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The Permanent Mission of the People's Republic of Bangladesh to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR), and with reference to the joint urgent appeal No. UA BGD 2/2022 dated 21 February 2022 the issued by the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; 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 rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, has the honour to transmit herewith the response of the Government of Bangladesh.

The Permanent Mission of the People's Republic of Bangladesh to the United Nations Office and other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR) the assurances of its highest consideration.

Enclosed: As stated.

Geneva, 12 May 2022



Office of the High Commissioner for Human Rights (OHCHR)
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(Attn.: Ms. Beatriz Balbin, Chief, Special Procedures Branch)

Response of Government of Bangladesh to the Joint Urgent Appeal

The obligation of the Govt. of Bangladesh for the protection and promotion of human rights emanates from her Constitution, and the legislative, judicial and administrative mechanisms constituted therefrom keeping with the provisions enshrined therein. In the same vein, Bangladesh's deep respect for the International human rights mechanism is well manifested from Bangladesh's ratification of almost all UN international human rights conventions (8 out of 9). Despite facing myriads of odds multiplied by the grave threat of climate change as well as Rohingya (Forcibly displaced Myanmar nationals) crisis hosting 1.2 million of them, Bangladesh, a country of one hundred and seventy million (170) people is continuously making enormous people-centric development with an ultimate aim of progressively realizing all human rights of her people.

The communication quoted its source's critical references to RAB and also to the US sanctions against RAB. RAB is not a paramilitary unit. It is a regular disciplined force of Bangladesh Police created and controlled with specific legal mandates under the constitution. The government of Bangladesh created the elite force RAB under the Armed Police Battalion (Amendment) Act 2003 on March 26, 2004, for suppressing terrorism, recovering illegal arms, combating drugs smuggling, trafficking, eliminating extremists, and controlling other criminal offences. The chart of that accomplishments is **annexed at A**. The personnel of Rapid Action Battalion is well trained and experienced from the Armed forces, Bangladesh Police and other government agencies selected with a thorough process and security clearance from fever agencies.

With no confusion, the force is the most significant achiever among Bangladesh's law enforces, thereby having a long list of success stories.

- RAB is playing a pioneering role in fighting against militancy and religious extremism. Neutralized one of the most notorious militant group led by Siddiqur Rahman alias Bangla Bhai that led many killings in the western region of Bangladesh and we're behind the nationwide bomb attacks in 2005. RAB besieged Atia Mahalo, a militant shelter in Sylhet which helped to earn success in a nerve racking mission called 'Operation Twilight'. The elite force also fought with courage to end Bangladesh's worst hostage crisis, the attack in Holey Artisan Bakery in Dhaka in 2016. RAB's sweeping operation in Komal Prova in Mirpur area of Dhaka is also an accomplished story in its fight against religious radicalism.
- RAB takes lawful action against human traffics in conjunction with other national and international agencies and NGOs.
- RAB frequently conducts operations to round up sensational cases throughout the country resulting in a speedy trial of criminal cases in law courts.
- RAB is playing a pivotal role in preventing women's and children's repression in Bangladesh.
- RAB freed Sundarbans, a UNESCO-declared world heritage, from pirates and robbers.
- RAB remains vigilant and has undertaken numerous numbers of patrolling and other activities all over the country to ease the life of the people. The force never dreads to face any high risk operations. Since 2017, RAB rescued 46 victims of violence and arrested 847 rapists. On their line of duty, 28 members including high ranking RAB officials lost their lives, while more than 1,000 have become disabled and 2000 injured.

Since its formation, RAB has earned is sky-high reputation from civil society for its sincere and effective crime prevention and pro-people activities, and has generated much confidence,

reliance and relief among the people of Bangladesh, which is fully contrary to how the Joint Urgent Appeal tried to project RAB. Despite all the aforesaid accomplishments and mass popularity of RAB, the US sanction against RAB flabbergasted the Government, particularly since the US State Department in its own recently published (16 December 2021) Counter-terrorism report of the acknowledged the role of RAB in curbing terrorist incidents in Bangladesh in 2020. Also due to the active and effective Anti-trafficking operations of RAB and the Law Enforcement Agencies (LEAs) with the collaboration of NGOs/INGOs and UN agencies and rescuing more than 1000 trafficking victims, Bangladesh's position was upgraded from Tier II watch-list to Tier II in the US trafficking in Persons report for 2020. Therefore, the Government regards that any attempt to undermine RAB is tantamount to promote terrorism, militancy, extremism, drug smuggling and trafficking of persons.

