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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

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**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right to food; and the Special Rapporteur on extreme poverty and human rights.**

REFERENCE: AL Housing (2000-9) Poverty (1998-11) Food (2000-9)  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the right to food; and Special Rapporteur on extreme poverty and human rights pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 15/8, 13/4, and 17/13.

In this connection, we would like to bring to your Excellency's Government's attention information we have received regarding the **impact that sand extraction in the Meghna River is allegedly having on the ability of Mayadip Island residents to enjoy minimum levels of their right to an adequate standard of living, access food, and the threat the sand extractions is posing on the affected communities' future enjoyment of the right to food and the right to adequate housing.** We would also like to bring to your Excellency's Government's attention information received regarding **the non-enforcement of a court order requiring the cessation of the sand extraction.**

According to the information received:

The villagers of Mayadip Island confront food insecurity and environment destruction caused by two companies that have allegedly been extracting sand along the banks of the Meghna River without government authorization. These companies include Micro International, which has been allegedly extracting sand in the region since July 2010, and 4 Point General Trading and Contracting Co. Ltd., which began extracting more recently. Both companies are allegedly owned by politically influential persons of the Narayanganj and Comilla districts. The information received suggests that the companies acquired contracts and permits to dredge the Meghna River in order to ensure its navigability, but instead of clearing the targeted areas extract sand from the riverbank. We understand that

this extraction causes massive erosion of both the riverbanks and islands in the river, and generally causes instability, which can lead to flooding. It is alleged that a former Assistant Commissioner of Land of the Sonargaon Upazilla Administration supported Micro International in committing the extraction even though the company lacked proper permits. A court order issued on 26 April 2011 requires that the government refrain from leasing land to sand extractors and that both companies stop the extractions, but it is alleged that this order has not been enforced.

These allegations are described in more detail below.

**Access to an adequate standard of living, food and adequate housing:**

According to the information received the island of Mayadip is located on the Meghna River and is home to more than 950 families. These villagers were originally relocated from different areas and provided land for housing and small-scale agriculture under a climate victims' rehabilitation project, the Guchhogram project, launched in the early 1980s. At the time, many of the individuals were homeless and members of small fishing communities. It is our understanding that villagers were not provided any public facilities on Mayadip Island, including proper transportation mechanisms to the mainland, safe drinking water, public health institutions and public schools. Lack of access to infrastructure has allegedly resulted in many challenges for the community, with one particularly significant challenge being the inability of pregnant women to access medical support when giving birth. Further, information suggests that the distribution of plots was made unequally, with most families lacking adequate land for cultivating food to meet their basic needs.

Today, we are informed that all inhabitants of Mayadip Island live below the poverty line and consistently face food insecurity and a lack of adequate food. Information received suggests that inhabitants work as subsistence farmers, fisherfolk, day labourers and petty merchants. Many inhabitants, without the ability to grow adequate food to feed their families, travel to the mainland in search of employment and wages with which to purchase food. Without public transportation and adequate infrastructure, we are informed that residents must travel seven to ten miles by boat and bicycle in order to reach commercial areas. Employment capabilities of the population are allegedly hindered by the distance individuals must travel everyday as well as high rates of illiteracy. According to information received, only one primary school run by the Subornogram Foundation since 2007, serves the community, educating approximately 100 children per year. There are allegedly no public feeding programs operating on the Island. Hunger and malnutrition are reportedly prevalent in the community, particularly among women and children.

According to the information received, food insecurity as a result of unlawful sand extraction is a real concern in the surrounding area. Allegedly, in recent years neighbouring islands Nalchar and Ram Prasader Char of the Comilla district were

almost entirely destroyed as a result of sand extraction: nearly two thirds of the islands were reportedly eroded as a result of sand extraction by Micro International. Villagers from these islands were allegedly forced to leave the islands and their homes in search of food and places to live. In addition, residents of Nunertek Island, directly adjacent to Mayadip Island, today face very similar circumstances to those inhabitants of Mayadip and allegedly fear erosion of their land as a result of the sand extraction.

In an already vulnerable community, illegal sand extraction from the adjacent riverbank is allegedly resulting in increased food insecurity and livelihood insecurity. According to the information received, the sand extraction, primarily on the banks of the river, is causing instability that result in significant erosion and flooding. Villagers have allegedly already observed that the island is eroding into the Meghna River. On 9 December 2011, for example, part of the island slid into the Meghna River. It is alleged that if the sand extraction is not halted, villagers will face serious erosion in the future and lose fish varieties living in the river. It is further alleged that unless the practices of extracting sand is stopped, erosion will have a lasting impact on food insecurity in the area, increase food scarcity for around 12,000 villagers in Mayadip and result in the mass displacement of island residents who would lose their homes.

