killings have continued, many of which follow the aforementioned patterns. In a case in September 2018, journalists were reportedly invited by police in advance to watch an encounter during which two individuals were killed.

#### Threats against human rights defenders and family members of victims

Family members of victims involved in case 10824/24/0/20187-AFE have also been threatened or harassed in a systematic attempt to intimidate them against pursuing accountability (see Annex I). They have received direct or implied threats, including death threats, harassment, by police or persons associated with them. In some cases fabricated charges have been brought against them

Human Rights defenders working on the cases have also faced threats.

**Mr. Rajeev Yadav**, a human rights defender and journalist and a petitioner in case 10824/24/0/20187-AFE currently pending before the NHRC, had publicly

raised the issue of extrajudicial killings in Azamgarh and police threats against a lawyer.

On 5 July 2018, Mr. Rajeev Yadav, received a phone call from police officials of Azamgarh district in Uttar Pradesh during which he was threatened with a false claim being brought against him and harassed by an individual officer who had been named as being involved in an extra-judicial killing case.

Mr. Yadav recorded the phone call and released the audio clip at a press conference held on 6 July 2018.

The NHRC ordered a team to look into the allegations of harassment against Mr. Yadav and to submit a report alongside the report on the case of 10824/24/0/20187-AFE. The report is still pending.

Similarly, on 30 August 2018, two police officials claiming to be from the office of the Superintendent of Police, Shamli, visited the home of **Mr. Akram Akhtar Chaudhary**, a petitioner in case 10824/24/0/20187-AFE currently pending before the NHRC, and enquired about him. He was not home. They threatened a person associated with him and used that person's mobile to call Mr. Akram. Mr. Akram asked the individuals to come to his office to meet with him. Following this, the police officers repeatedly phoned Mr. Akram asking what time he would leave the office and then allegedly disconnected the call with the intention of implicitly threatening him. The police officials were in plainclothes and had no identification badges.

The threats and harassment against these two individuals appear to be intended to prevent them from raising their voices against the alleged extrajudicial police killings in Uttar Pradesh. There are concerns for the physical safety and wellbeing of these two individuals, persons associated with them and other human rights defenders in Uttar Pradesh, particularly those working on extrajudicial killings.

#### Statements justifying killings

Statements by high level political officials have justified killings as part of a crime control strategy. This is illustrated by statements by Chief Minister of Uttar Pradesh, of the Bharatiya Janata Party (BJP). For instance, on 8 February 2018, he reportedly stated at a public event in Gorakhpur: *“Each individual should be given a guarantee of security. But those who want to disturb society’s ethos and those who believe in the gun, they should be dealt with through guns. This I will convey with full clarity to the administration”*. In February 2018, in response to a question on the possibility of a probe into two encounter cases, he reportedly told the state legislative council that “encounters” would not stop and said it was *“unfortunate that some people are showing sympathy towards criminals.”* In a previous interview on 18 November 2017 the Chief Minister had stated *“if they*

*will commit crime, they will be shot". In September 2018 the Chief of the Uttar Pradesh Police reportedly stated "encounters are part of crime prevention. The fact is that this is a not a state policy, but a police strategy. We do not call it encounter but police engagement."*

Without making any judgment as to the accuracy of the information made available to us, we express our most serious concern at what appears to be extrajudicial executions by the police in the State of Uttar Pradesh, of individuals accused of being criminals, purportedly in the context of police efforts to combat crime. The information at hand suggests that these killings occurred -- at least in the fifteen cases described above -- while the victims were in the custody of the police; that they were temporarily disappeared, tortured or otherwise ill-treated, before being executed; and that alleged "encounters" were fabricated to cover up the executions. Furthermore we are alarmed by the apparent systematic failure of the police authorities to conduct independent, impartial, prompt, effective, thorough and transparent investigations into these violent deaths; and that they did not follow the guidelines laid down by the Supreme Court. We are equally alarmed by the alleged harassment and threats against family members and human rights defenders working on these and other similar cases and that their safety may be at risk. We are further disturbed by the statements from state government and police officials seemingly justifying, inciting, and/or sanctioning excessive use of force or extrajudicial killings of alleged criminals by members of the security forces in Uttar Pradesh.

Should the acts alleged in this communication prove to be true, they would violate the right of every individual to life, not to be subjected to torture and to liberty and security, to be presumed innocent until proven guilty, and to have a fair and public hearing by a competent, independent and impartial tribunal as set out in articles 6, 7, 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by India on 10 April 1979. We further refer to relevant standards and principles contained in annex II.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

**We call on your Excellency's Government to ensure that the use of force by members of the Uttar Pradesh police is urgently reviewed and steps are taken to ensure all law enforcement operations in Uttar Pradesh are conducted in accordance with India's international human rights obligations under the conventions it has ratified, in particular ICCPR. We recommend that this review be conducted, taking into account the United Nations standards on the use of force. We also urge that the Government authorities of the State of Uttar Pradesh refrain from issuing public comments endorsing and justifying the killings of alleged criminals by members of the police.**

**We recommend that the Government urgently ensures that independent, impartial, prompt, effective, thorough and transparent investigations be conducted into: 1) all allegations of extrajudicial killings including the aforementioned cases of**

**fifteen individuals, 2) the aforementioned public statements and other similar statements, that may amount official sanctioning of extrajudicial killings and excessive use of force; 3) the alleged threats and harassment against human rights defenders and family members and 4) the allegations of police corruption.**

