

Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the rights of persons with disabilities and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the rights of persons with disabilities and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, pursuant to Human Rights Council resolutions 43/16, 44/10 and 43/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning continued threats and physical assault against Mr. **Ramachandran**, a human rights defender with a disability, and the apparent negligence by the Tamil Nadu police to provide him protection and ensure his safety and security.

Mr. Ramachandran is a human rights defender with a disability from the Trincly district of Tamil Nadu, and a member of Pathu Rubai Nottu, an organisation that protects the welfare and safety of the local community by filing RTI (Right to Information) complaints to combat corruption, and providing community support to local police and Panchayat activities. As a human rights defender, Mr. Ramachandran works to ensure accountability and transparency of the public authorities in India, including by tackling corruption and addressing other issues relating to human rights violations.

According to information received:

On 1 May 2020, as a result of an RTI filed by Mr. Ramachandran, police seized a car carrying six individuals and filed a First Information Report (FIR) against the owner for breaching section 144 of the Criminal Procedure Code. The following day, Mr. Ramachandran received death threats and was subject to verbal abuse by the same individual. Mr. Ramachandran reported these threats to the Musiri Police, expressing fear for his own safety.

On 6 August 2020, in response to reporting the illegal sale of alcohol in the village of Serukudi, Mr. Ramachandran was threatened by the village leader and the local hardware shop owner. This incident was reportedly witnessed by several people. In reaction to these threats and harassment, Mr. Ramachandran requested protection from the local police. The authorities disregarded Mr. Ramachandran's appeals for assistance and adopted no measures to ensure the safety and security of the human rights defender.

Mr. Ramachandran filed another RTI in 2020 regarding the alleged corruption in the government scheme "the Individual Household Latrine (IHHL)", in which local Panchayat members were allegedly misappropriating funds meant for the construction of village toilets. Mr. Ramachandran's complaint resulted

in the arrest of two individuals. An enquiry into the alleged corruption within the IHHL was launched and the government scheme is now on hold.

On 22 January 2021, on returning from the neighbouring village of Thumbalam, two members of the local Panchayat blocked Mr. Ramachandran's vehicle and four men attacked him with iron rods and machetes, causing serious injury to his legs and arms and leaving him on the road. After the attack, the human rights defender was hospitalized at Trichy Hospital for one month and an FIR was filed by police. According to reports, this was a premeditated attack organised by the Panchayat Secretary and other Panchayat members in response to Mr. Ramachandran's work in exposing corruption within the Panchayat. It is alleged that the sub-inspector of the Musiri police station was also complicit in favouring the abovementioned assailants.

Without prejudging the accuracy of these allegations, we express serious concern in relation to the death threats and physical attack against Mr. Ramachandran, which appear to be in direct retaliation for his legitimate work as a human rights defender and for reporting cases of corruption within state authorities. We wish to express our concern regarding the safety of all human rights defenders in India, especially human rights defenders on the right to information. Their legitimate work in exposing corruption within the Indian authorities increases their risks to become victims of threats, intimidation, harassment and attacks and puts them in an extremely vulnerable and isolated position. We fear that the lack of security for human rights defenders may have a negative impact in their ability to carry out their legitimate human rights work.

We are also deeply concerned about the apparent negligence of the Tamil Nadu police and their failure to provide Mr. Ramachandran the adequate protection and security he requested on several occasions, over a period of one year in response to the alleged threats against his life, especially given that the police had been informed about the danger that Mr. Ramachandran faced. Moreover, we express deep concern at the alleged complicity of a sub-inspector of the Musiri police station in the above-mentioned attack. The physical attack against the human rights defender could have been prevented if the authorities had registered the seriousness of the threats that Mr. Ramachandran had repeatedly reported, and adopted appropriate measures to ensure his safety and well-being.

We would like to remind your Excellency's government that the right to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, is considered a basic human right in international law, and is enshrined, inter alia, in article 19 (2) of the International Covenant of Civil and Political Rights (ICCPR), which India acceded on 10 April 1979.