**Enforcement of judicial orders:** According to the information received the villagers have taken a number of initiatives over the past few years in an attempt to halt the sand extraction. For example, in September of 2010, the villagers of Mayadip allegedly made a written petition to the Upazila Nirbahi officer and the Assistant Commissioner of Land (ACL) in order to stop sand extraction on the island. In response, the ACL reportedly made a public order stating that Mirco International was not allowed to extract sand beyond a certain point. However, it is alleged that the ACL made no order prohibiting extraction altogether, which was seen by the community as a recognition and acceptance of Micro International's practice of sand extraction without lease permits. In another example, we are informed that following receipt of a written complaint and petition in October of 2010, the Deputy Commissioner of the Narayanganj district announced publicly that the Company was never given a license to extract sand from Mayadip Island. He then reportedly formed a 21-member-committee to protect Nunertek and Mayadip Islands from sand extraction. However, despite the administration's assurance that it would protect the land from sand extraction, the extraction allegedly continued.

On 20 April 2011, it is reported that the government placed a public notice in several newspapers regarding available leases for sand extraction in Nunertek Balumahal, around Nunertek and Mayadip Islands, This action was allegedly counter to the Balumahal and Soil Management Law 2010, which apparently prohibits certain forms of sand extraction and promotes environmental protection.

According to the information received, in response to the public notice the villagers of Mayadip Island filed a writ petition at the High Court Division of the Supreme Court of Bangladesh to stop the government from offering the leases. A stay order was allegedly issued by the High Court on 26 April 2011. In the stay order, the High Court reportedly ordered the District Commissioner of Narayanganj District not to lease areas of Nunertek Balumahal and ordered both companies to stop extracting sand from the area. Despite the stay order however, it is alleged that the companies still come close to Mayadip Island at night for illegal sand extraction.

Concerns are expressed that the people of Mayadip Island face daily challenges in accessing adequate food to meet their needs and the needs of their family. These concerns are heightened by sand extraction in the Meghna River that threatens the stability of the region. Concerns are expressed that without government action, sand extraction will lead to the erosion of Mayadip Island and that the local population will face increased and lasting food insecurity and will be forced to move from their homes in search of land and food elsewhere.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the applicable international human rights norms and standards.

Article 25 of the Universal Declaration of Human Rights (UDHR) recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family, including food." Furthermore article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) – which Bangladesh acceded to on 5 October 1998 – stipulates that States "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions", and requires them to "take appropriate steps to ensure the realization of this right."

The right to an adequate standard of living is included in several other human rights treaties. Under article 27 of the Convention on the Rights of the Child, which Bangladesh acceded to on 3 August 1990, "States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development". Under article 14 of the Convention on the Elimination of All Forms of Discrimination against Women, which Bangladesh acceded to on 6 November 1984, "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas (...) to ensure (...) the right (...) to enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications".

According to article 2(1) of the ICESCR States parties must devote the "maximum available resources" to ensure the "progressive realization" of all economic, social and cultural rights. Article 2(1) obligates each member State to ensure the immediate satisfaction of, the very least, minimum essential levels of all economic, social and

cultural rights, including: basic sustenance, essential primary health care, basic shelter and housing and basic forms of education, for all members of society (General Comment 3, para. 10).

The Committee on Economic, Social and Cultural Rights, which monitors the implementation of the Covenant, has defined the core content of the right to food in its General Comment No. 12, along with the corresponding obligations of States to respect, protect and fulfil the right to food. The Committee considers that the core content of the right to adequate food implies, *inter alia*, availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand, and accessibility of food which encompasses both economic and physical accessibility.

The obligation to respect existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to protect requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. This would include ensuring that enterprises do not engage in activities that endanger the ability of individuals to grow or purchase their own food. This could come in the form of creating environmental instability, which threatens crop production and the ability of populations to seek employment. The obligation to fulfil (facilitate) means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to fulfil (provide) that right directly. The General Comment notes that States have an obligation to fulfil the right to food through programmes for particularly impoverished segments of the population and to ensure that people living in disaster-prone areas receive special attention with respect to accessibility of food (E/C.12/1999/5, para. 13). Given the extreme poverty levels of members of the affected community discussed above, and that these individuals reside in a disaster-prone area due to a government rehabilitation program, the affected community falls under the category of populations deserving particular attention in regards to the State's obligation to fulfil the right to food.

