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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 and has the honour to enclose herewith response of the Government of Bangladesh to the allegations as contained in the joint communication (No. AL BGD 2/2024, dated 03 April 2024) regarding Professor Muhammad Yunus.

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.

Geneva, 20 May 2024

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**Response by the Government of Bangladesh to the Joint Communication No. AL BGD 2/2024; dated 03 April 2024 sent by the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the promotion and protection of the right of freedom of opinion and expression; and the Special Rapporteur on the situation of human rights defenders**

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The Constitution of Bangladesh guarantees the fundamental right of all citizens, inter alia, to life, equality before law, protection of law, protection in respect of trial and punishment, freedom of thought, conscience, speech and expression. To enforce these constitutionally guaranteed rights and freedoms, robust judicial remedies and institutional mechanisms are fully functional in Bangladesh that maintain the rule of law and respect for promotion and protection of human rights.

2. The Government of Bangladesh remains fully committed to constructive engagement and cooperation with the United Nations mechanisms in the field of human rights. In this spirit of cooperation, the Government of Bangladesh would like to respond to the allegations as contained in the Joint Communication (JC) regarding Professor Muhammad Yunus.

#### **Judicial harassment**

3. The government would like to underscore that the Constitution of Bangladesh, the highest law of the land, explicitly guarantees the independence of the judiciary. According to Article 116 of the Constitution of Bangladesh, the posting and transfer of judges of Bangladesh Judicial Service are made with the consultation of the Supreme Court of Bangladesh. Article 116A provides that all judges and magistrates are independent in the exercise of their judicial functions. The courts of laws in Bangladesh conduct their proceedings publicly that can be observed by any interested person.

4. The competent authorities of Bangladesh have taken appropriate measures in relation to Professor Muhammad Yunus as much as he was found to have violated the laws. In all the judicial proceedings, inquiry or investigation, he enjoyed all the constitutional rights and privileges to freely defend and express himself. He appointed independent lawyers for all his cases before the courts and conducted press conferences against the judicial orders and judgments. In fact, he challenged almost all the orders of the lower trial courts before the High Court Division and subsequently challenged the orders of the High Court Division before the Appellate Division of the Supreme Court. The question of judicial harassment, therefore, does not arise in this context. Moreover, it is beyond the remit of this response to comment on the JC's question albeit regrettable, about the merit of sub-judice cases as well as the possible outcome of the judicial proceedings.

#### **Number of cases filed**

5. It has been found that two cases were filed by the Department of Inspection for Factories and Establishments for repeated violation of provisions of the Bangladesh Labour Act, 2006 (*hereinafter referred to as 'BLA, 2006'*) against Professor Muhammad Yunus in his capacity as

the Chairman of Grameen Telecom (*hereinafter referred to as 'GTC'*) and few other officials of GTC. Again, one case was filed against him and 13 other persons by the Anti-Corruption Commission (*hereinafter referred to as 'ACC'*) for alleged violation of provisions of Bangladesh Penal Code, 1860 and the Money Laundering Prevention Act, 2012. It has been learnt that all other cases were filed by the employees of the GTC who claimed to have been deprived of their entitlements as per the provision of the BLA, 2006. As such, the allegation of filing at least 199 cases by the 'Bangladeshi authorities' has no basis whatsoever.

### **Investigation by Bangladesh Financial Intelligence Unit (BFIU)**

6. BFIU is the central agency in Bangladesh which is established by law to fight against money laundering, terrorist financing and financing of proliferation of weapons of mass destruction. It is responsible for analyzing Suspicious Transaction/Activity Reports, Cash Transaction Reports and information related to money laundering, terrorist financing received from reporting organizations (ROs) and other sources. Therefore BFIU examined the bank accounts of Professor Yunus as per legal provisions.

