

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 and the Special Rapporteur on the situation of human rights defenders

REFERENCE:
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Excellency,

We have the honour to address you in our capacities 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 and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 44/5, 43/4 and 43/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the killing of human rights defender and journalist Mr. **Isravel Moses** in Somangalam in the Kanchipuram district of the state of Tamil Nadu.

Mr. **Isravel Moses** was a 26-year-old human rights defender and journalist, working as a reporter for a Tamil TV station, Thamizhan TV, reporting on local news stories in the Kanchipuram district. His reporting for the Sirappu Paarvai (Special focus) show focused on issues relating to local government, the illegal activities of gangs in the locality involved in the sale of cannabis, and land encroachment in the region.

According to the information received:

Mr. Moses reported extensively on the illegal activities of a gang operating in the surrounding areas of Nallur Pudhunagar, as part of his reporting on local issues. He had reportedly informed the inspector and deputy inspector of Somangalam police station of the gang's drug dealing on at least five occasions, raising concern that youths may be targeted by its members. The police are not believed to have taken action to investigate these claims in response to the complaints, allegedly due to bribery occurring between the gang and the Somangalam police.

In the six months before his death, Mr Moses also covered land encroachment issues, and had reported on the local gang's illegal grabbing of a plot of land in the area, on the Sirappu Paarvai show. The issue had recently escalated, as members of the gang had placed large stones around the plot to demarcate the land, reportedly with intent to use it for cannabis plantation, which some villagers had moved away in protest.

Approximately a week before he was killed, Mr. Moses produced a report for his show on Thamzihan TV, in which he further investigated cannabis dealing by the gang in the locality, and police inaction to tackle the issue.

In the two months prior to his killing, Mr. Moses had begun to receive anonymous phone calls, threatening to kill him if he continued to "interfere in our operations", by persons who he believed to be involved with the gang. On one occasion, he was also stopped by members of the gang whilst in

Somangalam village, who verbally threatened him to cease his reporting.

He informed the Somangalam police inspector and deputy inspector over the phone and in-person on at least three occasions about the threats he had been receiving, but allegedly no investigation was opened or protection measures implemented for Mr. Moses' safety and well-being. According to his family, he did not make any formal written complaint to the police, as he did not believe the threats would escalate any further. He also reassured his family that he had informed the police. The Somangalam police have reportedly denied the allegation that Mr. Moses had previously informed them of the threats, stating that they received no such complaints.

On 8 November 2020 at about 10 p.m., Mr. Moses was called out from his house by a man he was familiar with, under the pretext of asking for a phone number. The man then asked him to take a walk with him by a nearby lake. The two had walked roughly 50ft from the house when Mr. Moses was attacked by two men, who are believed to be involved with the gang he had reported on. The men attacked Mr. Moses with knives. Mr. Moses attempted to run back towards his house. Upon hearing Mr Moses screaming, his father ran out of the house to find his son had sustained injuries to his head, legs and hands. Mr. Moses was brought to Chromepet Government Hospital at 12:30 a.m. and was pronounced dead by hospital staff upon arrival.

Following his death, police opened an investigation into the killing of Mr. Moses and arrested four individuals in connection with the case, one of whom has reportedly been released on bail. Since his killing, Mr. Moses' family have relocated, due to threats they have reportedly received and fear for their safety.

Without prejudging the accuracy of the allegations, we would like to express our utmost concern with regard to the killing of Mr. Moses, which appears to be in direct retaliation for his reporting on issues concerning his local area and land rights, and the exercise of his right to freedom of expression. The inaction by police in response to the death threats that Mr. Moses reported to them on multiple occasions, is particularly concerning, for it suggests that his killing may have been preventable, if the threats he reported had been dealt with the seriousness they warranted. In this regard, we also express our concern for the safety and well-being of journalists and human rights defenders in India more broadly, and the lack of protection they are guaranteed. Their work in defense of human rights and reporting on human rights violations must be valued and their physical and psychological integrity protected, in line with your Excellency's Governments obligations under international human rights laws.

