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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders

REFERENCE: UA G/SO 214 (67-17) G/SO 214 (107-9)
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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have reviewed concerning the alleged abduction, interrogation and ill-treatment of **Mr. Dipal Barua**. Mr. Barua, who is affiliated with the Asian Human Rights Commission, provides assistance to victims of human rights violations. He was recently involved in providing assistance to Mr. F.M.A. Razzak, President of the Human Rights Development Centre, who was violently assaulted on 29 April 2011, and remains in critical condition in hospital. The Asian Human Rights Commission is an independent, non-governmental organization working to promote greater awareness and realisation of human rights in the Asian region, and to mobilise Asian and international public opinion to obtain relief and redress for the victims of human rights violations.

According to the information received:

On 24 May 2011, at 11:00 a.m. approximately, Mr. Barua was walking by the Sayeedabad bus terminal when he was approached by a man wearing dark sunglasses who asked him for directions. Mr. Barua began accompanying this man in order to show him the route about which he inquired. It is reported that as they walked together they passed by a black jeep from which a man disembarked briefly and grabbed Mr. Barua, forcing him into the jeep which then took off at high speed. There were allegedly four men in the jeep, who handcuffed and blindfolded Mr. Barua, covered his head with a black cloth, took his mobile phone and shouted abusive language at him. Mr. Barua reportedly had the hood over his head from the moment of his abduction, throughout the interrogation, until he was eventually released by his abductors.

After some time, the jeep arrived at an unknown location and Mr. Barua was forced to get out. He was allegedly taken to a room where his handcuffs were

removed and he was ordered to remove all his clothes. Mr. Barua was allegedly left in this room for up to seven hours during which time his requests for water were denied and he was not allowed to use the toilet.

It is reported that Mr. Barua was then taken to another room where he was interrogated by up to eight men who demanded that he disclose information concerning his relationship with the Asian Human Rights Commission and the assistance he had provided to Mr. F.M.A. Razzak, in particular they demanded details regarding the representatives of the AHRC who had visited Mr. Razzak in hospital and conducted an investigation into his violent assault. The interrogators also demanded that Mr. Barua provide details about his finances, in particular regarding any money received for his human rights work.

It is alleged that the interrogators then threatened to kill Mr. Barua if he continued to maintain contact with representatives with the AHRC, some of whom they specifically named. It is further alleged that several members of the local community who actively assisted representatives from the AHRC in their investigation into the violent assault of Mr. Razzak have also received similar threats.

It is finally alleged that Mr. Barua was driven back to where he was initially abducted and released.

Concern is expressed for the physical and psychological integrity of Mr. Barua following his alleged abduction, interrogation, and ill-treatment. Further concern is expressed regarding allegations that Mr. Barua, as well as other members of the community who were instrumental in facilitating representatives of the AHRC in carrying out an investigation into the violent assault on Mr. Razzak, received death threats in recent weeks. Moreover, concern is expressed that the situation of Mr. Barua may be linked to his legitimate work in the defence of human rights, in particular, his contact with international human rights organisations.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's Government's attention to our concern that the right to physical and mental integrity of Mr. Barua is respected. This right is set forth in, inter alia, in the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and other forms of cruel, inhuman or degrading treatment or punishment.

We would also 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, 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 addition, we would like to refer your Excellency’s Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that ”everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels” and that “each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.”

We would like to bring to the attention of your Excellency’s Government article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Regarding the allegations received indicating that the perpetrators of the violations reported are non-State actors, we would like to call to the attention of your Excellency’s Government the Human Rights Council Resolution A/HRC/RES/13/13 of 15 April de 2010, which recognizes “the immediate need to put an end to and take concrete steps to prevent threats, harassment, violence, including gender-based violence, and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms for all” as well as to adopt the necessary measures to prevent such acts. In this Resolution the Human Rights Council also “urges States to promote a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity.”

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/65/223 of 4 August 2010, stated that “the responsibility of non-State actors to respect the rights of human rights defenders does not relieve the State of its obligations under human rights law to respect, protect and fulfill human rights, including those of human rights defenders. (...)” The Special Rapporteur

argued that the State's obligation to protect "first, involves ensuring that defenders do not suffer from violations of their rights by non-State actors. Failure to protect could, in particular circumstances, engage the State's responsibility. Secondly, States should provide defenders victims of human rights violations with an effective remedy. To that end, all violations of the rights of defenders should be investigated promptly and impartially and perpetrators prosecuted. Fighting impunity for violations committed against defenders is crucial in order to enable defenders to work in a safe and conducive environment."

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 Mr. Dipal Barua in compliance with the above international instruments.

Moreover, it is our responsibility under the mandate 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 above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, 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.
3. Considering that death threats have been issued against Mr. Barua, as well as against others who assisted in the investigation carried out by the AHRC, please provide details of protection measures that have been put in place in order to guarantee the physical and psychological integrity of Mr. Barua and others assisting in the investigation carried out by the AHRC. If protection measures have not been put in place please explain why not.

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.

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

Frank La Rue
Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression

Margaret Sekagya
Special Rapporteur on the situation of human rights defenders