**We further recommend that all necessary measures be taken to ensure the safety and security of the aforementioned human rights defenders, their families and the families of victims, as well as all those involved in documenting, reporting, filing complaints and petitioning the Courts in relation to alleged violations by the security forces.**

As 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 any comment you may have on the above-mentioned allegations.
2. Please provide detailed information about the killings of 15 individuals described in this communication, as well as the alleged threats and harassment of the two human rights defenders and family members of victims. Please include information on any investigations initiated into the allegations and the full details of any prosecutions which have been undertaken. If no inquiries have taken place, or if they have been inconclusive, please explain why, and how this is compatible with India's domestic legal and international human rights obligations.
3. Please provide detailed information on the measures being taken to effectively protect, and to ensure the safety of, human rights defenders and family members and other individuals who make complaints against the security services.
4. Please provide the post mortem reports of all aforementioned cases where these have been conducted. If they were not conducted, please explain why.
5. Please provide information and any comment you may have on cooperation with the National Human Rights Commission in investigating the facts and circumstances of the aforementioned cases.
6. Please provide statistics on the number of killings by the security forces in Uttar Pradesh by year, with particular focus on the percentage of persons killed belonging to minority and marginalized groups. Please provide information about any policy or measure taken to effectively train law enforcement agencies on how to ensure the protection of the right to life and the human rights of those within their custody.

7. Please provide information about all the measures taken to prevent arbitrary deprivations of life by law enforcement officials during law enforcement operations. Please include information on procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review, an investigation of lethal incidents.
8. Please provide information on the measures in place to ensure that guidelines, policies and legislation related to investigation of alleged cases of killings by security forces, including the guidelines set out by the Supreme Court in People's Union of Civil Liberties (PUCL) vs state of Maharashtra (2014) 10 SCC 635 are followed.
9. Please provide information on the number of law enforcement personnel in Uttar Pradesh prosecuted and convicted, or otherwise held accountable, for unlawfully abducting, detaining, torturing and/or killing individuals or for excessive use of force.
10. Please provide information on the measures in place to prevent police corruption and to investigate alleged cases.
11. Please indicate what measures have been taken to ensure that human rights defenders in India are able to carry out their peaceful and legitimate work in a safe and enabling environment without fear of acts of intimidation and harassment of any sort.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations, prevent their re-occurrence and investigate claims pertaining to abuse of Constitutional safeguards by law enforcement officials.

We are considering the possibility of publicly expressing our concerns about extrajudicial executions of suspected criminals in Uttar Pradesh in the near future as, in our view, the information available to us is sufficiently reliable and serious to indicate a matter warranting serious attention. We also believe that the wider public should be alerted to the human rights implications of the 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.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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  
Special Rapporteur on freedom of religion or belief

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



**Annex 1 – individual cases of EJK**  
*Individual cases of extrajudicial killings*

*According to information received:*

**Mr. Gurmeet Singh**

On 30 March 2017, a police informer visited the house of **Mr. Gurmeet Singh**, asking Mr. Singh to come with him, after which Mr. Singh did not return home. It is alleged that he was detained overnight by the informer and was then involved in a staged encounter with the police during which he was injured on 31 March 2017. A witness who protested against the police actions was arrested at the scene.

On 31 March 2017, FIR number 362/2017 was registered at Deoband police station by police against Mr. Singh. It alleged that police received information from an informer indicating three men standing near a motorbike nearby were criminals and were going to commit a crime. The police asked them to surrender but the individuals fired at police and tried to escape, leaving the bike behind. The police returned fire. An individual later identified as Mr. Singh was shot. He was taken to the Saharanpur District Hospital where he died on 22 April 2017. The second individual was arrested at the scene. The location of the third individuals is unknown. A post-mortem was conducted by the police. A charge sheet was filed by police on 11 June 2017. A magisterial inquiry is pending.

Mr. Singh's family tried to file complaints several times at police stations but the complaints were not registered and they were threatened. On 12 June they filed a complaint to the superintendent of the police. They filed a petition under Section 156(3) of the Code of Criminal Procedure on 30 June 2017 to the Sessions Court in Saharanpur District which was dismissed on 11 August 2017 on the grounds that the complaints were filed after a long delay and only after a charge sheet was filed by police. They also sent a complaint to the NHRC on 7 May 2018, along with 16 other families from Uttar Pradesh. On 9 May 2018, the NHRC ordered an investigation into Mr. Singh's case of extrajudicial killing, alongside the cases of 16 other individuals.

In a number of aspects the investigations the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident and that a FIR was registered only against the victim, with none against the police.

**Mr. Naushad and Mr. Sarvar**

On 28 July 2017, at 8 p.m., a police informer came to the house of Mr. Naushad and Mr. Sarvar, and invited them to dinner at her house. They left with her. When they had not returned, Mr. Sarvar's brother, Mr. Anwar along with several others went to the house of the police informer to look for them. On 29 July at 5 a.m., they arrived at the

house of the police informer and saw police officers from Kairana station drag Mr. Neushad and Mr. Sarvar out of the house and shoot them on the roadside. Police then left the scene taking Mr. Neushad and Mr. Sarvar's bodies with them. Later on 29 July 2017, news spread that Mr. Naushad and Mr. Sarvar had been killed in the course of an encounter with Police.

