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Annex-C

No: BMG/HR-306 (A)

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 and, with reference to the OHCHR, New York Office's Note Verbale dated 27 June 2022 regarding annual report of Secretary General on "Cooperation with the United Nations, its representatives, and mechanisms in the field of human rights", 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 the assurances of its highest consideration.

Enclosure: As stated.

Geneva, 22 July 2022



Office of the United Nations High Commissioner for Human Rights (OHCHR)

Palais des Nations

CH-1211 Geneva 10, Switzerland

Response from the Government of Bangladesh

A. Bangladesh has been partnering with the UN as a faithful upholder of the universal values of human rights. A four-time member of the Human Rights Council, Bangladesh has been making its mark in the UN's premier body on human rights through its strong commitments and outstanding efforts in realizing civil, political, economic, social and cultural rights, including the right to development. Bangladesh successfully completed its 3rd cycle Universal Periodic Review (UPR) and is working to implement 178 recommendations that it accepted in 2018. Also, it continues to cooperate with the other UN human rights mechanisms, including the Special Procedures and the human rights treaty bodies. Special Rapporteurs accepted invitation and in 2022 alone, visit of 5 Special Rapporteurs are pending. Bangladesh also supports and promotes the HRC resolution on "Cooperation with the United Nations, its representatives and its mechanisms in the field of human rights" and always voted in favour. Bangladesh's engagement with multilateral Human Rights mechanism is rooted in its belief that promotion and protection of human rights is best pursued through dialogue, cooperation, and constructive and collaborative engagement.

B. In response to the OHCHR New York's communication dated 27 June 2022, the Government of Bangladesh reviewed the information contained in the Annexes and is providing herebelow the factual information of the cases as well as updates.

Information related to the allegation of intimidation or reprisal:

Annex 1 :

R/ C. *The Rohingya activist Mohib Ullah was killed on 29 September 2021 in an execution style inside the Kutupalong Rohingya camp in Cox's Bazar. Mr. Ullah was highly vocal for repatriation of Rohingyas and was very popular inside the camps. By killing him the killers tried to silence the rightful demand of Rohingyas to return to Myanmar. The assassination reveals the harsh reality that some vested interest groups are also not interested in repatriation as the status quo is benefiting them in some manner. The Government of Bangladesh has taken the murder of Mohib Ullah into account with due importance and is committed to bring the killers to justice. Immediately after the assassination, a murder case was filed in the local Ukhiya police station (case no 126) on 30 September 2021 by his brother Mr. Habibullah. After thorough investigation, police submitted a charge sheet to the Senior Judicial Magistrate Court against 29 individuals (all of whom are Rohingya) on 09 June 2022. Out of them, 15 suspects have been arrested and produced before the court of trial. 4 out of the arrested suspects have given confessional statements admitting their direct involvement in the murder. The law enforcing agencies are working to arrest the remaining accused. Regarding the case of killing 06 (six) Rohingya people inside the camp, 25 accused persons were arrested and 03 of them had made confessional statements before the court.*

D. *Soon after the Mohib Ullah killing, the Government heightened security for his family members taking refuge in Bangladesh after the mass atrocities in Rakhine State of Myanmar. They are being sheltered by the Government in a separate location outside the camps with 7/24 police protection. UNHCR representatives can visit them as and when necessary. To ensure the safety and security of the camp and as well as reduce the fear of crime, sufficient number of security*

forces have been deployed in the inner and outer periphery of the camp area. Law enforcement agencies remain vigilant, and robust patrolling and surveillance are ongoing to safeguard the lives of the people living inside rohingya camps.

Annex 2 :

E. In response to the Joint Urgent Appeal of the concerned Special Procedure Mandate holders dated 21 February 2022 regarding the alleged acts of intimidation and harassment against the relatives of the reported disappeared persons, human rights defenders and Civil Society Organizations, the Government earlier clarified vide the communication dated 12 May 2022 how the Government's efforts to offer space for legal protection to the relatives of the reported victims of disappearance were misrepresented as intimidation and reprisal. Representing the Government's endeavours of upholding human rights as reprisal or intimidation by certain entities is therefore a deliberate political move; it is never to support the cause of human rights.

