

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on minority issues**

REFERENCE:  
AL IND 14/2021

25 August 2021

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 promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the rights of indigenous peoples and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 43/16, 43/4, 41/12, 43/14, 42/20 and 43/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the abduction of human rights defender Mr. Nitin Verghese in Khandwa, Madhya Pradesh; police violence against and arbitrary detention of human rights defenders Mr. Ravinder Singh and Ms. Rajveer Kaur in Faridabad, Haryana; and the process of externment against human rights defenders Mr. Ramjanam Kushwaha and Mr. Santosh Mane.**

Mr. **Nitin Verghese** is a human rights defender and member of the tribal and Dalit Rights Collective called Jagrit Adivasi Dalit Sangathan (JADS) that works to protect the rights of the Adivasi indigenous and Dalit minority communities in the state of Madhya Pradesh. In particular, he works with local leaders in their fight for justice around issues such as land rights and forest rights.

Ms. **Rajveer Kaur** is a human rights defender and student at the Delhi University. She is a member of the Bhagat Singh Chhatra Ekta Manch (BSCEM), a student association that advocates for students' rights and social justice by educating, promoting and connecting students. **Mr. Ravinder Singh** is a human rights defender and president of BSCEM. He studies law at the Delhi University.

Mr. **Ramjanam Kushwaha** is a farmer, social worker and human rights defender. For over 30 years, Mr. Kushwaha has defended and protected the rights of Adivasi minority, in particular the rights of Adivasi women from exploitation by the upper caste men, as well as protecting Adivasi land rights in Uttar Pradesh.

Mr. **Santosh Mane** is a Dalit rights defender and member of the Ambedkarite movement in Maharashtra, as well as several other minority Dalit rights organisations including the National Dalit Movement for Justice (NDMJ), a civil society organisation that provides legal assistance to cases of caste atrocities, and the Muktivadi Yuva

Sanghatna (MYS), a collective of Ambedkarite rights defenders in Maharashtra that work to promote social justice and assist victims facing caste discrimination and atrocity. His human rights work focused mainly on supporting victims of human rights violations as a result of the caste system, filing complaints and assisting them in court processes. Over the years, he has assisted in more than 150 cases of caste-based atrocities.

Allegations of attacks and criminalisation of human rights defenders in response to their peaceful protests against the forced evictions and demolitions in the Khori Gaon informal settlements in Faridabad, Haryana State, were raised in a recent urgent appeal (IND 13/2021) sent by Special Procedures mandate holders' to your Excellency's government on 14 July 2021, as well as in a press statement issued on 16 July 2021 in which independent experts called on India to halt the evictions in the midst of the pandemic and monsoon rains. At the time of writing, we regret to inform you that no response to this urgent appeal has been received.

According to the information received:

*The case of Mr. Nitin Verghese*

On 10 July 2021, Mr. Verghese and other Adivasi activists visited a site where forest officials and police were demolishing the homes of Adivasi minority in Jamniya village in Khandwa, Madhya Pradesh. During this incident, the human rights defender witnessed forest officials forcibly removing four members of the affected minority community from the site and taking them to another location. Mr. Verghese complained to the Deputy Forest Officer Mr. [REDACTED]. In response, the police and forest officials proceeded to forcibly removing Mr. Verghese, two other activists from the JADs, as well as three Adivasi minority community members and took their phones.

The whereabouts of Mr. Verghese and the other five individuals remained unknown until midnight on 10 July 2021, when they were all released. During this incommunicado detention, Mr. Verghese was not permitted to see his lawyer. The mobile phones of Mr. Verghese and the two other JADs members remain in the possession of forest officials.

*The case of Ms. Rajveer Kaur and Mr. Ravinder Singh*

As outlined in depth in the urgent appeal IND 13/2021, a wave of peaceful protests have taken place throughout Faridabad, Haryana State, in response to the Supreme Court order on 7 June 2021 to demolish the informal settlements and remove the inhabitants of the Khori villages. The people of the village organised gatherings to peacefully ask the authorities for adequate rehabilitation and resettlement and to delay the evictions in light of growing health concerns due to the pandemic.

