

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

Ref.: AL IND 9/2024  
(Please use this reference in your reply)

11 November 2024

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 human right to a clean, healthy and sustainable environment; Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 52/4, 55/2, 50/17 and 52/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **alleged arbitrary arrest, detention and physical assault as a form of torture and/or other cruel, inhuman or degrading treatment or punishment of environmental human rights defender Mr. Bijendra Korram**.

Mr. **Bijendra Korram** is a human rights defender and Adivasi farmer from District Kondagaon, Chhattisgarh. He is the Vice President of the Adivasi Adhikar Bachao Manch and Treasurer of the Bastar Jan Sangharsh Samiti, both organisations working to protect and promote the rights of the Adivasi. He works in the state of Chhattisgarh, where the long-term conflict between Maoists and Government security forces has greatly affected indigenous peoples in the area. He advocates for the right to a healthy environment and livelihood issues affecting the tribals.

Multiple prior communications have been addressed to your Excellency's Government concerning alleged retaliation against human rights defenders promoting the rights of the Adivasis (IN 3/2024, IND 5/2023, IND 14/2021, IND 12/2021 and IND 10/2021). We are thankful for your Excellency's Government's response (dated 5 January 2022) to the allegations raised in IND 10/2021. However, we regret that replies are yet to be received in relation to communications IND 3/2024, IND 5/2023, IND 14/2021 and IND 12/2021.

According to the information received:

*Background*

Since 2022, groups of Adivasi have held a peaceful sit-in in Toyametta village in District Narayanpur of Chhattisgarh state in relation to the mining of precious minerals in the area by private mining companies and its pollution of rivers, disruption of local ecology and impact on their livelihoods.

*Concerning the arrest of Mr. Bijendra Korram*

On 24 July 2024, at approximately 6.30 a.m., a group of heavily armed District Reserve Guards (DRG) approached the sit-in in Toyametta village. They reportedly beat Mr. Bijendra Korram with sticks and told the rest of the group of protesters that they were taking him so that he could show them the way back out of the forest.

The DRG personnel took Mr. Bijendra Korram to a police station in Chhote Dongar, where he was held for approximately two hours and reportedly beaten with the butts of AK47 rifles. He was then brought to the DRG office at Narayanpur District Headquarters.

Once made aware of his allegedly arbitrary arrest, Mr. Bijendra Korram's family went to the DRG office in Narayanpur, where he reportedly told them he was suffering from pain in his back, where he had been hit with the rifle butts. The Subdivisional Officer Police (SDOP) Narayanpur reportedly informed his family that the Superintendent would decide what would happen to Mr. Bijendra Korram next, once he returned to the office.

Whilst detained, Mr. Bijendra Korram was reportedly pressured to surrender as a Maoist, however he refused. At no point during his arrest on 24 July or following that was he or his family shown an arrest warrant. He was reportedly denied access to a lawyer whilst detained.

On 26 July 2024, following the orders of the Superintendent, Mr. Bijendra Korram was presented before the Chief Judicial Magistrate of Kondagaon Court, approximately 56 hours after his arrest. He was charged under sections 147, 148, 149, 307 and 120(B) of the Indian Penal Code (IPC) on allegations of rioting, rioting with a deadly weapon, partaking in an unlawful assembly, attempt to murder and criminal conspiracy. Mr. Bijendra Korram was also charged under sections 10, 13, 16, 20, 23, 36, 38 of the Unlawful Activities Prevention Act (UAPA) 1967 on allegations of membership of an unlawful organisation, unlawful activities, a terrorist act, membership of a terrorist gang or organisation and offences related to membership of a terrorist organisation. He was also charged under sections 3 and 8 of the Chhattisgarh Special Public Security Act (2005) and the Arms Act (1959).

Following his appearance before the Court, Mr. Bijendra Korram was remanded in custody in the central jail at Narayanpur Chhattisgarh, where he remains detained. Court hearings about his case took place on 17, 23 and 24 October 2024, and resulted in the extension of his judicial custody until 5 November 2024.