On the same day, FIRs 680/2017, 681/2017 and 682/2017 were filed at Kairana Police Station by the police against the two individuals. The FIRs indicated that four police officers met with an informer who told them that the two individuals would be coming to a mosque at 4 a.m. or 5 a.m., and that they were heavily armed and were intending to commit a crime. Eight police officers from the Crime Branch, four police officers from Jinhina Police Station and the Station Officer from Kairana Police Station arrived at the location. At 4.10 a.m. they saw the two individuals one of whom was carrying a gun. When they were asked to stop by police, one of the individuals fired at police, hitting one of them. The police fired back in self-defense injuring both of the individuals. They were sent to a health center but both died.

When their families retrieved the bodies of the two individuals, the bodies appeared to show severe torture wounds and broken bones. Mr. Naushad had a gunshot wound on the left side of his cheek. Mr. Sarvar had a gunshot wound in his mouth. This information appears to contradict the information registered in the FIRs and indicates there were tortured prior to their deaths.

On 29 July 2017, their families sent letters to the Director General of Police in Lucknow, the Prime Minister's office, the Ministry of Home Affairs, the Chief Minister of Uttar Pradesh and other senior police officials regarding the killings and giving the names of the witnesses.

On 4 August 2017, the police informer filed FIR 732/2017 alleging that Mr. Naushad, Mr. Sarvar and other family members had engaged in sexual violence against her.

On 1 May 2018 Mr. Sarvar's family sent a letter to the Superintendent of Police in Shamli.

On 7 May 2018, along with 16 other families from Uttar Pradesh, a complaint was filed before the NHRC against Mr. Naushad and Mr. Sarvar's alleged extrajudicial killings. On 9 May 2018, the NHRC ordered an investigation which is currently ongoing.

On 15 May 2018, family members of Mr. Sarvar also filed an application to the Court of Judicial Magistrate in Muzaffarnagar to register a FIR against police officials under Section 156(3) of the Criminal Code of Procedure. The application includes four eye witness statements. On 18 May 2018, FIR 255/2018 was filed against Mr. Anwar in Kairana Police Station in relation to a fabricated incident of gang rape which the FIR alleges occurred on 15 May 2018. On 20 May 2018, police visited Mr. Anwar and threatened him with dire consequences if he did not withdraw the application filed before the Court of Judicial Magistrate.

On 31 May 2018, the Court of Judicial Magistrate rejected the application on the grounds that the deceased had a criminal history and since police officers were injured in the incident the eyewitness testimonies must be false. The appeal against the order of the Chief Judicial Magistrate is currently pending before the District and Sessions Judge in Muzaffarnagar.

In a number of aspects the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident, a FIR was registered only against the victim, with none against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to the families.

### **Mr. Ikram**

On 10 August 2017, 5-6 other men visited Mr. Ikram's house looking for him. Upon being told he was not present and that he was visiting someone at the Aastha Hospital in Badot, the men went to the hospital. When they arrived they called Mr. Ikram outside, assaulted him and subsequently abducted him. There were witnesses to this assault and abduction including his son Mr. Sajid. Following the abduction, persons associated with Mr. Ikram searched for him the whole evening but could not find him.

According to FIRs 785/2017, 786/2017, and 787/2017 filed by the police against Mr. Ikram at Kairana Police Station on 11 August 2017, police received information late at night on the 10 August 2017, that two criminals had looted a bike, gold jewelry and money, following which police chased the two individuals. During the course of this police chase, the bike the individuals were riding slipped, and the individuals fired at police. Police fired back in self-defense. Mr. Ikram was surrounded by members of the SWAT Team and fifteen police officers from Kotwali Police Station but continued firing. He was injured and taken to the Community Health Centre in Kairana where he succumbed to his injuries. The second individual escaped.

On the morning of 11 August 2017, persons associated with Mr. Ikram heard that he had been killed but were not informed by police until they enquired at the police station. When they received Mr. Ikram's body it had several torture marks, including assault marks on his neck and waist, as well as fractured arms, right leg and ribs. He had five bullet wounds with indications they were delivered from close range. The post-mortem report substantiates the observations regarding the bullet marks and fractures. When the body was returned to Mr. Ikram's wife, Ms. Hanifa, the police threatened she would be killed and cases registered against her minor sons if she perused legal action.

On 24 April 2018, a representation was sent to the National Commission for Minorities. On 7 May 2018, along with 16 other families from Uttar Pradesh, his family filed a complaint before the NHRC. The NHRC subsequently ordered an investigation

into these cases. Subsequently, on 10 May 2018, around 5 to 6 police officials, along with a police informer, visited Ms. Hanifa's house and threatened her with dire consequences for filing a complaint against police officials before the NHRC.

On 3 October 2018 an application to register an FIR against police officers involved in the killing of Mr. Ikram was filed by his family before the Chief Judicial Magistrate, District Court, Shamli. At 9 p.m. on 3 October 2018, Mr. Ikram's son, Mr. Sajid was attacked by four individuals known to be involved in illegal activities and close to the local police who fired several rounds of bullets at him. He was hit in the leg and admitted to hospital. The incident occurred around 100 meters from the Badot Police Station. A FIR was registered against four named persons but no arrests have been made. The case was sent to the NHRC on 5 October under case number 10824/24/0/2018-AFE.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident until they went to the police station and asked, a FIR was registered only against the victim, with none against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. Forensic examination of weapons seized and the site have not been conducted. A final closure report has been submitted by the police and accepted by the Chief Judicial Magistrate in Shamli when an inquiry should first have taken place.