### **Issuance of 'Demand notice' by Tax Authorities**

7. As per provisions of Section 135 of the Income Tax Ordinance, 1984 (replaced by Income Tax Act, 2023), the Income Tax Assessment authorities serves 'Demand Notice' upon defaulting tax payers for collection of taxes including arrears each year. While serving such notices, the tax officials are duty bound to check the income tax returns of all previous assessment years of the concerned recipients of notice to ascertain if they have any tax in arrears. This is the standard operating procedure maintained by the tax authorities of Bangladesh.

8. Professor Muhammad Yunus was served with 'Demand Notice' to pay his arrear taxes for the assessment years of 1992-1993, 2000-2001, 2002-2003, 2003-2004 and 2004-2005. His legal counsel responded to the notice and produced evidence of his payment of partial amount of his total arrears and argued that he would pay the outstanding amount later. It is regrettable that such standard processes are projected or construed as undue harassment.

### **Realization of Gift Tax**

9. Professor Muhammad Yunus made various amount of gifts on several occasions to 03 (three) separate Trusts in the assessment years of 2011-2012, 2012-2013 and 2013-2014. Taxes to be levied from such gifts are governed by the provisions of the Gift Tax Act, 1990. According to Section 4(1) of the Act, no gift tax shall be levied on any gift made by any person in certain stipulated cases. Moreover, the purpose and object of the three Trusts Professor Muhammad Yunus made his gifts to were, inter alia, to maintain himself, his wife and children, and to meet their personal travel and other expenditures. As such, the Trusts cannot be deemed charitable in nature; and hence the gifts to the Trusts do not fall under any of the categories exempted under Section 4(1) of the aforementioned Act.

10. As the tax authorities claimed the arrear gift taxes from Professor Muhammad Yunus, he challenged the legality of the claims successively at the Tax Appellate Tribunal, the High Court

Division and finally the Appellate Division of the Bangladesh Supreme Court. All these courts disposed of his petitions upholding the claims of the tax authorities leading to Professor Yunus settling the arrear gift tax payments.

### **Case under the Bangladesh Labour Act 2006 (BLA,2006)**

11. Under the provisions of BLA, 2006 and Labour Rules, 2015, an authorized Inspector of the Department of Inspection for Factories and Establishments (DIFE), during inspections of Grameen Telecom (GTC) repeatedly found continued violations of certain provisions of the BLA and Labour Rules 2015. The Inspector issued two letters to GTC to refrain from the continuous violations of the labour laws and to undertake remedial measures. The GTC admitted to the facts and tried to justify those in their replies. As per procedure, the Inspector lodged a petition of complaint (No.228/2021) with the Third Labour Court of Dhaka on 20 August 2021 against alleged violations/irregularities by Professor Muhammad Yunus, Chairman of GTC and three other officials alleging that he detected infringements of the following BLA provisions:

- i) Jobs of the workers and employees were not made permanent on completion of probationary period, in violation of Section 4(7) of BLA;
- ii) Labours and Employees were not granted annual leave with wages against earned leave in violation of Section 117 of BLA; and
- iii) 'Workers Participation Fund' and 'Workers Welfare Fund' were not constituted and 5% of the net profit of GTC was not paid to these two funds as well as to the 'Workers Welfare Foundation Fund' established under the Labour Welfare Foundation Law, 2006 as per the BLA, 2006.

12. The Labour Court took cognizance of the complaints and initiated proceedings as per law. The accused/ respondents moved to the High Court Division as well as to the Appellate Division challenging the proceedings including framing of charges by the Labour Court against the respondents. The apex court passed judgments affirming that the case had been initiated properly and declared the framing of charges legal, proper and correct.

13. The Labour Court, as per due legal process and based on evidence, found Professor Yunus and the other three officials guilty of violating specific provisions of Section 4(7)(8), Section-117 and Section 234 and of committing of punishable offences under Section 303 (E) and Section 307 of BLA, 2006. Accordingly, each of them were sentenced with six months simple imprisonment and imposed with fines of Tk. 5000 (Taka five thousand only) under Section 303 (E), and fines of Tk. 25,000 (Taka twenty five thousand) under Section 307 of BLA, 2006. It is pertinent to mention that although they were convicted, upon their petitions, the court granted them interim bail and they were set free.