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

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 information, and where available the results, of the investigation into the killing of Mr Moses.
3. Please provide information of the actions taken by Somangalam police, in response to the death threats that Mr Moses allegedly reported to them, to ensure his safety.
4. Please provide information as to concrete steps that have been taken or may be in the process of being taken to prevent further killings, threats and harassment of human rights defenders and journalists in India from occurring. If no such steps have been taken, please indicate a manner in which we may be able to engage with your Excellency's Government as to the development and implementation of such concrete steps.
5. Please provide information on concrete steps, policies or national strategies, which have been adopted to promote the protection of human rights defenders in India.

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

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.

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Irene Khan
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), ratified by India in 1979. In particular, we would like to refer to articles 6 and 19, which guarantee the inherent right to life and that no one should be arbitrarily deprived of their life, and the right to freedom of opinion and expression. Such rights are also guaranteed under articles 3 and 19 of the Universal Declaration of Human Rights (UDHR).

We would like to refer to Human Rights Committee General Comment No. 36, wherein the Committee stated that the obligation upon State parties to respect and ensure the right to life under article 6 of the Convention extends to reasonably foreseeable threats, including those emanating from private persons and entities. The duty to protect the right to life requires State parties to take special protective measures for persons in situations of vulnerability who have been placed at particular risk because of specific threats, including human rights defenders.

We would further like to refer to the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on the Investigation of, accountability for and prevention of intentional State killings of human rights defenders, journalists and prominent dissidents (A/HRC/41/36, paragraph 38), which observes that the jurisprudence on the implementation of the due diligence principle and its operationalization by police forces point to consideration of several elements including:

- a) Whether there are credible threats that are objectively verifiable; in other words, whether they are supported by reference to a range of sources of information;
- (b) Whether the perpetrators have the intention to implement their threats, whether they are in a position, including physical proximity, and have the capabilities to carry out the threats;
- (c) Whether the risk is immediate, meaning continuing and soon;
- (d) Whether the identity of the victim places the victim in specific situations of vulnerability or risk;
- (e) Whether there are patterns of violence against groups of individuals by virtue of their identities.

The report calls on states to review and, if needed, strengthen policies and procedures to ensure that security agencies and other relevant actors are meeting their due diligence obligation to protect the right to life of those who may be targeted by States and non-State actors for their peaceful expression and activities, both online and offline (para 89 (h)).

Article 19 of the Covenant grants the right to freedom of opinion and expression. As stated by the Human Rights Committee, "Freedom of expression is a necessary condition for the realization of the principles of transparency and accountability that are, in turn, essential for the promotion and protection of human rights", CCPR/C/GC/34, para. 3. The protection of journalists is particularly strong. As further stated by the Human Rights Committee, "A free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the cornerstones of a democratic society", *id.* para. 13. In accordance with Article 19 (3), any restriction on the right to freedom of expression must pursue one of the

exhaustively enumerated aims of the provision, it must be provided by law, and it must be necessary and proportionate.

In this regard, States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Under no circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted (General Comment no. 34 on the right to freedom of opinion and expression, para 23). In this regard, impunity in cases of attacks against journalists not only restrict the freedom of expression of the victim, but creates a chilling effect more generally on the exercise of the freedom of expression and on investigative journalism.

We would also like to refer 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, which state that everyone has the right to promote and to strive for the protection and realization of human rights and that each State has a prime responsibility and duty to protect, promote and implement all human rights. We would further like to refer to articles 6(b), which states that everyone has the right, individually or in association with others, to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; 6(c), which states that everyone has the right, individually or in association with others, to study, discuss, form and hold opinions on the observance in law and in practice of all human rights and fundamental freedoms and to draw public attention to these matters; and article 12, paragraphs 2 and 3, which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration.

We would like to draw the attention of your Excellency's Government to the Human Rights Council resolution 12/16, calling on States to recognise the exercise of the right to freedom of opinion and expression as one of the essential foundations of a democratic society. This right applies online as well as offline. Any limitation to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 29 of the UDHR. Under these standards, limitations must be determined by law and must conform to the strict test of necessity and proportionality must be applied only for those purposes for which they were prescribed and must be directly related to the specific need on which they are predicated.

Moreover, we would like to draw your Government attention to the principles enunciated by Human Rights Council resolution 24/5, and in particular operative paragraph 2, which "reminds States of their obligation to respect and fully protect the [right] of all individuals to... associate freely, online as well as offline... including human rights defenders... seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the [right] to freedom of... association are in accordance with their obligations under international human rights law".