F. In this relation, with reference to the Annex 2 mentioning alleged intimidation and charges against one such entity named ODHIKAR and its Secretary as well as Director, the Government reiterates that ODHIKAR is widely known for its disproportionate and inherent bias and prejudice against Bangladesh, and extremely partisan in representing facts. The administrative and legal action taken against ODHIKAR was based on a solid investigation that yielded it as a corrupt organization. Contrary to whatever information OHCHR received from ODHIKAR about its application of renewal of registration, the Government would like to inform the facts remaining with ODHIKAR, an NGO registered under the NGO Affairs Bureau of the Government of Bangladesh and operating in Bangladesh since 1995:

G. Recently, the Government decided not to approve its application for renewal of registration for the following shortfalls:

i) The registration period of ODHIKAR expired on March 25, 2015, and they applied for renewal of the registration. However, their application was faulty, and didn't comply with the relevant provision of the Right to Information Act-2009 in the Application process.

ii) In order to process their application of renewal of application, ODHIKAR was asked to respond to the procedural queries in light of the Foreign Donation (Voluntary Activities) Regulation Act, 2016 and other applicable rules, which they chose to ignore and did not respond to. The queries were made in relation to (a) violation of the Terms of Reference regarding submission of Audit report and failure to respond to the Objections of the Eight (8) Audit Reports against the projects funded with foreign donations; (b) irregularities of the payment of the fees and violating the VAT rules of the Government.

iii) ODHIKAR was asked about the financial irregularities vis-à-vis three foreign funded projects; namely, (a) Education on the Convention against Torture and OPCAT Awareness, (b) Empowering Women as Community Human Right Defenders, (c) Human Rights Research and Advocacy. Due to their reticence on the queries and also, following the thoroughly carried out investigation thereon, the allegation against them of financial irregularities was proved.

iv) ODHIKAR uploaded information vis-à-vis so-called extra-judicial killings, enforced disappearances etc. on their website. The Government noted those information with utmost seriousness and, in order to rescue the reported victims, approached them for obtaining further details about the alleged victims to feed to the law enforcers to conduct investigation. They were also asked to furnish their income-expenditure statement and their workforce strength. However, ODHIKAR never turned out with any response. The Government, therefore, convincingly concluded that ODHIKAR uploaded the falsified and fabricated information and concocted stories of human rights abuse, thereby being involved in subversive activities with a view to tarnishing the image of the country, and to destabilize and upset the public order.

H. Thus, instead of unfolding its background stained with corruption and irregularities, ODHIKAR resorted to drawing sympathy of the international community including its donors through brining allegations of human rights violations against the Government. It is strongly recommended that the UN HR mechanisms seek clarification from ODHIKAR as to whether a fear of being subject to legal action was being termed as 'intimidation' or not.

I. The Annex2 again referred to the developments in the ongoing legal proceedings against Mr. Khan and Mr. Elan related to the 2013 case against them under the ICT Act, 2006. It mentioned that "despite the application for Review to the Appellate Division filed on 12 September 2021, the Dhaka Cyber Crime Tribunal resumed the trial and to date several witness hearings have taken place." In response, the Government would like to inform the following facts:

i) The Government lodged a case against Mr. Adilur Rahman Khan and Mr. Nasir Uddin Elan, the two Officials of the NGO, ODHIKAR, under ICT Act 2006, section 57 due to spreading falsified information to tarnish the image of the State and the Government. After the court of trial, the Cyber Crime Tribunal of Dhaka, framed charge following the hearing on 8 January 2014, the defendants filed an appeal (no. 84/2014) to the High Court Division of the Supreme Court against the Charge framing order of the Tribunal which the High Court Division dismissed on 9 January 2017 following a hearing, and ruled that the charge framing decision of the Tribunal was in order.

ii) The defendants again filed a criminal leave to appeal to the apex court of the country, the Appellate Division of the Supreme Court, against the judgement of the High Court Division. The Appellate Division dismissed the appeal following a hearing on 14 February 2021, and ruled that the charge framing decision of the Tribunal was in order.

