

**Mandates of the Working Group on Enforced or Involuntary Disappearances; 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 and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism**

Ref.: UA IND 19/2021  
(Please use this reference in your reply)

1 December 2021

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; 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 and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 45/3, 44/5, 43/4, 43/16 and 40/16.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of intimidation, searches and confiscations committed during raids by national security agents in the residence of Mr. **Khurram Parvez**, a human rights defender, and in the offices of Jammu and Kashmir Coalition of Civil Society (JKCCS) – a human rights and civil society organisation - as well as what may be the subsequent arbitrary arrest and detention of Mr. Parvez on charges related to conspiracy and terrorism.

Mr. Khurram Parvez is a human rights defender based in Srinagar, Indian-administered Kashmir, who works on the issue of enforced disappearances in India as well as in the Asian region. He is the programme coordinator of JKCCS, and the Chairperson of the Asian Federation against Involuntary Disappearances (AFAD), a regional federation of organisations that voices concerns on behalf of victims of enforced disappearances. He has also worked on the issue of unlawful killings.

Mr. Parvez has regularly engaged with United Nations bodies, including the Working Group on Enforced or Involuntary Disappearances and the Human Rights Council, reporting human rights abuses in Kashmir and faced restrictions and harassment from the Indian Government as a result. In 2017, 2018 and 2019, the case of Mr. Parvez was included in the reports of the Secretary-General on retaliation against those cooperating with the United Nations, its representatives and mechanisms in the field of human rights ([A/HRC/36/31](#) para. 9, Annex I paras. 39-42; [A/HRC/39/41](#), para. 67, Annex II paras. 23-24; and [A/HRC/42/30](#) para.58, Annex II para. 59).

In 2016, Mr. Parvez was the subject of two urgent appeals sent to your Excellency's Government on 16 September 2016 ([UA IND 7/2016](#)) and 11 October 2016 ([UA IND 9/2016](#)) concerning allegations of arbitrary arrest, detention, intimidation and travel ban issued against him in alleged reprisal for cooperating with the United Nations human rights mechanisms.

Mr. Parvez, along with other human rights defenders and journalists, has also been the subject of a joint allegation letter sent to your Excellency's Government on 21 December 2020 ([AL IND 20/2020](#)), regarding allegations of intimidations, searches and confiscations committed during raids performed by national security agents in the premises of NGOs, including the Association of Parents of Disappeared Persons (APDP), Athrout, and the JKCCS, as well as the offices of the local newspaper Greater Kashmir, reportedly pursuant to the enforcement of counter-terrorism measures.

While we appreciate the response from your Government to the communication sent on 29 September 2016 (UA IND 7/2016), we regret that it has not responded to the communication sent on 11 October 2016 (UA IND 9/2016). We also note that the content of the reply to the communication (AL IND 20/2020) sent on 18 January 2020 was requested to be kept confidential.

We are reiterating our concerns and recommendations contained in [OL 7/2020](#) of 6 May 2020 on the Unlawful Activities (Prevention) Amendment Act 2019 and the current counter-terrorism legislation, the 1967 Unlawful Activities Prevent Act. We regret that the Government has not provided a reply to this communication and that the said legislation continues to be used against human rights defenders.

According to the additional information received:

On 22 November 2021, at around 8 a.m., National Investigation Agency (NIA) personnel, assisted by the local Jammu and Kashmir Police and the Central Reserve Police Force (CRPF) paramilitary personnel, conducted simultaneous raids on Mr. Parvez's residence in Sonwar Bagh area of Srinagar and the premises of the JKCCS in Amira Kadal constituency of Srinagar.

During the searches, the NIA personnel confiscated Mr. Parvez's phone and a laptop, along with a number of books. While the searches were taking place in the office's archives and electronic devices, JKCCS' President and human rights defender Mr. Imroz Parvez, was held inside the premises for 14 hours.

In the afternoon of 22 November 2021, Mr. Parvez was brought to the NIA office in Srinagar for interrogation and subsequently formally arrested at around 6 p.m. Persons associated with Mr. Parvez were provided with a copy of the arrest memo under case number 30/2021, which was dated 6 November 2021 and mentioned multiple charges being filed against him under the Indian Penal Code and the Unlawful Activities Prevention Act (UAPA) Act.

The charges included the following: Sections 120B (criminal conspiracy), 121 (waging, attempting to wage, abetting waging of war against the Indian government), and 121A (conspiracy to commit offences punishable by Section 121) of the Indian Penal Code; and Sections 17 (raising funds for terrorist act), 18 (conspiracy), 18B (recruiting of any person or persons for terrorist act) and 40 (raising funds for a terrorist organisation) of the UAPA.

Persons associated with Mr. Parvez were also informed by the NIA that he would be taken to New Delhi on the following day and were requested to bring clothes for him.

On 23 November 2021, Mr. Parvez was transferred to the NIA's branch in New Delhi, following a transit remand order passed by a local magistrate in Kashmir.

If convicted, Mr. Parvez could face up to 14 years of imprisonment and even the death penalty. According to the information received, the charges against him are non-bailable.

A statement released by the NIA indicated that Mr. Parvez was in touch with "over ground workers (OGW) of a Pakistan-based banned terror outfit" for almost six years, without providing additional details. The NIA Spokesperson also claimed that strong evidence could be obtained against him based on his digital devices. He added that Mr. Parvez's arrest was also linked to a raid conducted two days before in a NIA officer's premises in Himachal Pradesh, a Northern Indian State bordering with the Indian-administered region of Jammu and Kashmir.