In relation to the Right to Information Act (RTI Act), which came into effect in India in 2005 and acts as a mechanism for any citizen to access information about public authorities, we wish to note that the RTI Act has been successful in empowering citizens, especially human rights defenders on the right to information, to hold officials and authorities accountable for their actions. Nevertheless, we are concerned that murders, attacks, threats and harassment of human rights defenders working to promote and protect the right to information in India is still widespread, and wish to highlight that these human rights defenders are not always adequately

protected by the State authorities, as there is no mechanism to ensure that the personal information and identity of the human rights defenders on the right to information who expose officials is not made known to those being investigated. We would also like to highlight that the Whistle Blowers Protection Act, adopted by the Parliament of India in 2011 to investigate alleged cases of corruption and abuse of power by authorities, does not explicitly guarantee the protection and security of human rights defenders on the right to information.

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 on the actions taken by the Tamil Nadu police to ensure Mr. Ramachandran's safety in response to the death threats that he reported to them,. If none were taken, please explain why.
3. Please provide information on any investigation undertaken in relation to the attack of 22 January 2021 against Mr. Ramachandran, and the efforts being made to bring the perpetrators to justice.
4. Please explain why Mr. Ramachandran was not given the protection he requested from the authorities after he had reported incidents of threats against him.
5. Please provide information on the legislative and policy measures taken by India to ensure the protection and security of human rights defenders on the right to information. Please provide information as to concrete steps that have been taken or may be in the process of being taken to prevent further assaults, threats and harassment of human rights defenders in India from happening. 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.

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.

Mary Lawlor
Special Rapporteur on the situation of human rights defenders

Gerard Quinn
Special Rapporteur on the rights of persons with disabilities

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

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), acceded by India on 10 April 1979. In particular, we would like to refer to article 3 (a) which affirms that States must undertake measures to provide effective remedies to any person, whose rights or freedoms are violated by others, including by perpetrators acting in an official capacity, and article 3 (b) and (c) which state that the person seeking such remedy has the right for it to be determined by competent authorities and that the State must enforce such remedies when granted. We would also like to refer to article 6 (1) of the ICCPR, which recognises that every individual has the inherent right to life, and this right shall be protected by law.

We further recall that Article 19 (2) of the ICCPR enshrines the right to freedom of expression, which include "freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." We recall that, as noted in a previous report of the Special Rapporteur on the right to freedom of opinion and expression, the right to information is "a right in and of itself and one of the rights upon which free and democratic societies depend" (E/CN.4/2000/63, para. 42).

We would also like to draw your Excellency's attention 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 article 6(a) which declares that everyone has the right to seek, obtain, receive and hold information about all human rights and fundamental freedoms, and have access to how those rights and freedoms are given effect in domestic, legislative, judicial and administrative systems; article 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; and article 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.

We would also like to refer to article 9.3 (a) of the abovementioned Declaration on Human Rights Defenders, which states that everyone has the right to complain about the policies and actions of individual officials, government bodies and authorities with regard to human rights violations, and to do so by appropriate judicial, administrative or legislative channels provided for by the legal system of the State, 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.

Additionally, we wish to bring to the attention of Your Excellency's government the provisions of the Convention on the Rights of Persons with Disabilities, ratified by India on 1 October 2007. We do understand and appreciate that the primary reason for the violence against Mr. Ramachandran is not discrimination based on his disability. Nevertheless, as a person with a disability, he holds certain human rights, the exercise of which has, according to our information, attracted violence. Under Article 21 of the CRPD he does, as a person with a disability, have the right to seek, receive and impart information and ideas on an equal basis with others. Furthermore, he enjoys, under Article 29 of the UN CRPD a broad right of participation in political and public life. Article 29(b), in particular, requires States Parties to promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others. The free exercise of these human rights cannot be done without, at a minimum, guaranteeing protection against violence. Finally, under Article 16 of the CRPD, he enjoys the more specific right of freedom from exploitation, violence and abuse. Undoubtedly, this extends to violence perpetrated against persons with disabilities on account of their political or other public engagements.