

**Mandates of the Special Rapporteur on minority issues; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance**

REFERENCE:  
AL NPL 4/2021

26 July 2021

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on minority issues; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, pursuant to Human Rights Council resolutions 43/8, 44/5 and 43/36.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the reported lynching of a group of young men belonging to the Dalit minority, as well as the alleged shortcomings of the police investigation and contested post mortem report.**

According to the information received:

On 23 May 2020, Nawaraj BK, a member of the Dalit minority, and a group of around 18 friends went to a neighbouring village (Soti Village in Chaurjahari Municipality, Rukum district) to Nawaraj BK's girlfriend's home after she had reportedly asked him to help her flee from her home to escape a forced marriage arranged by her parents. Nawaraj BK and his intended bride were in a relationship for over two years, but their marriage was apparently unacceptable to the woman's family as Nawaraj was a member of the Dalit minority.

When the mother of Nawaraj's girlfriend saw the group of Dalit young men around the house, she reportedly began to use derogatory and discriminatory language and asked the villagers to come. A mob of around 100 to 150 persons reached the group and reportedly attacked them with sticks, sickles, and sharp stones. The villagers chased the young men to the shores of the Bheri River and after allegedly beating Nawaraj and five of his friends to death, they threw the bodies into the river. Four of the six victims belonged to the Dalit minority.

The killing has been widely condemned by human rights organisations. The United Nations High Commissioner for Human Rights has also expressed shock at the killing of young men by opponents of an inter-caste relationship in Nepal and has called for an independent investigation. The National Human Rights Commission on Nepal also launched an investigation against the alleged killings.

On 26 May 2020, after the victims' families filed their first information reports, the police launched an investigation and ordered an autopsy when the bodies were recovered from the river. They subsequently filed charges against 34 alleged perpetrators based on the complaints by relatives of the victims. It is widely alleged that the group responsible for, or complicit in, pursuing and killing the victims included the ward chairman. There have also been

allegations that members of the ruling party have attempted to influence the investigation or made biased or controversial remarks. According to information circulating in Nepal, the intended bride is related to a senior member of the ruling party, who appeared to have allegedly blamed the victims for the incident in a speech made in Parliament which drew widespread attention. The Member of Parliament alleged that a group of men threatened the security of a minor girl by forcefully taking her, ran from the village and fell into the river which ultimately led to their deaths. No investigation is known to have been launched regarding these remarks.

On 26 May, in addition to the police investigation, the Home Minister established a five-member high-level Investigation Committee to look into the case. The Investigation Committee made the findings of the investigation public by issuing a press release on 15 June 2020, where they concluded that Nabaraj B.K and his friends were beaten to death.

Due to public demand, a Parliamentary Committee was established on 8 June 2020, to investigate the circumstances of the case and the police response thereto. The Committee report would appear to identify a series of failures by the police to prevent and redress the crime committed in Rukum. The findings allegedly included that the police did not stop the villagers heading to the crime scene after being alerted of the threatened attack; that they did not adequately investigate or take detailed information from persons present in the crime scene; that they did not take immediate steps in the search and rescue of the deceased; and that they did not include the statements of the local residents and the rescue team who recovered the bodies of the victims from the river.

The post-mortem report allegedly indicated that the young men died because of drowning with no further information regarding the circumstances surrounding their deaths. However, it is reported that locals, relatives of the victims and survivors of the attack claim the men were beaten to death and then thrown into the river. Likewise, according to reports, including from the Parliamentary Committee and the rescue team, the bodies were severely bruised and their private parts damaged, information which allegedly was not mentioned in the post-mortem report. This led to protests at the Jajarkot District Hospital where the post-mortem examinations were conducted.

On 14 June 2021, the District Attorney Office filed charges against 34 offenders for committing the crime of caste-based discrimination and untouchability, murder and attempted murder, as well a demand for compensation for the family of the victims. The hearing, which took place on 24 June 2020 in the Rukum District Court, sentenced 28 perpetrators to imprisonment ; two to child reform homes and released three accused culprits on bail and the mother of the intended bride on bail of 100,000 Nepali rupees. Two other accused children were released under the supervision of the guardian by the decision of Surkhet High Court following the hearing of 11 October 2020. The Supreme Court in its final verdict of 19 April 2021, on detention hearing, released additional five accused on general date and upheld the decision of Rukum District Court that gave bail to six accused. As a result, among 34 accused perpetrators, 23 are in custody and 11 are released on bail.

Following the finalization of the detention hearing, the hearing on the merits is expected to begin. The family of the deceased have received 1.1 million rupees as interim relief.

The evidence of the case has reportedly been weakened, since the police post-mortem report itself is contested by the victims and their families and that this could have an impact on the outcome of the judicial proceedings, leaving the alleged perpetrators unpunished.