### **Mr. Shamshaad**

Mr. Shamshaad had been held in Deoband jail for a year and a half. On 7 September 2017, it was rumored that Mr. Shamshaad had escaped from police custody while being transferred from Deoband Jail to Vikas Nagar. On the same day police officers from Bihari Garh Police Station came to his house and took four of his brothers to the police station. The brothers were made to sign blank pieces of paper and were threatened with dire consequences should they take any action against the police officers. On 11 September 2017 Mr. Shamshaad's family heard that he had been killed by police.

FIR 433/2017, registered at Sadar Bazar Police Station on 11 September 2017, states that two men on a motorbike fled after firing towards police at Deoband Phatak during a police check. Officers from Nanota Police Station chased them and were joined by eight members of a SWAT team and six officers from the Intelligence Bureau. The bike slipped and the individuals started firing again at the police. The police fired back in self-defense. Mr. Shamshaad was hit and injured. He was taken to hospital but succumbed to his injuries. The other individuals escaped.

Mr. Shamshaad's body shows signs of torture and beatings, including on his neck and other areas. The post mortem report conducted on 11 September 2017 indicated that as well as several gunshot wounds, several of Mr. Shamshaad's ribs were fractured and that his death had occurred 1-4 days prior to the post mortem.

Persons associated with Mr. Shamshaad sent complaints to the State Human Rights Commission, National Commission for Minorities, and the National Human Rights Commission but did not receive a reply. On 7 May 2018, persons associated with Mr. Shamshaad filed a complaint with the NHRC. An investigation was ordered by the NHRC on 9 May 2018, and this investigation is currently underway.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident, a FIR was registered only against the victim, with none against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held.

### **Mr. Mohammad Nadeem**

There was an altercation between Mr. Nadeem and a jewelry shop owner regarding the possibility of a refund of a ring. The shop owner filed a case of extortion against Mr. Nadeem. The police tried to extort Rs. 6 lakh from Mr. Nadeem in exchange for suppression of an FIR. The jewelry shop owner then decided to settle the matter without a FIR. On 5 September 2017, the police picked up Mr. Nadeem from a grocery shop and detained him at Thana Mandi where he was allegedly tortured. On 6 September 2018, his family wrote letters to the NHRC and the district and state police administration. On the same day they saw Mr. Nadeem in the Nai Mandi police station and waited outside the station until evening for his release. Later in the evening family members heard that police officials had been spreading information in the village that Mr. Nadeem had fled police custody.

On 8 September FIRs numbers 0396/17, 0397/17 and 0398/17 were filed by police in Kakroli Police Station, Muzaffarnagar district against Mr. Nadeem and another individual. The FIRs state that on the 8 September 2018, police received information that a motorcyclist had tried to rob other vehicles. Mr. Nadeem was on a motorbike with another individual and refused to stop for police. When police approached, the two individuals fired at police hitting one officer in the arm. Police returned fire injuring Mr. Nadeem. Mr. Nadeem was taken to hospital but succumbed to his injuries. The other individual escaped. A newspaper reports published on 9 September 2017, indicated Mr. Mohammad Nadeem had fled from police custody on 6 September 2017, following which a reward of Rs. 15,000 was issued.

When Mr. Nadeem's family was given his body, they discovered that his back and neck were broken, and that his body was covered with cigarette butt marks. The only visible bullet wound was found on Mr. Nadeem's forehead and was a clean shot.

On 7 May 2018, Mr. Nadeem's family along with 16 other families from Uttar Pradesh, filed a complaint with the NHRC against Mr. Nadeem's extrajudicial killing. The investigation, which was ordered by the NHRC on 9 May 2018, is currently pending. Government officials and members of the police have approached members of the family

asking whether they planned legal action and family members have been required to visit the police station.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to the families.

### **Mr. Jaan Mohammad**

Mr. Jaan Mohammad (also known as Jaanu), had been in prison for two years and was released on bail 5 months prior to the police encounter resulting in his death. In this period police harassed persons associated with him, including raiding his house and taking away items including mobile phones. Police also threatened to kill Mr. Mohammad. He had another case registered against him. On 15 September 2017, Mr. Mohammad visited his lawyer, to surrender before the court. His lawyer asked him to come again on Monday, the 18 September 2017, as court hours for the day had elapsed. Mr. Mohammad then went to a family member's house in the village of Kaithwari, Meerut to ask for his family's assistance in surrendering. The police raided the house.

On 17 September 2017, the police at Khatauli Police Station registered FIRs 1227/17, 1228/18 and 1229/17, alleging the occurrence of an encounter between police officials and Mr. Mohammad. The FIRs allege that the police tried to stop a car but it hit a barricade. Officers followed them but individuals in the car fired at police. The car collided with an object and the occupants fired again at police injuring two. Police returned fire. One accused escaped but another was killed. He was later identified as Mr. Mohammad. The forensic department was called for an investigation.

On 22 September 2017 the police raided the house of Mr. Mohammed's family and vandalized it. Mr. Mohammad's brother, Mr. Feroz is now being implicated in the case in which Mr. Mohammed was accused. He has not made an application for bail as there is fear that the police will also extra judicially kill him if he was released from jail.