iii) Following the decision of the Appellate Division of the Supreme Court, the Court of Trial continued its legal proceedings and fixed a date for hearing witness on 12 September 2021. However, the defendants filed a writ petition to the Tribunal by Advocate-on-record Mr. Syed Mahbubar Rahman on 22 August 2021 with an application so that the Tribunal issues a stay order until and unless the criminal review petition (no. 8/2021) lodged on 4 April 2021 to the Appellate Division is resolved.

iv) In response, the Appellate Division however did not issue any stay order to the ongoing legal proceedings at the Cyber Crime Tribunal, and with that, the Tribunal became free to resume the trial. The Tribunal therefore resumed the trial and continued the hearing with the first witness

J. *With the information above, the Government makes it clear that, since the charge framing decision was in order as per the judgement of the apex court, and since the apex court did not issue any stay order to halt the trial in the Cyber Crime Tribunal in response to the criminal review petition, there is no legal barrier for the court of trial to continue with the legal proceedings. Thereby, any allegation of Mr. Khan and Mr. Elan of their being subject to intimidation or reprisal in this regard is proven falsified, fabricated and intended to mislead the international community.*

K. *In this relation, the Government would like to underscore that as per the Article no. 27 of the constitution of Bangladesh, "All citizens are equal before law and are entitled to equal protection of law", and as per Article 31, "To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law." Moreover, the Judges are independent in exercising their judicial authority as per the constitution. Therefore, there is no space for any doubt that the said case against Mr. Khan and Mr. Elan under trial is being conducted as per the law of the state.*

L. *It is also important to highlight that 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. An individual can apply to the HCD in case of any violation or apprehension of violation of fundamental rights. If so applied, it indeed creates space for effective protection of their rights to individuals at risk threats, harassment, enforced disappearance and other human rights violation. The standard that the UN and its mechanisms follow in the promotion and protection of human rights is that communications from individuals shall not be considered unless it has ascertained that the individual has exhausted all available domestic remedies. The question remains as to whether ODHICAR resorted to the legal recourse before putting forward the allegations and stories to the International human rights mechanisms.*

M. *The Government continues to seek information from the OHCHR (as the Secretariat of the Special Procedure Mandate holders) as to whether there was at all any single instance that the relatives and human rights defenders sought protection for fear of intimidation or reprisal, and that application of protection was rejected by the Government.*

N. *It is understandable that the relevant UN HR mechanisms inform and seek clarification from the Government about the reported cases of human rights violations along with questions derived from the content of their sources, and publicly call on authorities to clarify and take action. In this regard, the Government would refer to the HRC resolution 5/2 to urge the concerned UN HR mechanisms to rely on objective and dependable facts based on evidentiary standards. Having full respect to the modalities of communication between the UNHR mechanisms and its sources, the Government would also underscore that for the sake of maintaining the principle of objectivity, non-selectivity, and even-handedness, the UN HR mechanisms should, in the same manner, publicly call on the concerned entities to clarify and to respond to the questions of the Government (as mentioned above) directed to the sources regarding allegations of intimidation and reprisal.*

O. *The Government would also like to refer to its response by dated 12 May 2022 vide which the Government unveiled the political identity of Mr. Adilur Rahman Khan. In this regard, the*

Government would also refer to the HRC resolution 5/2 to underline that "The communication should be submitted by a person or a group of persons claiming to be victim of violations or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with principles of human rights, and free from politically motivated stands or contrary." In consideration of the above, the Government would request the UN, its representatives and mechanisms in the field of human rights to give a fresh look on to who is being qualified to be a source of information or provider of communication.

P. The Government of Bangladesh would like to underscore once again its firm position of ensuring justice for the people in the protection of human rights. This is the Government that ended the culture of impunity through repealing the Indemnity Ordinance which was passed on 26 September 1975 to give protection to the heinous killers of 15 August 1975 that killed the Father of the Nation Bangabandhu Sheikh Mujibur Rahman along with his 17 family members. This background would be helpful to gauge the staunch commitment of the Government of Bangladesh to uphold, protect and promote human rights, and in line with that, to continue to cooperate with the UN, its representatives and mechanisms in the field of human rights to ensure adequate protection from intimidation or reprisals for individuals and groups who cooperate with the UN. The Government also reaffirms to end impunity for such actions of intimidation or reprisals by bringing the perpetrators, including accomplices to justice and by providing effective remedy for their victims.