

**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 minority issues and the
Working Group on discrimination against women and girls**

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(Please use this reference in your reply)

3 February 2022

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 minority issues and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 43/16, 43/4, 43/8 and 41/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the intimidation of and threats against Ms. **Meena Kotwal**, a Dalit journalist and woman and minority human rights defender working and reporting on human rights issues.

Ms. Meena Kotwal is a Dalit woman human rights defender, journalist and the founder of 'The Mooknayak', an online news channel and website, that covers issues related to the persecution of the Dalit minority and marginalised people. It also advocates for social justice and democracy for the marginalised.

According to information received:

On 25 December 2021, Ms. Kotwal posted a video of herself burning the Manusmriti, on the occasion of 'Manusmriti Dahan Divas' (Manusmriti Burning Day), to commemorate Dr. Bhimrao Ambedkar's metaphorical burning of the Manusmriti in 1927, which he believed to be regressive and against women's rights.

Since 26 December 2021, Ms. Kotwal reportedly began to receive threatening phone calls from unknown male individuals, claiming to be associated with Hindutva nationalistic groups, such as Bajrang Dal, Karni Sena and Vishwa Hindu Parishad. Multiple callers allegedly told Ms. Kotwal that she would "suffer the same fate as Gauri Lankesh". In one conversation, an individual allegedly warned her that her phone number was being widely distributed on WhatsApp groups and on social media pages, with instructions for others to also threaten her. The unknown male individuals also reportedly demanded that Ms. Kotwal remove the aforementioned video. When she refused, they allegedly threatened her with physical violence.

Ms. Kotwal has received threats of violence and abuse on social media platforms as well. One unknown caller allegedly claimed to be a police officer and others made casteist comments and threats of physical violence against her.

On 30 December 2021, Ms. Kotwal filed a complaint at the Ambedkar Nagar Police Station in New Delhi, with details of the numbers that were contacting her and threatening her, and screenshots of the abusive messages and threats. The Station House Officer (SHO) of the Ambedkar Nagar Police Station asked the Sub Inspector to file Ms. Kotwal's complaint. The Sub Inspector reportedly had Ms. Kotwal sit for a long time and advised her to not post such things, such as the aforementioned video, instead of filing her complaint. Ms. Kotwal requested the receipt of the First Information Report (FIR) from the Sub Inspector, who said that it will take time. Ms. Kotwal reportedly said that she would return to get the paper work for the FIR from the Deputy Commissioner of Police (DCP).

After Ms. Kotwal submitted a copy of the complaint to the Addl. DCP South West Delhi, she was told that the FIR would be filed in the Ambedkar Nagar Police Station. Ms. Kotwal returned to the Ambedkar Nagar Police Station, but a FIR based on her complaint had not been filed.

According to the guidelines issued by the Delhi Police, a woman may lodge a complaint via email or registered post, or send a written complaint through an email or registered post addressed to a senior police officer of the level of Deputy Commissioner or Commissioner of Police. The officer in question then directs the SHO of the police station in the area where the incident occurred to conduct proper verification of the complaint and lodge a FIR. The police may then visit the residence of the victim to take her statement. In order for an investigation to take place, a FIR must be filed first. At the time of writing, a FIR is yet to be filed by the Ambedkar Nagar Police Station for her case.

While we do not wish to prejudge the accuracy of the alleged facts mentioned above, we wish to express our serious concerns regarding what appears to be a deliberate and sustained campaign of threats and abuse towards Ms. Meena Kotwal. We are deeply concerned by the numerous threats against her life and physical integrity, and at the coordinated attempts by unknown individuals to further intimidate and threaten her. The intimidation of and threats against Ms. Kotwal is particularly concerning, as it appears to be in direct retaliation for her exercising of her right to freedom of opinion and expression online, which in this instance involves a protest against the oppression of women, among whom Dalit women are disproportionately subjected to multiple forms of discrimination and violence and extremely marginalized, constituting a violation of international human rights law and standards. The threats and harassment that Ms. Kotwal has been subjected to are occurring against a backdrop of orchestrated intimidation campaigns against groups of women online in recent weeks and months in India, revealing a seriously concerning online environment for women journalists, human rights defenders, politicians and activists.

We would like to further convey our concern regarding the alleged delay in filing a FIR based on Ms. Kotwal's complaint, and hence a delay into the investigation of the allegations of threats and abuse, despite her repeated attempts to urge authorities to do so. The inaction of authorities responsible for filing the FIR in relation to the complaint has the potential to put Ms. Kotwal in physical danger, due to the death threats she is receiving. We urge your Excellency's Government to pressure the authorities to file a FIR based on Ms. Kotwal's complaint in the Ambedkar Nagar police station.