On 7 May 2018, along with 16 other families from Uttar Pradesh, Mr. Mohammad's family filed a complaint before the NHRC, following which the NHRC, on 9 May 2018, ordered an investigation into Mr. Mohammad's case along with the other 16 cases of extrajudicial killings. This investigation is currently underway.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the incident, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear

an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to his family. One of the Inspectors involved in the incident has since been promoted despite guidelines indicating that no out-of-turn promotion should be bestowed on concerned officers soon after the occurrence of an incident.

### **Mr. Muhammad Mansoor**

Mr. Muhammad Mansoor, was employed doing odd jobs and lived in poverty. He was recruited by the state police as an informer and forced to act as their proxy in exchange for impunity for crimes and sharing the proceeds with the police. He was unable to refuse this position as it would have led to threats or false charges. He was arrested in 2013 and served three years in Saharanpur Jail during which time he was tortured and his mental health deteriorated. After his release he became totally dependent on his family, unable to take care of himself without assistance.

On 26 September 2017, two police officers who were well known to the family and aware of his ill health came to his house and took Mr. Mansoor away. On the 27 September 2017, local police officers from Behat Police Station visited the family and asked Mr. Mansoor's father to sign some papers stating they were warrant papers in Mr. Mansoor's name – they did not inform the family of his death. Later on the same day, Mr. Mansoor's family became aware that news reports were reporting Mr. Mansoor's death through an encounter.

According to the FIRs numbers 489/17, 490/17 filed by the police at Sadar Bazaar Police Station on 27 September 2017, Mr. Muhammad Mansoor was killed during an encounter with the Meerut Police. The FIRs allege that the police were informed that three criminals on a bike had stolen a car. The police spotted this car and indicated it should stop. Mr. Mansoor and another individual who were in the car tried to speed away but were trapped and surrounded by 13 police officials. The individuals shot at police who fired in self-defense – Mr. Mansoor was injured while the other individual managed to escape over a wall. Mr. Mansoor was sent to the Medical College in Meerut for treatment, he was declared dead by the doctors. The FIR was filed against unknown individuals, the deceased was later identified as Mr. Mansoor.

A closure report has been filed by police in the case. No statements were taken from Mr. Mansoor's family by police or a magistrate. An inquest report was prepared in relation to the FIRs filed, and a final report submitted on 3 December 2017. On 9 December 2017 a post mortem conducted and was videoed. The post mortem indicates a bullet was fired on the left side of the chest and observers there is tattooing around the wound. This is indicative of close range firing.

On 26 April 2018, a complaint was sent to the National Commission on Minorities. On 7 May 2018, along with 16 other families from Uttar Pradesh, Mr. Mohammad's family filed a complaint before the NHRC, following which the NHRC, on

9 May 2018, ordered an investigation into Mr. Mohammad's case along with the other 16 cases of extrajudicial killings. This investigation is currently underway.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the killing of Mr. Mansoor but instead deliberately given false information, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held.

### **Mr. Waseem Kala**

Mr. Waseem Kala, a seventeen year old child, was reportedly added to a FIR registered at Kandhla Police Station relating to a murder case despite affidavits testifying against his involvement. In relation to this, members of the police harassed persons associated with him and threatened that Mr. Kala would be killed at some point. Mr Kala's father and brother were both accused of separate crimes and arrested. On 22 September 2017, one of Mr. Kala's relatives was arrested after allegedly being framed for drug trafficking. On 24 September 2017 police from Shamli vandalized Mr. Kala's home. On 27 September 2017, a police informer told Mr. Kala about the arrest and that the Superintendent of Police in Shamli wanted to meet him regarding his relative's bail. Mr. Kala went to Shamli and was taken into custody and detained.

On 28 September 2017, FIRs were filed alleging Mr. Kala had been killed in an encounter with police. The FIRs, No. 388/17, 389/17 and 390/17, were registered at Saroorpur Police Station, Meerut district and state that the Special Task Force of Meerut received information that Mr. Waseem and another individual were going to commit a crime. Fifteen police officials were present when Mr. Waseem and the other individual approached the site on a bike. They were signaled to stop but instead changed direction and then fired at police. They then got off the bike and entered the fields. They refused orders to stop and continued firing, hitting one police officer on his bullet proof jacket. Police officers shot at them from as close range as possible. Mr. Wasim was injured and captured – the other individual escaped.

A post mortem was carried out by doctors and videoed by police. The report documented bullet wounds to the left temple, upper left side of the shoulder, abdomen and left wrist at angles that suggest shots were fired from close range.

Persons associated with Mr. Waseem informed members of the police about the alleged version of events but their statements have not been recorded. They also sent a letter to the National Human Rights Commission but did not receive a response. On 7 May 2018, persons associated with Mr. Kala filed a complaint with the NHRC, after which an investigation was launched on 9 May 2018, the results of which are still pending. On 11 July 2018 a letter was sent to the Superintendent of Police in Meerut



requesting an investigation and a reminder was sent to the Superintendent and the Deputy Inspector General of Police on 17 July 2018. No response was received.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to the families.

### **Mr. Sumit Kumar**

On 30 September 2017, Mr. Kumar had gone to Balauni Akbar following a call he received from an unknown number demanding his presence there. On arriving in Balauni, Mr. Kumar was abducted by 6 to 7 persons in plainclothes. There were several witnesses. After hearing news of Mr. Kumar's abduction, persons associated with him approached several police stations seeking information and tried to submit a complaint to police stations in Balauni, Singhwali Ahir and Baghpat district but the police refused to register the complaint and no investigation was conducted.

