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OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Working Group on Arbitrary Detention; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (53-24) G/SO 218/2
BGD 6/2013

30 April 2013

Excellency,

We have the honour to address you in our capacity as Chair-Rapporteur of the Working Group on Arbitrary Detention; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and pursuant to Human Rights Council resolutions 15/18, 16/23, and 16/4.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding the alleged torture and ill-treatment of Mr. Mahmudur Rahman while in police custody and the alleged sealing and closure of the printing press of the Bangladeshi newspaper Amar Desh.

According to the information received:

On 11 April 2013, Mr. Mahmudur Rahman, the interim Editor of the Bangladeshi newspaper Amar Desh (Daily Amardesh) and human rights defender, was arrested at his office. It is reported that since that day, the Government has sealed and closed the newspaper's printing press.

It is reported that Mr. Rahman was arrested on three separate charges. The first charge, of sedition, was lodged by a prosecutor of the "International Crimes Tribunal" (ICT) at the Tejgaon Police Station in Dhaka, accusing Mr. Rahman of reproducing a Skype conversation between a judge of the ICT and a person living abroad concerning an ongoing trial. The Tejgaon police, accusing Mr. Rahman that he destroyed vehicles, lodged the second case. However, it is reported that Mr. Rahman was in police custody on the day he was accused of having destroyed property. The third case against Mr. Rahman relates to an accusation of having published a letter along with a photograph. It is alleged that none of the charges against Mr. Rahman are legally founded.

It is reported that from 11 April 2013, Mr. Rahman was held in police custody and detained at the Detective Branch of the Dhaka Metropolitan Police. It is further reported that on 17 April 2013, Mr. Rahman was remanded into judicial custody and transferred to the Kashimpur Central Jail. Subsequently, Mr. Rahman has been held in police custody for six days, before the police handed him over to judicial remand.

Reportedly, on 18 April 2013, Mr. Rahman's counsel filed a petition challenging the authorities' decision to remand Mr. Rahman into police custody without providing adequate protection or ensuring his physical well-being. It is alleged that Mr. Rahman was subjected to torture and ill-treatment, including severe beatings, the hammering of iron nails into his body, and electric shock, while in police custody. It is reported that the torture happened on the second day of Mr. Rahman's police custody.

It is further reported that on 18 April 2013, at his court hearing, Mr. Rahman, who also suffers from a heart condition that requires ongoing medical attention, appeared to have fresh wounds on his legs, bloodstains and had difficulty sitting.

According to the information received, the High Court's directives state that, every detainee has a right to be examined by a qualified medical practitioner prior to remand custody and for regular medical examinations, during the entire period of detention. However, it is reported that none of this was followed in Mr. Rahman's case. When this was brought to the attention of the Court, the Attorney General of Bangladesh objected the submissions, alleging that the High Court's directives are not applicable in this case.

It is additionally reported that the same day, on 18 April 2013, Mr. Rahman was transferred to the Bangabandhu Sheik Mujib Medical University hospital to receive treatment for the injuries he sustained due to his alleged torture and ill-treatment in police custody. It is further reported that Mr. Rahman went on a hunger strike to protest the alleged unlawful closure of the Daily Amar Desh and the detention of 19 persons who have allegedly been arrested for supporting the newspaper.

It is also reported that this is not the first time Mr. Rahman is subjected to intimidation for exercising his professional freedom as a journalist in Bangladesh. Mr. Rahman was allegedly arrested, tortured and unjustly convicted by the Supreme Court of Bangladesh in a controversial charge of contempt of court.

Furthermore, it is reported that Mr. Rahman's arrest appears to be the continuation of large-scale and indiscriminate arrest and other forms of state-sponsored threats and intimidation against dissenting voices in Bangladesh. This pattern has allegedly increased in the past 70 days.

Grave concern is expressed about the alleged torture and ill-treatment of Mr. Rahman by law enforcement officials while in police custody. Grave concerns are also

expressed about the sealing and closure of the Bangladeshi newspaper Amar Desh (Daily Amardesh), the best-selling dailies in Bangladesh.

Without expressing at this stage an opinion on the facts of the case and on whether the detention of Mr. Rahman is arbitrary or not, we would like to appeal to your Excellency's Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, in accordance with articles 9 and 10 of the Universal Declaration of Human Rights (UDHR) and articles 9 and 14 of the International Covenant on Civil and Political Rights (ICCPR).

Furthermore, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of Mr. Mahmudur Rahman. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the UDHR, the ICCPR, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

In this context, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

We would also like to draw your Excellency's Government's attention to article 12 of the CAT, that your Excellency's Government acceded on 5 October 1998., which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the CAT, which requires State parties to prosecute suspected perpetrators of torture. We also wish to draw your Excellency's Government's attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States "To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture;".

Furthermore, we would like to draw your Excellency's Government's attention to article 14 of the CAT, which provides that victims of torture should have the right to redress and adequate compensation. In this regard, we would also like to remind your Excellency's Government that paragraph 6 (e) of Resolution 8/8 of the Human Rights

Council, which urges States “To ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress and are awarded fair and adequate compensation and receive appropriate socio-medical rehabilitation, and in this regard encourages the development of rehabilitation centres for victims of torture.”

Finally, we would like to appeal to your Excellency’s Government to take all necessary steps to secure the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the ICCPR, that Bangladesh acceded to on 6 September 2000, which provides that “Everyone shall have the right to freedom of expression; this right shall include 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 his choice.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of the above-mentioned person in compliance with the above international instruments.

Moreover, 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. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victim?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate whether compensation has been provided to the victim.
6. Please provide information on the measures taken to ensure the safety of Mr. Rahman.
7. Please also provide the details on how the actions undertaken by public officials regarding this case, particularly the closure of the newspaper, are compatible with the international norms and standards of the right to freedom of opinion and expression.

8. Please provide information concerning the legal grounds for the arrest and detention of Mr. Rahman and how these measures are compatible with international norms and standards as stated, inter alia, in the UDHR and the ICCPR.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Mahmudur Rahman are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

El Hadji Malick Sow
Chair-Rapporteur of the Working Group on Arbitrary Detention

Frank La Rue
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