The reported searches, confiscations, arrest and detention of Mr. Khurram Parvez on 22 November 2021, as well as his transfer to New Delhi (i.e. more than 800 Km away from his hometown, family and legal representatives), are believed to be intended to intimidate and restrain his human rights work. This is particularly the case in relation to his work documenting and reporting human rights violations in Jammu and Kashmir by security forces, including enforced disappearances, and the submission of information to the United Nations Special Procedures.

We reiterate our serious concern that counter-terrorism legislation appear to be used to justify searches, confiscations and investigations, arbitrary arrest and detention against human rights defenders. We also reiterate our concern that the arrest and detention of Mr. Khurram Parvez may be related to the peaceful exercise of his right to freedom of expression, and may be in retaliation for his legitimate activities as a human rights defender, and in addition, for his cooperation with the United Nation Human Rights mechanisms.

Articles 9, 14, 19 and 22 of the International Covenant on Civil and Political Rights (ICCPR), to which India acceded in 1979, guarantee the right to liberty and security of the person, the right to a fair trial, the right to freedom of opinion and expression and the right to freedom of association respectively. All these provisions should be invoked read alone and in conjunction with Art. 2(3) of the ICCPR. In particular, we wish to remind your Excellency's Government that any restrictions to the exercise of these rights must be provided by law and must be necessary and proportionate. General comment No. 35 of the Human Rights Committee which interprets the scope of Article 9 (Liberty and security of person) outlines the prohibition of arbitrary arrest and detention, and unlawful deprivation of liberty.

Article 17 of the ICCPR guarantees the right not to be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence and article 12 of the Universal Declaration of Human Rights, which prohibits any arbitrary interference with a person's privacy, family, home or correspondence. The right to privacy is essential to human dignity, and any restriction in its enjoyment must be prescribed by law, necessary to achieve a legitimate aim, and proportionate to the aim pursued.

Articles 13 (3) and 13 (5) of the Declaration on the Protection of all Persons from Enforced Disappearance requires that steps "Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal" and "any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure [should be] appropriately punished."

Resolution 7/12 of the Human Rights Council urged Governments to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected.

Further, Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28, and 48/17 reaffirmed the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. The Human Rights Council urged States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urged States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

We are further drawing attention to 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 its articles 1, 2, 6 and 8.

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

In view of the urgency of the matter, we would appreciate a prompt and detailed response on the steps taken by your Excellency's Government to safeguard the rights of Mr. Khurram Parvez in compliance with India's international human rights obligations and commitments.

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, since we are expected to report on these cases to the Human Rights Council, we would be grateful for your further information and observations to help clarify the following questions:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information about the factual and legal basis for the raid, searches and confiscation of documents and property mentioned in this communication, and for the arrest and detention of Mr. Khurram Parvez and his transfer to Delhi. How these measures are compatible with India's international legal obligations under the human rights treaties it has ratified, and other relevant norms.
3. Please provide information on why charges related to raising funds for terrorist acts, conspiracy, recruitment for terrorist acts and offences relating to raising funds for a terrorist organisation, have been levied against Mr. Khurram Parvez and indicate how this complies with United Nations Security Resolution 1373, FATF recommendation 8, and a strict understanding of the definition of terrorism as elucidated by international law norms including but not limited to United Nations Security Council Resolution 1566 (2004); and with the model definition of terrorism provided by the mandate of the Special Rapporteur for the promotion and protection of human rights and fundamental freedoms while countering terrorism.
4. Please provide information on the current location, detention conditions and state of health of Mr. Khurram Parvez, and his access to a legal counsel of his choice, and to his family.
5. Please indicate what measures have been taken to respect and protect Mr. Khurram Parvez's right to communicate freely and without reprisals with the United Nations, its representatives and mechanisms in the field of human rights, including the Special Procedures mandate-holders and the Human Rights Council.
6. Please provide information on what steps are being taken to combat terrorism financing while complying with United Nations Security Council and international human rights standards and do not infringe upon the rights to freedom opinion, expression, liberty, security and association, as well as the right to take part in the conduct of public affairs guaranteed under the ICCPR.
7. Please indicate what remedial measures are taken for people charged and imprisoned under the Unlawful Activities Prevention Act (UAPA) while they are claiming to have exercised the very human rights that India is obligated to protect.

8. Please indicate what measures have been taken to ensure that human rights defenders, including civil society and activists, can operate in an enabling environment and can carry out their legitimate activities without fear of harassment, stigmatization, reprisal or criminalization of any kind, as guaranteed under the ICCPR and other universal human rights instruments.

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 responsible of the alleged violations.

In light of the allegations of reprisals for cooperation with the United Nations on human rights, we reserve the right to share this communication – and any response received from Your Excellency’s Government - with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official designated by the Secretary-General to lead the efforts within the United Nations system to address this issue.

Given the unsatisfactory nature of past exchanges with Your Excellency’s Government on this and other similar cases, and in the absence of detailed clarification as sought above, we may consider to publicly express our concerns in the near future, as we believe that the wider public should be alerted of the implications for the exercise of human rights in India of these allegations. Any public expression of concern on our part will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s 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.

Luciano Hazan  
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz  
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

Fionnuala Ní Aoláin  
Special Rapporteur on the promotion and protection of human rights and fundamental  
freedoms while countering terrorism