On 2 October 2017, Baghpat police informed persons associated with Mr. Kumar that he was in police custody for questioning in relation to FIR, number 394/2017 dated 20 September 2017, registered in Police Station Ecotech – III, Noida. This FIR did not name Mr. Kumar as an accused. When requests were made by his family to see Mr. Kumar, they were told he was not in Baghpat police station and was being questioned by different police officials, but they were assured he would be released by 3 October 2017.

On 2 October 2017, Noida police visited Mr. Kumar's house and took possession of all of his identification documents and his mobile phone. The police threatened Mr. Kumar's family when the latter inquired as to his whereabouts stating they would pick all of the family up and "encounter them in different places." Also on 2 October, his family was asked for a bribe through a middle man in exchange for the release of Mr. Kumar. On 3 October 2017, a complaint was sent to the NHRC with copies sent to the Uttar Pradesh Police, Chief Minister and the Director General of Police. No response was received.

On 4 October 2017, FIR numbers 861/17 and 862/17 were registered at Kasna Police Station, Gautam Budh Nagar district. They indicated that police received information that armed criminals were driving in a car near ATS roundabout. Several Police officers from Kasna Police Station, Police Station Section 58 and Police Station Bisrakh went to the location and found four individuals holding guns who fired at police and then drove off in their car. Police followed them and the individuals continued shooting at police. The police fired one bullet which caused the car to crash. The individuals inside got out and continued firing at police, injuring one police officer. Police returned fire and one individual was injured and three others escaped. The injured

individual was sent to the District Hospital in Gautambudh Nagar for treatment and declared dead by the hospital. He was identified as Mr. Kumar.

Police initially did not return the body but then, following a protest by his family outside the Mortuary in Sector 94 Noida, they did so. Mr. Kumar's body showed signs of serious torture marks, including a broken backbone, broken arms and legs, and mutilation of his left eye. Additionally, Mr. Kumar's neck and back displayed blue injury marks. A post mortem was conducted but only one page was given to his family.

Complaints were made to the City Magistrate in Noida, Gautam Budh Nagar district but no response was received. Letters were also sent to several officials requesting the post mortem report. Additional complaints were submitted 17 October 2017 to the Police Superintendents in Baghpat, Gautam Budh Nagar, the City Magistrate in Noida and the Inspector General of the Police in Meerut. Several cases were sent to the National Human Rights Commission Judicial complaints were made and the case is currently pending before the Allahbad High Court. On 7 May 2018, Mr. Kumar's family lodged a complaint with the NHRC, following which an investigation was ordered on 9 May 2018.

Mr. Kumar's family are being followed and intimidated. Sometime after the killing, members of Mr. Kumar's family were faced with false charges of rape and dacoity – the case was stayed but the stay has now been vacated and a charge sheet has been filed.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the family were not informed of Mr. Kumar's killing, instead they were deliberately given false information, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the full report has not been provided to the families despite requests. The bullet proof jackets and bullets were not seized for investigation. State House Officer of Police Station in Kasna was promoted in early 2018 despite guidelines indicating that no out-of-turn promotion should be bestowed on concerned officers soon after the occurrence of an incident.

### **Mr. Aslam & Mr. Ramzani**

Mr. Aslam and Mr Ramzani had criminal cases against them. Mr. Aslam approached a lawyer indicating he wished to surrender in court. On 7 December 2018 some men took Mr. Aslam and Mr. Ramzani away indicating that they would help them surrender in court.

On 9 December 2017, a person associated with Mr. Aslam received a call from a police official asking for details about Mr. Aslam but did not provide any further information. Later the same day the head of the village informed persons associated with

Mr. Aslam that he had been killed by Noida police and that Mr. Ramzani had been killed by Aligarh police. On the same day a person associated with Mr. Ramzani received a call from police informing them of Mr. Ramzani's death in an encounter in Aligarh.

According to reports published in the Dainik Jagran newspaper on 10 December 2017, Mr. Aslam and Mr. Ramzani were engaged in a gun fight with police officials after refusal to stop at a police barricade allegedly set up to apprehend criminals. During this exchange, two police officers were injured. One individual escaped and the other, later identified as Mr. Aslam was hit in the head and died. A FIR number 1083/2017 was filed in Dadri Police Station against Mr. Aslam but a copy has not been provided to the family.

Mr. Aslam's body was returned to his family but they were escorted by police to their village and the police stayed until the body was buried. His body had torture marks, including severe bruising on his back likely as a result of beatings and fractures to his arms and legs.

Mr. Ramzani's body was returned to his family and they were given a copy of the post mortem report. The report records four firearm injuries in the temple, right and left side of the chest and in the lower part of the left leg. His family further alleges that the clothes had no bullet marks indicating that they were put on him after he was shot. They also allege his body showed other torture marks which are not included in the post mortem.