On 30 June 2021, the residents of Khori village planned a meeting at Ambedkar Park to discuss their concerns about the threat of displacement during the pandemic. Before the meeting could take place, the Faridabad Police surrounded the park so that residents could not enter. As a crowd of those who intended to

meet gathered in front of the park, the police allegedly physically attacked the unarmed crowd, which included human rights defenders, women and journalists, with lathis.

Mr. Singh and Ms. Kaur had planned to attend the village meeting that morning. Both human rights defenders demanded that the villagers have the right to peaceful assembly and that the police allow them to enter the park. During the lathi attack, police beat Mr. Singh and Ms. Kaur alongside the other civilians and then forcefully detained them and placed them in police jeeps. During the attack, Mr. Singh's turban was forcibly removed. They were taken to Surajkund police station where they were allegedly not allowed to see their lawyers or family, and were denied food and drink.

At 4pm that afternoon, they were taken to CBK Faridabad government hospital where they were examined by doctors. Mr. Singh had injuries to his shoulders, back and thighs and Ms. Kaur was injured on her waist and thighs as a result of the lathi attack. It is reported that their wounds were not adequately examined or tended during these examinations. Both defenders were released from hospital later that day and no charges have been pressed against them.

#### *The case of Mr. Ramjanam Kushwaha*

On 31 December 2000, Mr. Kushwaha was allegedly arbitrarily taken by the police to Pannuganj, Manchi and Roberts Ganj police stations and allegedly beaten and tortured on several occasions for approximately 4 days. On 3 January 2001, a First Information Report (FIR) was registered by police against him under article 153A and 124A of the Indian Penal code, and Mr. Kushwaha was imprisoned on charges of "promoting enmity between different groups on grounds of religion, race..." and "sedition". On 8 April 2001, Mr. Kushwaha was released on bail. Mr. Kushwaha's case was ongoing for 9 years, after which the district court of Sonbhadra deemed the human rights defender innocent and the charges against him were dropped.

In June and July 2016, three non-cognizable reports (NCRs) were filed against Mr. Kushwaha, all of which were closed after investigation by the police. In November 2019, Mr. Kushwaha supported tribal villagers in filing complaints to the authorities about illegal land grabs by the Gram Pradhan.

On 7 November 2020, police officers arrived at Mr. Kushwaha's residence in Uttar Pradesh and ordered him to sign a document. The police officer then told the human rights defender that a formal process of externment against him had begun. On 12 November 2020, Mr. Kushwaha submitted a written complaint to the Commissionerate Office in Mirzapur regarding the illegal externment against him, citing that the charges against him were false and the externment was illegal because the three NCRs against him were proven incorrect and were subsequently closed and the FIR against him was currently pending before the district court. At the time of writing, no information has been received on whether the complaint has been received.

### *The case of Mr. Santosh Mane*

On 10 December 2019, the Talathi of Ramapur (government representative) made a panchnama (a police record of witness testimony) against Mr. Mane and filed it with the revenue department. The panchnama was supported by several other high ranking members of the Ramapur authorities. The panchnama claimed that Mr. Mane was involved in illegal sand mining and that he should pay a heavy penalty to the revenue department as a result.

On 28 December 2019, Mr. Mane filed a complaint against the Talathi of Rampur and the other four individuals who had accused him previously, stating that it was a direct attack against the human rights defender. On 16 September 2020, the human rights defender received an official letter saying that the claims against him were erroneous and the panchnama had been withdrawn.

On 28 April 2020, an FIR was submitted by the head constable at the Chinchani Police Station against Mr. Mane claiming that he had been involved in illegal sand mining activities. The human rights defender was charged with theft (section 379), disobedience (section 188), public nuisance (section 290), acts done by several persons with a common intention (section 30) under the Indian penal code.

