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CONSEIL DES DROITS DE L'HOMME

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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 Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders

REFERENCE: AL G/SO 217/1 G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)
BGD 2/2014

25 March 2014

Excellency,

We have the honour to address you in our capacities as Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; and Special Rapporteur on the situation of human rights defenders pursuant to Human Rights Council resolutions 16/16, 16/4, 24/5, and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the situation of **Mr. Adilur Rahman Khan**, his family and his colleagues from Odhikar, as well as the on-going situation of **Odhikar**. Mr. Adilur Rahman Khan is the Secretary of Odhikar, a human rights non-governmental organization which reports on cases of enforced disappearances and works with families of disappeared persons.

Mr. Adilur Rahman Khan was the subject of urgent appeals sent on 14 August 2013, on 6 September 2013, and on 27 December 2013 by several special procedures mandate holders, including the Chair-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

Odhikar was the subject of an allegation letter sent on 11 October 2011 by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the Special Rapporteur on the situation of human rights defenders. We take note of the response from your Excellency's Government received on 12 October

2011, acknowledging receipt of the said letter. We regret that no substantive response to the concerns raised in this letter has been provided since then.

According to the new information received:

After serving two months in detention, in October 2013, Mr. Adilur Rahman Khan was released on bail. Since then, he has allegedly been subjected to surveillance. According to the source, Mr. Khan has been followed every day to his work place and to his home. It was reported that his family and colleagues have also been followed and their phones been tapped.

Since January 2014, two individuals associated with Mr. Khan have been allegedly beaten, threatened and coerced by police officers from the Detective Branch to provide information about Mr. Khan.

On 13 March 2014, an audit officer from the NGO Affairs Bureau visited the office of Odhikar and investigated the projects of the organization. The audit officer reportedly indicated that he would spend as much time as necessary to detect problems in order to satisfy his superiors.

Fifty percent of the funds of Odhikar have been held up by the NGO Affairs Bureau which have resulted in financial difficulties: Odhikar will not be able to pay its staff after March 2014. Six staff of the organization have already resigned for financial and security reasons.

We expressed concerns in the past that acts of intimidation, harassment and physical ill-treatment against Mr. Adilur Rahman Khan and persons associated with him, as well as what appears to be abusive scrutiny into the activities of their organization seem to be aimed at curtailing their rights to freedom of expression and of association, and other legitimate human rights activities on behalf of victims of enforced disappearances in Bangladesh. We are reiterating our serious concerns about the physical security of Mr. Adilur Rahman Khan, his family and colleagues and the need that the relevant authorities ensure their protection. Finally, concerns are reiterated about alleged undue restrictions on Odhikar's functioning, which may aim at blocking its legitimate human rights activities.

While we do not wish to prejudge the accuracy of these new allegations, we are respectfully drawing your Excellency's Government attention to the following provisions of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bangladesh on 6 September 2000:

- article 19, 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."

- article 22, which provides that “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.

Article 13 (3) of the Declaration on the Protection of all Persons from Enforced Disappearance, states that “Steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal”.

We would also like to recall that, in its resolution 7/12, the Human Rights Council urged Governments to take steps to provide adequate protection to witnesses of enforced or involuntary disappearances, human rights defenders acting against enforced disappearances and the lawyers and families of disappeared persons against any intimidation or ill-treatment to which they might be subjected. The protection of families of disappeared persons should be carried out regardless of the existence of criminal investigation.

In this connection, articles 1 and 2 of 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, 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”.

Article 12 paras 2 and 3 of the same Declaration 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.

Further, the Human Rights Council resolution 24/5, and in particular operative paragraph 2 “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and 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 echo the following recommendations of the Special Rapporteur on the rights to freedom of peaceful assembly and of association:

- “Any associations, including unregistered associations, should be allowed to function freely, and their members operate in an enabling and safe environment” (A/HRC/20/27, para. 96);
- “The Special Rapporteur calls upon States:
 - (b) “To ensure that associations – registered and unregistered – can seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without prior authorization or other undue impediments, including from individuals; associations, foundations or other civil society organizations; foreign Governments and aid agencies; the private sector; the United Nations and other entities”; and
 - (c) “To recognize that undue restrictions to funding, including percentage limits, is a violation of the right to freedom of association and of other human rights instruments, including the International Covenant on Economic, Social and Cultural Rights” (A/HRC/23/39, para. 82).

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:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information on measures that have been taken to guarantee the protection of Mr. Adilur Rahman Khan and persons associated with him, and to ensure that they are not subjected to any form of harassment;
3. Please provide the details, and where available the results, of any investigation and inquiry carried out in relation to these cases.
4. Please provide information on efforts made to ensure that perpetrators of the alleged acts of intimidation against Mr. Adilur Rahman Khan will be brought to justice.

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 rights and freedoms of the above mentioned

person 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.

Ariel Dulitzky
Chair-Rapporteur of the Working Group on Enforced or Involuntary
Disappearances

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

Maina Kiai
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