The Govt. noticed that there has been a tendency for quite some time to label all cases of missing as 'enforced disappearance'. Although the legal system of Bangladesh does not have any terminology like '*Enforced Disappearance*'; rather, the criminal law has provisions in respect of 'kidnapping' or 'abduction' that applies equally to every individual, including the law enforcement officials. This is done with the obvious intention of maligning the Government and its achievements. Upon investigation of the alleged enforced disappearance cases, the findings reveal that people often disappear voluntarily to avoid legal action for the cases lodged against them, often they choose to disappear on issues of family feud or to avoid business liability, and some often willingly disappear with intension of embarrassing the Govt. In many cases, the 'perceived' victims have reappeared proving the allegations of so-called 'enforced disappearance' unreliable (**annexed at B**). Moreover, 8 persons reappeared amongst 76 cases of 'Working Group on Enforced and Involuntary Disappearance' which has already been conveyed to the Working Group. Therefore, in order to consider the alleged 'enforced disappearance' cases objectively and judiciously, it would be advisable that the Special Procedure should first check with its sources whether legal recourse from the families or relatives of the reported victims is exhausted at domestic legal system.

The GoB remains committed to ensuring that any individual reportedly missing or unaccounted for be rescued or traced with the cooperation of their families and friends. The WGEID issued a list of 76 disappeared persons in December 2021. In order to rescue or trace the missing persons, the Govt. needed to have further information on alleged disappeared persons, since many of the 76 cases did not have any record (General Diary/ Court case) of 'enforced disappearance' with the concerned police stations or the Court of appropriate jurisdiction. However, very unfortunately, such promptness and serious drive of the Govt. was termed as 'campaign of threats, intimidation and harassment' as the members of LEA visited the relatives in order to collect further information for the sake of investigating and searching the missing person's whereabouts. In the face of noncooperation from the families/relatives, the Govt. issued letters with requests for providing information instead of physically reaching out to them. The sample letter is attached herewith. The allegations of signing blank sheets of paper or pre-written statements are completely false and baseless. Needless to mention that the Govt.'s efforts are not to silence the families of the alleged victims, rather to offer them a space for legal protection.

While referring to enforced disappearance cases, the report did not mention whether the family of the reported victim lodged any case in the court of law reporting abduction by the law enforcement agencies at the time of occurrence. The absence of such record or the victim's family's voluntariness of filing a case reporting disappearance gives strong indication as to

whether such disappearance was by choice of the alleged victim. Indeed, there were a number of reappearance cases including the 7 of the list of 76 that the WGEID is well aware of.

Besides, it has been a worrying trend among ‘miscreants’ sometimes to use the name and disguise of law enforcement agencies like the RAB to carry out such ‘abductions’ or ‘kidnappings’. There have been numerous instances where the law enforcement agencies had brought to justice many abductors found to be using the forged identity of RAB and other LEAs officials (**annexed at C**). The police have arrested many impostors who used to identify themselves as police personnel. Such deliberate association of the LEAs or the State machinery with these type of criminal activities is done with a purpose to undermine the credibility and professional competence of those agencies. While the LEAs had demonstrated their success in recovering hundreds of abducted persons, there may be cases that remain unresolved and need to be investigated further to bring those responsible to justice. Hence, it is rather unlawful to arbitrarily consider any missing case as enforced disappearance.

The Joint Urgent Appeal posed question about bringing to justice the officers responsible for human rights violation. The Penal Code-1860, The Code of Criminal Procedure-1898 and the Police Regulations-1943, Police Officers (Special Provisions) Ordinance-1976, The Torture and Custodial Death (Prevention) Act-2013, Government Employees (Discipline and Appeal) Rules-2018, The Public Service Act-2018 provide a number of provisions to ensure accountability and transparency for Law Enforcement Agencies (LEAs) in Bangladesh. ‘Zero Tolerance to any Deviation’ policy has all along been adopted and applied accordingly for the LEAs by Government of Bangladesh (GoB). If any member of any law enforcing agency is proved to be responsible for any misdeed, offence, or transgression, he or she must face exemplary punishment as per prevailing rules and laws.

- The Police Headquarters has a specialized section named ‘Discipline and Professional Standard section’ to enquire into any complaints against police personnel. Inspector General of Police (IGP)’s Complaint Cell at Police Headquarters receives complaint from people.
- To ensure accountability, RAB formed the Internal Enquiries Cell (IEC) on 31st January 2012 with the assistance of the US Department of Justice. The Department of Justice’s International Criminal Investigative Training Assistance Program (ICITAP) with the help of IEC has provided trainings to RAB officials to achieve capacity on thorough and transparent investigations. IEC is now responsible to investigate different allegations on RAB members in unbiased manner.