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/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on the measures undertaken to record and investigate the allegations of threats against Ms. Kotwal's life and physical integrity, and to identify and prosecute those responsible. If such inquiry or investigation has not taken place or if it has been inconclusive, please explain the reasons why. Please also provide information on what measures have been taken to protect the life and physical integrity of Ms. Kotwal.
3. Please provide information on how threats reported by journalists, human rights defenders, and civil society actors are dealt with and the policies and measures in place to provide them with protection if needed.
4. Please provide information on the measures undertaken to combat threats, hate speech and incitement to hatred, particularly against women journalists, women human rights defenders and minority activists carrying out their peaceful and legitimate activities, including those who advocate for the rights of persons belonging to marginalised communities in India.

We would appreciate receiving a response within 60 days. Past 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

Fernand de Varennes
Special Rapporteur on minority issues

Melissa Upreti
Chair-Rapporteur of the Working Group on discrimination against women and girls

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the fundamental rights in accordance with the principles as set forth in articles 2, 19, and 27 of the International Covenant on Civil and Political Rights (ICCPR) to which your Excellency's Government is state party since 10 April 1979, providing for the principle of non-discrimination, freedom of opinion and expression, and the protection of the rights of persons belonging to minorities.

We recall that article 19 also guarantees that everyone shall have the right to freedom of expression; which includes the 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 one's choice. Any limitation 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, 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. In her report on the subject of gender justice and the freedom of expression to the General Assembly, the Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression, highlighted the disproportionate risks faced by female journalists, and their subjection to sexual and gender based violence, both online and offline (A/76/258). The Rapporteur outlined that attacks on female journalists violate not only their freedom of expression, but also society's right to information from diverse media, and represent a gendered attack on media freedom (A/76/258, para. 46). The report also emphasises that the prohibition against sexual and gender-based violence is well established in international law, and the right to be safe from threats and violence applies equally online and offline (Ibid. para. 62). In her recommendations to States on the subject, the Special Rapporteur called for the adoption of specific legislation to prohibit, investigate and prosecute online gender-based violence, and that the legislation should be grounded in international women's human rights instruments and international standards on freedom of expression, and that the prohibitions should be drafted restrictively and take into account specific digital traits, such as amplification by perpetrators (A/76/258, para. 107).

We would like to remind you that the legitimate role of human rights defenders is recognised by international law and referred 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 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 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 6 point a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- 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 your attention to General Assembly resolution 68/181 as well as Human Rights Council resolution 31/32, in which States expressed particular concern about systemic and structural discrimination and violence faced by women human rights defenders. Specifically, we would like to refer to articles 7, 9 and 10, whereby States are called upon to, respectively, publicly acknowledge the important role played by women human rights defenders, take practical steps to prevent threats, harassment and violence against them and to combat impunity for such violations and abuses, and ensure that all legal provisions, administrative measures and policies affecting women human rights defenders are compatible with relevant provisions of international human rights law. States should take all necessary measures to ensure the protection of women human rights defenders and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights. This should include the establishment of comprehensive, sustainable and gender-sensitive public policies and programmes that support and protect women defenders. Such policies and programmes should be developed with the participation of women defenders themselves.

In connection with above alleged facts and concerns, we would like to draw your Excellency's attention to the Declaration on the Elimination of Violence against Women, which was adopted by the United Nations General Assembly and states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia, (a) the right to life; (b) the right to equality; (c) the right to liberty and security of person; and (d) the right to equal protection under the law (Article 3). In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), updated by General Recommendation No. 35 (2017) defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 9 July 1993), whether perpetrated by a State official or a private citizen, in public or private life.

The CEDAW Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes perpetrated against women and girls, to prosecute and punish perpetrators, and to provide effective reparations without delay. In General Recommendation No. 35, the Committee clarifies that States parties

are responsible for acts or omissions of its organs and agents that constitute gender-based violence against women. This includes the acts or omissions of officials in its executive, legislative and judicial branches. Furthermore, States are responsible for investigating, prosecuting and applying appropriate legal or disciplinary sanctions, as well as providing reparation, in all cases of gender-based violence against women, including those constituting international crimes, and in cases of failure, negligence or omission on the part of public authorities. The Committee also recommended States parties to ensure effective access for victims to courts and tribunals and that the authorities adequately respond to all cases of gender-based violence against women, including by applying criminal law and, as appropriate, ex officio prosecution to bring alleged perpetrators to trial in a fair, impartial, timely and expeditious manner and imposing adequate penalties.

We would like to recall the thematic report of the Working Group on Discrimination against Women and Girls on participation in public life (A/HRC/23/50), where the Working Group has pointed out that stigmatization, harassment and outright attacks have been used to silence and discredit women who are outspoken as leaders, community workers, human rights defenders and politicians. In its thematic report on women deprived of liberty (A/HRC/41/33), the Working Group underlined the increasing risk faced by women human rights defenders of criminalization and detention as a result of their legitimate work and recommended States to support and protect women's engagement in public and political life, including the work of women human rights defenders.

We also wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which 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).