Without wishing to prejudge the accuracy of the information received, we wish to express concern regarding the allegedly arbitrary arrest and detention of Mr. Bijendra Korram and the serious physical assault he was subjected to whilst detained, which may constitute torture and/or another form of cruel, inhuman or degrading treatment or punishment. We are particularly concerned by the fact that Mr. Bijendra Korram was allegedly arbitrarily arrested in connection with his participation in the peaceful demonstration by Adivasi against mining activities in Chhattisgarh and their impact on the local ecology and livelihoods. Our concern is

compounded by the punitive charges brought against him, which appear to have been fabricated with the intention of hindering his peaceful and legitimate human rights activities. We are further concerned that whilst allegedly arbitrarily detained, Mr. Bijendra Korram was not granted access to a lawyer, and was not presented before a judge until approximately 56 hours after his arrest.

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 detailed information regarding the allegedly arbitrary arrest of Mr. Bijendra Korram on 24 July 2024 and the legal and factual basis for the arrest.
3. Please provide detailed information regarding the charges against Mr. Bijendra Korram and the legal basis for such charges.
4. Please provide detailed information regarding the conditions of allegedly arbitrary detention of Mr. Bijendra Korram and whether he has access to his lawyer and family.
5. Please also provide information on the reported beatings inflicted on Mr. Korram at the police station in Chhote and on the pressure allegedly exercised on him subsequently to surrender, which may constitute a form of torture and/or other cruel, inhuman or degrading treatment or punishment contrary to customary international law, including article 7 and 10 of the International Covenant on Civil and Political Rights. Please clarify whether any investigation was conducted into such allegations and what was the outcome. If no investigation was carried out, please explain why.
6. Please provide information about how the allegedly arbitrary arrest and detention of Mr. Bijendra Korram are compatible with India's obligations under international human rights law, in particular article 9 and 21 of the International Covenant on Civil and Political Rights (see annex).
7. Please provide information on the measures undertaken to ensure that human rights defenders, including in particular environmental human rights defenders, are able to operate in a safe and enabling environment and can carry out their legitimate activities without fear of harassment, reprisal or criminalization of any kind.

8. Please provide information on any ecological and/or livelihood impact assessments carried out in relation to mining activities in Chhatisgarh and their results, and about any consultations held with local communities regarding these impacts or the results of any such assessments.

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

Astrid Puentes Riaño  
Special Rapporteur on the human right to a clean, healthy and sustainable environment

Gina Romero  
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Nicolas Levrat  
Special Rapporteur on minority issues

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

## 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 7, 9, 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR), ratified by India in 1979, which refer to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the right to liberty and security of person, including freedom from arbitrary arrest and detention, the right to dignified treatment while in custody of state, the right to freedom of opinion and expression and the right of peaceful assembly.

Attached to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims.<sup>1</sup> It is recognized that arbitrary arrest and detention create risks of torture and other ill-treatment and that all procedural safeguards need to be applied fully.<sup>2</sup>

In line with the principles enshrined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), signed by India in 1997, and as a signatory requires India not to take action against the object and purpose of the Convention, and also as equally required under articles 7 and 10 of the ICCPR<sup>3</sup>, States should establish all acts of torture as offences under domestic law (article 4); exercise jurisdiction over said offences (article 5); receive complaints and examine them promptly and impartially (article 13); and investigate those allegations promptly and impartially (article 12). Prosecutors and courts have a duty to refuse evidence obtained, or suspected of having been obtained, through torture or other illicit means (article 15). Victims are to be protected from reprisals or intimidation during said investigations (article 13) and they have an enforceable right to fair and adequate compensation including the means for as full rehabilitation as possible (article 14). At no time shall torture be used to extract information or a confession (article 1), and any statement which has been obtained via such methods, shall be excluded from any proceedings except against a person accused of torture as evidence that the statement was made (article 15).<sup>4</sup>

Article 9 of the ICCPR enshrines the right to liberty and security of person, establishing in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law, as well as the right to legal assistance from the moment of detention.