On 11 January 2021, the police officer who registered the FIR, made a formal written proposal to the sub divisional magistrate in Kodegaon, suggesting that externment proceedings against Mr. Mane should begin, in line with section 56 of the Bombay Police Act, 1951. On 29 January 2021, Mr. Mane received a notice that an inquiry into his externment had begun. Mr. Mane replied to the notice on 4 February 2021. On 16 February 2021, the sub-divisional magistrate issued another notice to the human rights defender stating the externment proceedings against him had officially begun and that they had six cases against him with regard to his alleged involvement in illegal sand mining in the area. The six cases mentioned included non-cognizable offences, written applications against him, one case in which he was acquitted and the above-mentioned FIR dated 28 April 2020.

On 18 March 2021, the Deputy Collector and Sub-Divisional Magistrate passed the externment order against Mr. Mane and banished him from his home district of Sangli for two years. On 21 March, the human rights defender was compelled by the authorities to leave his home. On 26 March 2021, the human rights defender submitted an appeal with the State Government. At the time of writing, no inquiry has been launched in response to this appeal.

Without prejudging the accuracy of the information we have received, we express our concern over the situation of human rights defenders in India, in particular the above-mentioned human rights defenders for the Adivasi and Dalit minorities, who appear to have been targeted as a result of their legitimate work protecting human rights in the country. We express our grave concerns about the alleged abduction of Mr. Nitin Verghese and other human rights defenders as a response to their legitimate work raising human rights violations.

We are very concerned about the alleged arbitrary arrest and physical attacks against peaceful villagers and the human rights defenders Ms. Rajveer Kaur and Mr. Ravinder Singh as a result of exercising their right to freedom of expression and assembly, as well as the restrictions placed on their right to access their legal counsel, contact their families and to food and drink while in detention.

We are also very concerned at the process of externment Mr. Ramjanam Kushwaha and the externment of Mr. Santosh Mane. Since 2000, there has been a clear pattern of judicial harassment, criminalisation and subsequent externment against Mr. Ramjanam Kushwaha. Similarly, local government officials have targeted Mr. Santosh Mane since 2019. We are concerned that, in these two incidents, the human rights defenders were subjected to continuous judicial harassment over a long period of time by the authorities in an attempt to hinder their ability to carry out their human rights work defending the rights of Adivasi people in Uttar Pradesh and Dalit in the Sangli district.

Finally, we are very worried that the externment, arbitrary detention, physical attack and criminalisation carried out by the authorities against the above-mentioned human rights defenders will have a negative effect not only these individuals' ability to carry out their human right work, but will in turn deter other human rights defenders in India from protecting human rights for fear of retaliation.

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.

We are issuing this appeal in order to safeguard the rights of the abovementioned individuals from irreparable harm and without prejudicing any eventual legal determination.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide any information you have on the alleged abduction of Mr. Nitin Verghese and the other activists and community members, including the factual and legal basis for the confiscation, and posterior and continuing custody of private property, in Khandwa, Madhya Pradesh, on the 10 July 2021.
3. Please provide the factual and legal basis for the arrest of Ms. Rajveer Kaur and Mr. Ravinder Singh, and how this is compatible with international human rights law, in particular the rights to freedom of expression and assembly.
4. Please provide information on the investigation into the police violence and beating against human rights defenders Ms. Rajveer Kaur and

Mr. Ravinder Singh, and whether those responsible have been brought to justice. Please provide information about any existing or new measures taken to prevent excessive use of force by police officers against peaceful demonstrators and to seek remedy in case of abuse.

5. Please provide information on the detention conditions of Mr. Nitin Verghese and other activists and community members, Ms. Rajveer Kaur and Mr. Ravinder Sing including their access to basic services such as food and healthcare, and whether they had access to legal representatives and/or their families.
6. Please provide the factual and legal basis for the externment process against Mr. Ramjanam Kushwaha, and how this is compatible with international law.
7. Please provide the factual and legal basis for the externment of the human rights defender Mr. Santosh Mane from his home in the Sangli district.
8. Please outline the steps your Excellency's government has implemented or plans to adopt to ensure that all human rights defenders in India are protected and are able to work to promote and protect human rights free from any restrictions or threats.