14. Every person aggrieved by orders/ judgments of courts enjoys the right to appeal at higher courts. Accordingly, Professor Yunus and other sentenced individuals filed their appeal at the Labour Appeal Tribunal on 28 January 2024, which granted them bail on the same day. The

case remains sub-judice. Additionally, the court granted Professor Yunus permission to travel abroad.

### **Additional Related Issues**

15. The JC claimed that : i) the GTC was registered under Section 28 of the Companies Act, 1994 and as a non-profit organization, was not a subject to BLA; ii) the accused Directors were not directly engaged in overseeing the company's daily operations or receiving compensation; iii) Professor Yunus and his co-defendants were subjected to criminal prosecution even though the BLA only specifies civil liability for the alleged violations, with no provision for criminal liability; and iv) tampered evidence had been used and the judge fell in line with the State narratives, etc.

16. In fact, all these questions were raised by the respondents before the High Court Division in their respective 'Criminal Miscellaneous' case filed against the proceedings including framing of charges by the Labour Court. The High Court Division upon hearing both parties settled these questions based on law and merit. When the decision of the former was challenged before the Appellate Division by Professor Yunus and others, the apex court did not find any infirmity in the orders of the High Court Division and dismissed the appeal petitions.

17. Moreover, another case (Case No. 01/2020) was filed by the DIFE with the Third Labour Court of Dhaka against Professor Yunus and three other persons. The Court imposed a fine of Tk.7,500 (Taka seven thousand five hundred) on the basis of their confessional statements against the four defendants under Section 303(E) and Section 307 of BLA, 2006. The punishments provided for in these two Sections are meant for offences that are criminal in nature.

### **Case filed by the Anti-Corruption Commission (ACC)**

18. The ACC received complaints from members of the Collective Bargaining Agent (CBA) of GTC and another report from the Department of Inspection for Factories and Establishments (DIFE) concerning allegations of misappropriation and illicit transfer of profits earned by the company that was due (5% of the profit) to the workers and employees of GTC as per the provision of the BLA. As the allegations fell under its jurisdiction, the ACC conducted investigation and asked for relevant information and documents from the persons/entities concerned as per legal provisions.

19. In course of their investigation, it was found by ACC that:

- i) On 27 April 2022, an agreement was signed between Grameen Telecom Employees Union and Grameen Telecom (GTC) with a view to distribution of GTC's profit among its employees;
- ii) In its 108<sup>th</sup> Board Meeting held on 09 May 2022, GTC decided that a bank account would be opened for distribution of the profits. This meeting was attended by Professor Yunus, Chairman of GTC, the Managing Director and other Board

Members. However, the bank account was opened on 08 May 2022, one day before the decision of opening the account was actually taken; and

- iii) More interestingly, the number of the bank account (*that was opened on 08 May 2022*) appeared on the agreement concluded on 27 April 2022.

Thus it was evident that the Agreement was fraudulently produced with ill intention and was not just a result of so-called ‘clerical issues/ errors’.

20. The ACC investigation further found that based on the fabricated agreement, an amount of Tk. 437,01,12,621 (Taka four hundred thirty seven crore one lac twelve thousand six hundred twenty one) was transferred on 10 May 2022 and Tk. 1,63,91,389 (Taka one crore sixty three lac ninety one thousand three hundred eighty nine) was transferred on 22 June 2022 from the account of GTC to the newly opened bank account. However, before distribution of the profit among the employees as their share and without their knowledge and consent, an amount of Tk. 9,00,00,000 (Taka nine crore) was transferred to the bank accounts of three GTC CBA leaders where each of them received Tk. 3,00,00,000 (Taka three crore). Again, Tk. 15,00,00,000 (Taka fifteen crore) was transferred to bank accounts of two lawyers of GTC.