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- <sup>1</sup> For a full explanation on the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment and the related States' obligations to criminalize, investigate and prosecute crimes of torture and other ill-treatment, see Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/77/502): <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/610/77/PDF/N2261077.pdf?OpenElement>; and Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Good practices in national criminalization, investigation, prosecution and sentencing for offences of torture (A/HRC/52/30): <https://documents.un.org/doc/undoc/gen/g23/033/16/pdf/g2303316.pdf?token=clzfg4HLIHmm6KknXQ&fe=true>.
  - <sup>2</sup> Human Rights Committee, General Comment No. 35: Right to Liberty and Security of Person (2014), paras. 56 and 58.
  - <sup>3</sup> Human Rights Committee, General Comment No. 20: Article 7 Prohibition on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; HRC, General Comment No. 21: Article 10 The Right to Humane Treatment (1992).
  - <sup>4</sup> See also General Assembly resolutions, in particular latest Resolution 77/209 (2022).

The international law on deprivation of liberty includes the right to be presented with an arrest warrant, which is procedurally inherent in the right to liberty and security of person and the prohibition of arbitrary deprivation, under articles 3 and 9 respectively of the Universal Declaration of Human Rights and article 9 of the Covenant, as well as under principles 2, 4 and 10 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

Article 9(4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. The United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court state that the right to challenge the lawfulness of detention before a court is a self-standing human right, the absence of which constitutes a human rights violation. Furthermore, in its general comment no. 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), and freedom of association (art. 22). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention.

The Human Rights Committee, in its general comment No. 35 interpreting the article's scope, has underscored the arbitrariness of any arrest or detention without a legal basis and further held that an arrest or detention may be arbitrary irrespective of its being authorized by domestic law. In the same comment, the Human Rights Committee stated that the notion of “arbitrariness” introduced in article 9 should be broadly interpreted to include elements of “inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.” The Committee also held any arrest or detention carried out as punishment for the legitimate exercise of the rights as guaranteed by the Covenant to be arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), and freedom of association (art. 22). This has also been established in consistent jurisprudence of the Working Group on Arbitrary Detention.

We reiterate that article 19 of the ICCPR protects the right to freedom of expression of everyone. We would like to remind your Excellency’s Government that any limitation to the right to freedom of expression must meet the criteria established by article 19(3) of the ICCPR. As stated by the Committee, the deprivation of liberty of an individual for exercising their freedom of expression constitutes an arbitrary deprivation of liberty contrary to article 9 of the Covenant, see CCPR/C/GC/35 para. 17, and a concurrent violation of article 19. Such attacks against individuals for exercising their rights to freedom of expression should be “vigorously investigated in a timely fashion, and the perpetrators prosecuted”, CCPR/C/GC/34 para. 23.

Article 21 of the ICCPR recognises that the right to freedom of peaceful assembly should be enjoyed by everyone, as provided for by article 2 of the Covenant and resolutions 15/21, 21/16 and 24/5 of the Human Rights Council. In its resolution 24/5, the Council reminded States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs and human rights defenders (A/HRC/26/29, para. 22).

Furthermore, we would like to refer 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, articles 1 and 2 of the Declaration 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 like to also recall that article 5 of the Declaration reiterates that “everyone has the right, individually and in association with others, at the national and international levels: (a) to meet or assemble peacefully [...]” with the aim to promote and protect human rights and fundamental freedoms.

Finally, we would like to draw attention to article 12 of the Declaration, and in particular 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 also wish to refer to Human Rights Council resolution 48/13 of 8 October 2021 and General Assembly resolution 76/300 of 29 July 2022, which recognize the right to a clean, healthy and sustainable environment as a human right.

We would also like to bring to the attention of your Excellency’s Government the Framework Principles on Human Rights and the Environment as detailed in the 2018 report of the Special Rapporteur on human rights and the environment (A/HRC/37/59). The Principles state that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights (principle 1); States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment (principle 2). States should ensure that they comply with their obligations to indigenous peoples and members of traditional communities, including by: a) recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used; b) consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; c) respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; d) ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories or resources (principle 15).