The Committee also emphasizes that any person or group who is a victim of a violation of the right to adequate food should have access to effective judicial or other appropriate remedies, and that all victims of such violations are entitled to adequate reparation, which may take the form of restitution, compensation, satisfaction or guarantees of non-repetition (E/C.12/1999/5, para. 32). The right to an effective remedy is meaningless when court judgments and judicial orders are not enforced.

The right to adequate food is recognized also in the Convention on the Rights of the Child – ratified by Bangladesh on 3 August 1990 – in article 24.2(c) and article 27.3. In the Convention, the right to adequate food is to be read in conjunction with the right to life, survival and development stipulated at article 6. States parties to the Convention on

the Rights of the Child commit themselves to combat “disease and malnutrition, including within the framework of primary health care, through, inter alia, (...) the provision of adequate nutritious foods and clean drinking-water.”

With regard to the right to adequate housing, the Committee on Economic, Social and Cultural Rights stressed in its General Comment No. 4, that the right to housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one’s head; rather, it should be seen as the right to live somewhere in security, peace and dignity. With “due priority to those social groups living in unfavorable conditions,” the right to housing includes guaranteeing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy. The Committee also added that “the right to housing should be ensured to all persons irrespective of income or access to economic resources”.

The obligation to protect economic, social and cultural rights also requires States to prevent third parties, including corporations, from violating these rights (General comment 19 of the Committee on Economic, Social and Culture Rights, para 45).

The Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework (A/HRC/17/31) were unanimously adopted by the Human Rights Council in June 2011. Bangladesh was a member of the Human Rights Council at the time of adoption of the Guiding Principles. The Guiding Principles have been established as the common global standard for all States and business with regard to addressing business-related human rights impacts. The Guiding Principles clarify and outline the State duty to protect human rights against adverse impacts by business; the corporate responsibility to respect human rights; and the need to ensure greater access to remedy for victims of business-related human rights abuse.

We would particularly like to draw the attention of your Excellency’s Government to the fact that the Guiding Principles affirm that:

- States must protect against human rights abuse by third parties, including business enterprises, as provided for by States’ international human rights law obligations.
- In meeting their duty to protect, States should:
- Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps
- Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, do not constrain but enable business respect for human rights
- Provide effective guidance to business enterprises on how to respect human rights throughout their operations.
- As part of their duty to protect, States must take appropriate steps to ensure, through judicial, administrative, legislative or other appropriate

means, that when such abuses occur those affected have access to effective remedy.

The Guiding Principles should be implemented in a non-discriminatory manner, with particular attention to be paid to the rights and needs of, as well as the challenges faced by, individuals from groups or populations that may be at heightened risk of becoming vulnerable or marginalized, including children, and with due regard to the different risks that may be faced by women and men.

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 Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts summarized above accurate?
2. Have any other complaints been lodged by villagers regarding the sand extraction?
3. What mechanisms and programs have been put in place to ensure that the affected community has access to adequate food?
4. Has an environmental impact assessment been carried out regarding the effects of erosion and sand extraction on communities in Bangladesh or more specifically on Mayadip Island? If so, who undertook such an assessment and could you please provide us with the conclusions of the assessment?
5. Have any efforts been made to stop or regulate sand extraction in the region?
6. What measures have been foreseen to ensure that the persons affected by the sand extraction activities will not lose their homes?
7. What has been foreseen in terms of possible relocation, if required by continued erosion? If locations have been designated for the relocation, please provide details on the exact location, including details on the area and quality of land, access to public services and livelihood sources.
8. Have any investigations been conducted regarding the involvement of local government officials in the sand extraction itself or in the non-regulation of the companies conducting the sand extraction?
9. What efforts have been taken to ensure the enforcement of the stay order issued by the High Court Division of the Supreme Court of Bangladesh on 26 April 2011?

We would be most grateful to receive an answer within 60 days. We undertake to ensure that the response of your Excellency's Government will be taken into account in our assessment of the situation and in developing any recommendations that we may make for your Excellency's Government's consideration pursuant to the terms of our respective mandates. Additionally, we undertake to ensure that the response of your Excellency's Government is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

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

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