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

Irene Khan

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

Clement Nyaletsossi Voule

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José Francisco Cali Tzay  
Special Rapporteur on the rights of indigenous peoples

Fernand de Varennes  
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## **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 9, 10, 19, 21, 22 and 27, that provide for every person the rights to liberty and security, protection against arbitrary detention, freedom of opinion and expression, freedom of association and assembly and the rights of persons belonging to minorities. We would also like to draw your attention to article 12 of the ICCPR, which states that no person should be arbitrarily deprived of the right to enter one's country, or in the aforementioned cases of externment, deprived of their right to enter their district.

The right to freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, cultural and artistic expression, and discussion of human rights (Paragraph 11). 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 and torture, can under no circumstance be compatible with article 19 (Paragraph 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (Id.).

We would also like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality. As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (Paragraph 23).

We would like to also remind your Excellency's Government of the Human Rights Council resolution 12/16 (A/HRC/RES/12/16), in which the Human Rights Council expresses its concern that violations of the rights to freedom of opinion and expression continue to occur, often with impunity, including arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence, increased abuse of legal provisions on surveillance, search and seizure, and censorship against persons who exercise, seek to promote or defend these rights, including human rights defenders. In resolution 12/16, the Human Rights Council calls upon the States to respect and ensure the respect for these rights, take all necessary measures to put an end to violations of these rights, bring to justice those responsible, ensure that victims of violations have an effective remedy, and refrain from imposing restrictions which are not consistent with article 19 (3) of the ICCPR, including on reporting on human rights and government activities, and expression of opinion and dissent.

We would like to refer also to the Human Rights Council resolution 31/32 which in paragraph 2 calls upon all States to take all measures necessary to ensure the rights and safety of human rights defenders, including those working towards realization of economic, social and cultural rights and who, in so doing, exercise other human rights,



such as the rights to freedom of opinion, expression, peaceful assembly and association, to participate in public affairs, and to seek an effective remedy. It further underlines in paragraph 10 the legitimate role of human rights defenders in mediation efforts, where relevant, and in supporting victims in accessing effective remedies for violations and abuses of their economic, cultural rights, including for members of impoverished communities, groups and communities vulnerable to discrimination, and those belonging to minorities and indigenous peoples.

We would also like to refer to the report of the former Special Representative of the Secretary-General on the situation of human rights defenders to the General Assembly in 2006 (A/61/312), where the Special Representative urges States to ensure that law enforcement officials are trained in and aware of international human rights standards and international standards for the policing of peaceful assemblies and to investigate allegations of indiscriminate and/or excessive use of force by law enforcement officials.

Furthermore, we would like to refer to the paragraph 17 of the Human Rights Committee's General Comment No. 35, in which the Committee observes that detention due to peaceful exercise of rights protected by the ICCPR may be arbitrary. We also note that as per jurisprudence of the Working Group on Arbitrary Detention, conviction and subsequent imprisonment of individuals under vague and broadly formulate laws which lack the requisite degree of legal certainty may be arbitrary.

We would also like to refer to the recent report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the importance of guaranteeing access to justice in the context of the mentioned rights, whereas he stressed that legal assistance must be made available to everyone without discrimination. He further indicates that legal assistance should be given to everyone by counsel of their choice, in full respect of confidentiality, and at any time during custody or detention (A/HRC/47/24, para. 40)

We would like to bring to refer to the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the 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 and in full equality before the law (article 4).

We specifically wish to highlight the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted by the General Assembly in 2007, which sets out international human rights standards relating to indigenous peoples' rights. Article 2 asserts that indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity. Article 7 of the UNDRIP provides that indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person. Article 8 establishes that indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture; States shall provide effective mechanisms for prevention of, and redress for any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities.

We would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups;
- article 6 a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- article 6 b) and c), which provides for the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights;
- article 7, which provides for the right to develop and discuss new human rights ideas and principles and to advocate their acceptance.
- 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.

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. Principle 4 provides, specifically, that "States should provide a safe and enabling environment in which individuals, groups and organs of society that work on human rights or environmental issues can operate free from threats, harassment, intimidation and violence."