

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

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

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

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

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) Terrorism (2005-4)  
BGD 7/2012

23 October 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism pursuant to Human Rights Council resolution 15/21, 16/4, 16/5, and 15/15.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **a draft law related to foreign donations that may unduly limit freedom of association.**

According to the information received:

A Foreign Donations Regulation draft law has reportedly been under discussion. It is reported that many provisions of this draft law would unduly limit the ability of associations to receive and use funding. While improvements have recently been made to the draft law, the following provisions reportedly remain problematic:

It is reported that Section 5 of the draft law prohibits individuals from receiving foreign funding, unless they obtain prior government approval; any association aiming to receive and use foreign funding would need to be registered with the NGO Affairs Bureau. Concerns have been expressed that the registration procedure is long, burdensome and provides the NGO Affairs Bureau with wide discretionary powers to accept or deny applications (Section 8). Further, registration is granted based on recommendations of the Home Ministry, for a period of five years only.

Section 10 of the draft law reportedly provides that associations seeking to implement activities with foreign funding would first need to obtain the approval of the Director General of the NGO Affairs Bureau to conduct the project in question. Concern has been expressed that this ability of authorities to potentially interfere in the work of associations, would limit their independence and unduly restricts their right to operate freely.

This draft law is being examined against a backdrop of measures reportedly aimed at preventing associations from working freely without undue hindrances, as epitomized by the recent announcement by the Government that it had cancelled the registration of 4,000 non-governmental organizations because they were allegedly “involved in terror financing and other anti-state activities”, and was examining the registration certificates of an additional 2,000. To this end, the establishment of a Government commission to look into operations of all associations is reportedly under consideration.

While appreciating the on-going process of consultations with civil society organizations, concern is expressed that several provisions of the draft law can severely and unduly limit the ability of associations to receive and use funding. It is important that the concerns raised by these organizations be fully addressed in the next draft.

We would like to remind your Excellency's Government of article 22 of the International Covenant on Civil and Political Rights (ICCPR), which provides that “[e]veryone shall have the right to freedom of association with others...”.

In this context, we would like to refer to Human Rights Council resolution 15/21, and in particular operative paragraph 1 that “[c]alls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely... including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

We would also like to make reference to the first thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27), in which he details best practices related to these fundamental freedoms, as it could further guide the authorities in facilitating and protecting the rights to freedom of peaceful assembly and of association, in law and in practice. In particular, we would like to refer to paragraph 99 of this report, which states that “[a]ssociations should be able to access domestic and foreign funding and resources without prior authorization”.

Similarly, we would also like to remind your Excellency's Government of article 19 of the ICCPR, which provides that “[e]veryone 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 this connection, 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”.

Furthermore, we would like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5 points b) and c) which provide that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right to form, join and participate in non-governmental organizations, associations or groups, and to communicate with non-governmental or intergovernmental organizations; and

- article 13 which stipulates that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means, in accordance with article 3 of the declaration.

The Special Rapporteur on the situation of human rights defenders has clearly stated that, in order for human rights organizations to be able to carry out their activities, it is indispensable that they are able to discharge their functions without any impediments, including funding restrictions (A/64/226, para. 91). In her view, when individuals are free to exercise their right to associate, but are denied the resources to carry out activities and operate an organization, the right to freedom of association becomes void. She has also recommended that States refrain from restricting the use of funds as long as human rights organizations comply with the purposes expressly established in the Declaration of promoting and protecting human rights and fundamental freedoms through peaceful means (Commentary to the Declaration, available at <http://www.ohchr.org/Documents/Issues/Defenders/CommentarytoDeclarationondefendersJuly2011.pdf>).

We wish to draw the attention of your Excellency's Government to General Assembly Resolution 59/191, whose paragraph 1 reaffirms “that States must ensure that

any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law".

Moreover, as 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, we would be grateful for your observations on the following matters:

1. Are the facts alleged in the above summary of this case accurate?
2. Please provide the full details of the aforementioned draft law and explain how its provisions are in accordance with Bangladesh's obligations under international human rights law and standards, particularly with regard to the right of associations to receive and use funding.
3. Please indicate what measures your Government intends to take, in the lead up to its adoption, to ensure that the final draft law is compliant with relevant international human rights standards.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report 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 right to freedom of association is respected and every effort is made to ensure that the draft law complies with international human rights law.

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

Maina Kiai  
Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

Margaret Sekaggya  
Special Rapporteur on the situation of human rights defenders

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

Ben Emmerson  
Special Rapporteur on the promotion and protection of human rights  
and fundamental freedoms while countering terrorism