On 29 March 2018 persons associated with Mr. Aslam sent a complaint to the National Commission on Minorities. On 7 May 2018, along with 16 other families from Uttar Pradesh, Persons associated with Mr. Aslam and Mr. Ramzani filed a complaint with the NHRC- the NHRC ordered an investigation into the cases. This investigation is currently ongoing.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the family were not informed of Mr. Aslam's killing, instead they were deliberately given false information, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the full report has not been provided to the families despite requests. They have also not received a copy of the FIR:

### **Mr. Noor Mohammad**

Mr. Noor Mohammad (also known as Haseen Mota) was killed on 30 December 2017 by the police. FIR 871/2017 registered at Partapur Police Station on the same day states that police officials were informed that two criminals were travelling from Delhi to Meerut on a Karizma motorcycle to commit a crime. One of these criminals was stated to be Mr. Noor Mohammad. Police officials reached the Delhi-Meerut highway to conduct a

search operation, following which, at around 10:00 p.m., two persons on a motorcycle tried to flee. The alleged assailants were chased by the police after which their motorcycle slipped, prompting them to fire gunshots at the police while running towards a farm. Two policemen were hit in their bullet proof vests. Police officials claim they opened fire in self-defense, resulting in the injury of one assailant (Mr. Mohammad) while the other assailant was able to flee. Mr. Mohammad was taken to the hospital where he died as a consequence of his bullet injury.

This version of events is disputed as when Mr. Mohammad's body was returned it showed signs of torture wounds including marks of a severe beating as well as a fractured arm and leg. Moreover, the bullets were fired from a close range, contrary to the claims made by police officials. Mr. Mohammad had previously suffered an injured knee which is evidenced by an x-ray report from 29 October 2017 and was still in significant pain which makes it doubtful that he would be able to run away from the police. Furthermore the FIR omits important details such as the injuries sustained, name of the hospital to which he was taken.

Persons associated with Mr. Mohammed filed a complaint with the NHRC on 7 May 2018, along with 16 other families from Uttar Pradesh. The investigation, ordered on 9 May 2018, has not yet been completed.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to police firings, including that the families were not informed of the killing of Mr. Mohammad, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. Forensic examinations of weapons and the site have not been conducted. A post-mortem examination was conducted but the report has not been provided to the families.

### **Mr. Shamim**

Mr. Shamim, had been in a dispute regarding the lack of repayment of some money which he had loaned to a relative. The relative had approach the police trying to get Mr. Shamim arrested and it is believed he had conspired with the police to kill Mr. Shamim.

Mr. Shamim was killed by police on 31 December 2017.

The police registered FIR No. 840/17, 841/17 and 842/17 at Jansath Police Station in Muzaffarnagar district on the same day. The FIRs indicated that the police received information that Mr. Shamim, along with his accomplices, was planning to commit a road robbery in a car. Three police officials from Jansath Police Station, three members of the SWAT team and 11 members of the Special Cell Delhi Police tried to stop the car, but individuals in the car fired at police, injuring one officer. The police returned fire in self-

defense. Mr. Shamim was injured in the shootout. He was taken to hospital and later succumbed to his injuries. The other individual in the car managed to escape.

There were torture marks on Mr. Shamim's body. The post mortem report indicates the presence of two bullet injuries: one of which entered Mr. Shamim's body from the back of his head and the second which entered his body from his right temple. This is contrary to the police version of the incident, which claims that Mr. Shamim was shot from the front while seated in a car.

Since the incident, persons associated with Mr. Shamim have been pressured by the police and asked to sign papers.

Persons associated with Mr. Shamim filed a complaint with the NHRC on 7 May 2018, after which an investigation was ordered on 9 May 2018.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to deaths due fire by the police, including that the families were not informed of the killing of Mr. Shamim, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to the families.

### **Mr. Akbar**

From 2013 until 2017 Mr. Akbar was in prison. Upon his release he moved to Bangalore. Persons associated with him made contact with him on 31 January 2017 and he did not indicate he was planning to travel to Uttar Pradesh. On 31 January, a police informer visited Mr. Akbar in Bangalore. The informer told Mr. Akbar that she could help get his name removed from other FIRs which were registered against him and asked him to accompany her to Shamli.

On 3 February 2018, an individual filed FIR 75/2018 at Jhinhana Police Station, Taprana, Jhinhana, Shamli District alleging that Mr. Akbar, along with another individual fired gunshots and later phoned him and threatened him, asking for money and indicating that he was part of the "Mukeem Kala Gang." According to FIRs 76/2018 and 77 /2018, Mr. Akbar called the individual again to fix a place to provide the money. A SWAT team and police were informed and a plan was made to capture Mr. Akbar. When Mr. Akbar came to pick up the bag containing money with another individual they were asked to surrender to police but they instead fired at the police and police returned fire in self-defence. Mr. Akbar was injured in the exchange of fire and taken to hospital where he was declared dead. Two policemen also received bullet injuries.

The nature of injuries discovered on Mr. Akbar's body contradict the police version of events. Initially, police officials had refused to give Mr. Akbar's body to his family, but later released it. His body had 5 bullet wounds, including on his face,

stomach and chest. It appeared that Mr. Akbar's arm was broken and that there were ligature marks on his right left, indicating that he had most likely been tied up. The family was not given any post mortem report by the police.

Local news articles which reported on the alleged encounter also included a quote from the Superintendent of the Police in Shamli indicating Mr. Akbar had escaped from a police encounter on 1 January 2018 and that police had declared a reward of Rs. 50,000 on Mr. Akbar. However persons associated with him indicate he was in Bangalore in January 2018 and police made no apparent efforts to search for him or ask about his location during this period.