21. Finally, the ACC investigation found that without distributing the profit among the GTC employees and beyond their knowledge, there were anomalies involving Tk. 25,22,06,780 (Taka twenty five crore twenty two lac six thousand seven hundred eighty) by Professor Yunus (Chairman of GTC) and Managing Director of GTC, six Board Members, two lawyers of GTC and four leaders of Grameen Telecom Employees Union. Based on this finding, the ACC filed a case against Professor Yunus and 13 other individuals under specific provisions of the Bangladesh Penal Code, 1860 and the Money Laundering Prevention Act, 2012 for misappropriation and illicit transfer of funds. The cognizance court accepted the charge sheet on 02 April, 2024 and the case now remains sub-judice.

### **Regarding the Role of the Attorney-General of Bangladesh**

22. As per provision of Article 64 of the Constitution, Hon’ble President of Bangladesh appoints Attorney-General for Bangladesh, who is qualified to be a judge of the Supreme Court. In performance of his duties, the Attorney-General has the right of audience in all Courts of Bangladesh. There is no legal bar in conducting any case by the Attorney-General in his personal capacity as Senior Advocate of the Supreme Court, if the State is not a party to the proceedings.

23. In Company Matter No. 271 of 2021, the State was not a Party to the proceedings. On perusal of record of Company matter No. 271 of 2021, it appears that the Lawyer of CBA of GTC, at the time of admission hearing of the aforesaid Company Matter for winding up of the Company, engaged Mr. AM Aminuddin as Senior Advocate in his personal capacity. However, during disposal of the matter, Mr. AM Aminuddin was not engaged to conduct the aforesaid Company Matter. As such, appearing before the Court on 30 June 2022, he made a prayer for deleting his name from the Order Sheet dated: 25 May 2022, and accordingly, the Court allowed his prayer.

24. Additionally, it is a sheer distortion of fact that the GTC was under intense pressure from the office of Attorney-General, as well as from its CBA Leaders to enter into a compromise Agreement. The Attorney-General's Office was not involved in conducting Company Matter No. 271 of 2021. As such, the question of exerting pressure by his office was simply out of question.

### **Taking over of Grameen Telecom Bhaban**

25. The Grameen Bank family consists of 10.5 million impoverished microcredit borrowers from the rural areas of Bangladesh. The Bank recently completed a comprehensive audit covering the period from 1983 to 2023 exposing serious mismanagement and financial irregularities, misappropriation of fund by Grameen Kallyan, Grameen Telecom, Grameen Fund, Grameen Motso Foundation, Grameen Uddog, Grameen Samogree and Grameen Sokti and many other organizations. All these entities were established through the initiative, financing, human resource, office support and building facilities of the Grameen Bank.

26. In its 155<sup>th</sup> Board meeting, the Board of Directors of the Grameen Bank, in light of Articles of Association of the relevant companies, as well as other relevant laws, rules and regulations, nominated the Chairman and a number of Directors for seven of such institutions on 12 February 2024. A team of Grameen Bank Officials along with the lawyers of the Bank went to the Telecom Bhaban to hand over the nomination letters of the Chairman and certain number of Members to its respective offices. The Grameen bank team exchanged views with the office staff in a cordial atmosphere and handed over the nomination letters to the officials of the respective Companies. Thus the allegation of forceful takeover of the Grameen Telecom Bhaban does not arise at all.

### **Concluding remarks**

27. The laws of Bangladesh do not authorize the concerned authorities to exempt anyone from being accountable and facing legal consequences for violation of any of his legal obligations. The laws are applied to all equally, based on objectivity and non-selectivity and irrespective of personal identity.

28. The Government of Bangladesh would continue to remain engaged with the UN human rights mechanism including the Special Procedures with a view to achieving its objectives and commitments to progressively realize all human rights of the people of the country. In this connection, the Government also recalls the Human Rights Council Resolution 5/2 that urged the concerned UN Human Rights Mechanisms to rely on objective and dependable facts based on evidentiary standards.