While we do not wish to prejudge the accuracy of these allegations, we are gravely concerned about the alleged lynching of Dalit youths, reflecting a brutal picture of deeply entrenched caste based discrimination and violence against the Dalit minority in Nepali society. We are also concerned about the alleged shortcomings in the police investigation. Concern is also expressed that despite the findings of the Parliamentary Committee and the Investigation Committee, as well as the testimonies of the victims and witnesses, the post-mortem report has led to contested findings, and that this in turn may hamper an effective response to the reported crime.

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 the observations of your Excellency's Government on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide the details of the police investigation and the post mortem report, as well as the safeguards to ensure that they are carried out impartially and in accordance with international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016). Please explain how these results are compatible with the findings of other inquiries or investigations which were carried out in relation to the above-mentioned allegations, namely the five-member high-level Investigation Committee and the Parliamentary Committee established to investigate the details of the case and the police response thereto.
3. Please provide information with regard to the prosecution of those responsible of the above-mentioned allegations, as well as the steps taken to ensure that victims and their family members have an enforceable right to fair and adequate compensation. Also, please explain what victim and witness protection mechanisms have been put in place to ensure that the victims and witnesses are secured?
4. Please indicate what measures have been taken to guarantee that minority victims of caste-based violence have access to justice and ensure they are able to lodge complaints in a safe and enabling environment without fear of intimidation, harassment or threats.
5. Please indicate what actions have been taken to effectively address discrimination and violence against caste minorities and to ensure effective implementation of the existing national legislative framework

protecting them against human rights violations, as well as preventing recurrence of such violations.

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.

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.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on minority issues

Morris Tidball-Binz  
Special Rapporteur on extrajudicial, summary or arbitrary executions

E. Tendayi Achiume  
Special Rapporteur on contemporary forms of racism, racial discrimination,  
xenophobia and related intolerance

## **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 articles 6, 7, 26 and 27 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Nepal on 14 May 1991, which protect the right to life, the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the prohibition of non-discrimination, and the rights of minorities.

In light of the above-mentioned allegations of human rights violations affecting the minority, we call to the attention of your Excellency's Government the international standards regarding the protection of minorities, including article 27 of the ICCPR and the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In particular, the Declaration refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1), as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4).

Furthermore, we recall the 2016 thematic report of the former Special Rapporteur on minority issues to the Human Rights Council on "Minorities and discrimination based on caste and analogous systems of inherited status" (A/HRC/31/56), where she stated that Dalits represent the victims of the most grave forms of caste discrimination and recommended that criminal penalties should be established for law enforcement officers who neglect or intentionally decide not to investigate and/or prosecute complaints filed by individuals regarded as "low caste".

Article 26 of the ICCPR contains a general right to equality without discrimination on ground, such as religion, language or ethnicity, in fact or in practice, and stresses that all persons are equal before the law and entitled without discrimination to the equal protection of the law. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on grounds such as religion.

We would also like to remind your Excellency's Government of its obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), to which Nepal has been a State party since 1971. In particular, we would like to recall that article 1 paragraph 1 defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life". In this regard, the Committee on the Elimination of Racial Discrimination (CERD) in its General recommendation 29 on descent, strongly reaffirmed that "discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights". We therefore remind your Excellency's Government about the obligations under article 2 of ICERD to eliminate any act or practice of racial discrimination against persons and/or groups of persons; article 5 on the right of everyone, without any distinction, to equality before the law in the enjoyment of human rights and fundamental freedoms; and article 6 on the right of everyone to effective protection and remedy against any acts of racial discrimination. In addition,

article 7 of the Convention requires that “States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups.” We would like also to recall that CERD, in its above-mentioned General recommendation, recommended States parties to ensure the prosecution of persons who commit crimes against member of descent-based communities and the provision of adequate compensation for the victims of such crimes, and to take measures against any dissemination of ideas of caste superiority and inferiority or which attempt to justify violence, hatred, or discrimination against descent-based communities.

We would also like to remind your Excellency’s Government of the duty to investigate, prosecute, and punish all violations of the right to life. In its General Comment No. 36, the Human Rights Committee stated that investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations should be independent, impartial, prompt, thorough, effective, credible and transparent.

The Committee also indicated that States parties must enact a protective legal framework which includes effective criminal prohibitions on all manifestations of violence or incitement to violence that are likely to result in a deprivation of life, such lynching. The criminal sanctions attached to these crimes must be commensurate with their gravity, while remaining compatible with all the provisions of the Covenant. States should also conduct information and education campaigns in schools and the media on the need to eliminate lynchings, regardless of the circumstances and causes (CCPR/C/GC/36).

We also bring your Excellency’s Government’s attention to the Minnesota Protocol (2016), which indicates that States are under the obligation to provide all relevant documentation to the family of the deceased, including the death certificate, medical report and reports on the investigation held into the circumstances surrounding the death (para. 17).