In case of any custodial torture or death, an aggrieved party can lodge a case in the Court. The Court may order investigation under ‘The Torture and Custodial Death (Prevention) Act, 2013’. 24 cases have been lodged under the act. For example, in a case, twenty-seven (27) RAB officials, including three (03) top officials, were prosecuted and awarded capital punishment for their involvement in the abduction and murder of seven individuals in Narayanganj. In another case, three (03) police personnel along with two (02) associates have been sentenced to life imprisonment and other terms in connection with killing of a person in a Police Station of Dhaka Metropolitan Police on 7 February 2014. There are numerous examples where legal and administrative actions have been taken against the law enforcing agencies convicted of breach of discipline and other forms of transgressions. Many LEA members were brought to legal measures, including imprisonment, dismissal and removal from service for committing various offences and human rights violations. Graphs **annexed at D** separately show criminal

cases instituted against police personnel and departmental punitive measures awarded on different types of misconducts and deviations.

For remedial measures, the Constitution provides that the High Court Division may give such directions or orders to any person or authority in connection with the affairs of the Republic as may be appropriate for the enforcement of the fundamental rights. Any person aggrieved by any act or misdemeanor of any member of the LEAs is entitled to have recourse to courts of law. For example, the Supreme Court in Writ Petition No. 2833/2017 has directed the Inspector General of Police to take necessary action against three (03) police officers of Satkhira district for their negligence in dealing with a missing person incident in 2016.

The JUA quoted references to harassment, intimidation and reprisal in connection with the alleged enforced disappearance cases. According to the Code of Criminal Procedure of Bangladesh, kidnapping/abduction is a cognizable offence. An officer in charge of a police station is bound to lodge a case and investigate on receipt of any related information. As soon as a case of kidnapping or abduction is lodged in the Police Station or at the Court, the Law Enforcement Agencies (LEAs) conduct investigations and take necessary actions to trace and rescue the victim. This is done to ensure the rights of the victims and their families to truth, justice and reparation.

Regarding the allegation of intimidation and harassment of relatives of the 'disappeared persons', human rights defenders, and civil society organizations in Bangladesh, it is worth mentioning that as part of the enquiry about the missing persons, LEAs searched records in the police stations and visited the complainants and the family members for further information. However, instead of co-operating the enquiry process by providing information, some of the relatives and few civil society organizations brought false, exaggerated, and fabricated information against the enquiry process. Furthermore, no complaints or case was so far found to be lodged against any LEA members on the ground of intimidation or harassment. Moreover, no legal intervention is sought or requested by the 'intimidated/harassed' relatives from the judicial system of the State as well. As per the international custom and convention, all forms of local judicial systems must be exhausted before seeking remedy under the provision of international convention. All such instances of raising false allegation and spreading misinformation by the sources and fed to the International mechanism strongly denotes that the campaign is deliberate, 'purposeful' and 'motivated'.

According to the Constitution, the right to move to the High Court Division (HCD) of the Supreme Court for enforcement of the fundamental rights is also a fundamental right. A person can apply to the HCD in case of any violation or apprehension of violation of fundamental rights. If so applied, this indeed creates space for effective protection of their rights to individuals at risk of threats, harassment, enforced disappearance and other human rights violation. The question remains to the Special Procedures mechanism as to whether their sources resorted to the legal recourse before putting forward the allegations and stories to the mechanism.

The JUA made a couple of reference about one of its source i.e. ODHIKAR. It being registered under NGO Affairs Bureau, has been working on human rights issues in Bangladesh since 1995. ODHIKAR is widely known for its disproportionate bias and prejudice against Bangladesh, in particular the ruling party Awami league, which is evident in its various reports. Besides, one of the top members of 'Odhikar' was earlier appointed by the BNP-Jamaat Govt as the Deputy Attorney General, which should provide disqualification for the UN human

rights mechanism to accept it as an objective and neutral organization for reasons of its inherent biasness and motivation. The JUA quoted allegations of reprisal against Odhikar. Whatsoever, should there be any incident of intimidation or reprisals, as experienced by the concerned organization, judicial intervention needs to be sought immediately, rather than trying to raise allegation supported by inadequate information. Hence, the Joint Urgent Appeal might ponder to have retrospective analysis on what prompted the drawing of conclusion by itself that ODHIKAR's cooperation with the UN human rights mechanism has been considered as anti-State and anti-Government activity.

With regard to the National Human Rights Commission of Bangladesh (BNHRC), the Commission was constituted under the National Human Rights Commission Act, 2009 in the light of 'the Paris Principles' to promote and protect human rights in Bangladesh. The functions of the BNHRC include investigation and inquiry, recommendation, legal aid and human rights advocacy, research and training on human rights norms and practices. Its mandate extends to, *inter alia*, summoning explanations from the LEAs and other public authorities, visiting jails, prisons or correctional centers, filing writ petitions with the HCD on behalf of an aggrieved person and exercising the powers of a civil court while conducting any inquiry.

The Govt. remains intensely engaged with the UN human rights mechanism and receptive of any constructive recommendation therefrom. Despite all challenges, the government for the shape of its own commitment made to her people will continue her endeavours to ensure the wellbeing and ensure the rights and dignity of the people.