In April 2018, a policeman visited Mr. Akbar's family, inquiring as to whether they were planning to go to court and file a case against the policemen involved in the killing.

Mr. Akbar's family, along with 16 other families from the State of Uttar Pradesh, filed a complaint to the National Human Rights Commission (NHRC) on 7 May 2018. On 9 May 2018, the NHRC ordered an investigation into Mr. Akbar's case as well as the 16 other cases. This investigation is currently ongoing.

In a number of aspects the investigations by the authorities did not follow the guidelines laid down by the Supreme Court of India on the investigations of deaths in relation to deaths due fire by the police, including that the families were not informed of the killing of Mr. Shamim, a FIR was registered only against the victim, with none registered against the police, the case was not transferred to any independent investigative agency, and it does not appear an inquiry by a judicial magistrate has been held. A post-mortem examination was conducted but the report has not been provided to the families. Forensic examinations of weapons seized and the site have not taken place.

## **Annex II**

### **Relevant international standards and principles**

The **use of force by law enforcement personnel** is governed by several international bodies of principles and norms adopted by the General Assembly. These include the Code of Conduct for Law Enforcement Officials, General Assembly resolution 34/169 of 17 December 1979 ('the code') and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials ('the basic principles') which provide that Law enforcement officials may only use force when it is strictly necessary and only to the extent required, for the performance of their duties (article 3 of the code). The use of force and firearms must as far as possible be avoided (principle 4) and must be proportionate (principle 5). Should lethal force be used, restraint must be exercised at all times, including giving a clear warning of the intent to use force and to provide sufficient time to heed that warning (principles 5 and 10). Intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life (principle 9).

We further note that "state parties are expected to take all necessary measures intended to prevent arbitrary deprivations of life by their law enforcement officials, including soldiers charged with law enforcement missions. These measures include appropriate legislation controlling the use of lethal force by law enforcement officials, procedures designed to ensure that law enforcement actions are adequately planned in a manner consistent with the need to minimize the risk they pose to human life, mandatory reporting, review, and investigation of lethal incidents and other life-threatening incidents...law enforcement officials should undergo appropriate training designed to inculcate these standards" (General Comment No. 36, issued by the Human Rights Committee)

With regards to **investigations**, principle 9 also establishes the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions. The Human Rights Committee has observed that failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate and bring perpetrators to justice could give rise to a breach of the Covenant (CCPR/C/21/Rev.1/Add.13). Furthermore, Investigations into allegations of violation of article 6 must "always be independent, impartial, prompt, thorough, effective, credible, and transparent, [125] and in the event that a violation is found, full reparation must be provided, including, in view of the particular circumstances of the case, adequate measures of compensation, rehabilitation and satisfaction. [126] States parties are also under an obligation to take steps to prevent the occurrence of similar violations in the future" (General Comment No. 36, issued by the Human Rights Committee). The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) provides detail on the duty to investigate potential unlawful deaths "promptly, effectively and thoroughly, with independence, impartiality and transparency." We further note that the Indian Supreme Court has set out guidelines on the investigations of deaths through police firings in the People's Union of Civil Liberties (PUCL) vs state of Maharashtra (2014) 10 SCC 635.

With regards to allegations that individuals were **forcibly disappeared** prior to their killing, we refer to the Declaration on the Protection of all Persons from Enforced Disappearance, and in particular article 2 which states that no State shall practice, permit or tolerate enforced disappearances and article 10 (1) which provides that that any person deprived of liberty shall be held in an officially recognised place of detention.

With regards to threats faced by **family members of victims we note that** states parties must take the necessary steps to protect witnesses, victims and their relatives and persons conducting the investigation from threats, attacks and any act of retaliation (General Comment No. 36, issued by the Human Rights Committee). We would like to draw the attention of your Excellency's Government to paragraph 8a of Human Rights Council Resolution 16/23, which reminds States that "Intimidation and coercion, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture."

We would also like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of jus cogens, and as reflected inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

With regards to **threats faced by human rights defenders**, further reference is made 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.

Furthermore, we are concerned that the **comments made by public officials** may foster intolerance and hostility which, may incite to violence against journalists, human rights defenders and individuals expressing dissenting or critical opinions. While freedom of opinion and expression is protected under article 19 of the International Covenant on Civil and Political Rights (ICCPR), article 20(2) of the ICCPR, requires States to prohibit "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence". Article 20(2) must be read in conjunction with the conditions for restrictions to the exercise of freedom of expression set out in article 19(3) of the ICCPR. As pointed out by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, when high-level officials engage in hate speech, they undermine not only the right to non-discrimination of affected groups, but also the faith of such groups in State institutions and, thus, the quality and level of their participation in democracy (A/67/357, para. 67). We would also like to draw your attention to the report by the Special Rapporteur in the field of cultural rights, which states that fundamentalist and extremist ideologies aim at forcing or coercing people into specific world visions, beliefs systems and cultural practices, therefore threatening human rights, and especially cultural rights. Governments must ensure there is a counterweight to fundamentalist and extremist discourses by publicly challenging them, by guaranteeing education in accordance with international standards specified in article 13 (1) of the



ICESCR and article 26 (2) of the Universal Declaration of Human Rights and by creating conditions allowing all people to access, participate in and contribute to cultural life without discrimination (A/HRC/34/56, paras. 24 and 27).