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PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on the situation of human rights defenders; 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 torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

REFERENCE: UA G/SO 214 (107-9) G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (33-27) G/SO 214 (53-24) BGD 4/2012

4 July 2012

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights defenders; 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; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 16/5, 16/4, 15/21, 16/23, and 17/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding attacks against journalists in Bangladesh.

According to the information received:

On 15 June 2012 at around 23:00, Mr. **Jamal Uddin**, Sports Affairs Secretary of the Sharsha Press Club and journalist for Grameer Kagoj, a Bengali language newspaper, was attacked while having tea at a roadside stall in the Kashipur Bazaar in the Sharsha area of Jessore district. A number of men armed with sharp weapons reportedly attacked Mr. Uddin, cutting the veins in his hands and legs and gouging out his eyes. He was rushed to a local hospital and declared dead at around 23:30. Local drug lords had reportedly threatened him for his reporting on their activities. He had allegedly reported the threats to the police.

On 28 May 2012, two journalists and an assistant were reportedly stabbed and at least six others were injured when at least fifteen men armed with sharp objects entered the bdnews24.com office in Mohakhali. Three victims, namely Mr. **Newaz Mohammed Rifaat**, sub-editor; Mr. **Salahuddin Wahed Pritom**, correspondent; and Mr. **Ruhul Amin**, office staff member, are receiving treatment

for injuries to their legs and heads. Authorities reportedly arrested only two suspects.

In addition, there have been reports of violence against journalists by the police. On 29 May 2012, Mr. **Proshanto Karmaker** of Prothom Alo, Mr. **Jalil Ujjal** of Kaler Kantha, and Mr. **Tuhin Hawlader** of Bangladesh Protidin were reportedly assaulted by police when they attempted to report the incident of a young woman who had come to lodge a case concerning a dowry being assaulted by police in the courthouse. Two lawyers who attempted to intervene were also assaulted and then taken away in a police van. It is reported that the journalists were all assaulted in the presence of the Officer-in-Charge of the Kotwali Police Station.

On 26 May 2012, police allegedly attacked and physically assaulted three photojournalists, Mr. **Khaled Sarker**, Mr. **Sajid Hossain**, and Mr. **Jahidul Karim**, of the Prothom Alo newspaper, who were covering a student demonstration in the capital. They sustained multiple injuries, including fractured legs. Following the assault, police confiscated cameras and reportedly took the journalists to a police station. On 15 May 2012, Mr **Abdullah Al Mamun**, correspondent for the Kaler Kantho newspaper, was reportedly beaten up in public by the nephew of the Pabna State Minister for Home Affairs, Mr [REDACTED]. The journalist had allegedly written about corruption among members of the minister's family.

Furthermore, there have been reports of violence against journalists by members of the ruling party. Such attacks include those against Mr. **Panna Bala**, correspondent of Daily Prothom Alo, who was allegedly beaten and abused by the ruling party's leaders at Faridpur on 4 May 2012 for publishing reports on political affairs; Mr. **A.B.M. Fazur Rahman**, correspondent of Daily Shamokal and NTV, who was reportedly stabbed at Pabna on 19 May 2012; and Mr. **Mizanur Rahman** and Mr. **Jitendra Nath**, correspondents of Daily Prothom Alo and Daily Shamokal, who were allegedly attacked by ruling party activists at Baufall in Patuakhali on 16 May 2012 for exposing malpractices in a by-election of a local municipality.

On 11 February 2012, Ms. **Meherun Nahar Runi**, chief reporter at ATN Bangla, and Mr. **Mustofa Sagar Sarwar**, news editor at a private television station named Massranga, were stabbed to death by unknown assailants in their bedroom in Dhaka. The couple were well-known journalists for private TV stations in Dhaka. It is reported that no arrest has been made in this case. Although the motive of the murder is not clear, it is believed that their deaths might be linked to their work as media professionals.

Deep concerns are expressed regarding the alarming and increasing instances of violence and attacks against journalists and media professionals, as well as their lack of safety and security to inform society on matters of public interest, and the impact of such attacks on media freedom generally in Bangladesh.

We would like to appeal to your Excellency's Government to initiate swift, independent and impartial investigations into the attacks against the above-mentioned individuals, and to bring perpetrators to justice. We also urgently appeal to your Excellency's Government to take effective measures to ensure the safety and security of journalists and media professionals from further attacks, and to fully guarantee media freedom. In this regard, we would like to emphasize the obligation of your Excellency's Government under article 19 of the International Covenant on Civil and Political Rights (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."

Furthermore, we would like to refer to the first thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, which provides that "States should also ensure the protection of those monitoring and reporting on violations and abuses in the context of peaceful assemblies." (A/HRC/20/27, para. 94). In this connection, the then Special Representative of the Secretary-General on the situation of human rights defenders stated that "monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. This is a valuable contribution to the effective enjoyment of the right to peaceful assembly. The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly" (A/62/225, para. 91).

We would further like to draw to the attention of your Excellency's Government Principle 4 of the UN Basic Principles on the Use of Force and Firearms by Law Officials, which provides that, Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990).

We would also like to draw to the attention of your Excellency's Government paragraph 18 of the General Comment No. 2 of the Committee against Torture (CAT/C/GC/2, 24 January 2008), where the Committee has made clear that where State authorities or others acting in official capacity or under colour of law, know or have reasonable grounds to believe that acts of torture or ill-treatment are being committed by non-State officials or private actors and they fail to exercise due diligence to prevent, investigate, prosecute and punish such non-State officials or private actors consistent with the Convention, the State bears responsibility and its officials should be considered as authors, complicit or otherwise responsible under the Convention for consenting to or acquiescing in such impermissible acts. Since the failure of the State to exercise due diligence to intervene to stop, sanction and provide remedies to victims of torture facilitates and enables non-State actors to commit acts impermissible under the Convention with impunity, the State's indifference or inaction provides a form of encouragement and/or de facto permission.

With respect to the information on the murder of Ms Meherun Nahar Runi and Mr Mustofa Sagar Sarwar, as well as of Mr. Jamal Uddin and the alleged threats he had received before his death, we would like to refer to article 6 of the ICCPR, which provides that every individual has the right to life and security of the person, that this right shall be protected by law and that no person shall be arbitrarily deprived of his or her life. In addition, in its General Comment No. 31, the Human Rights Committee observed that the positive obligations on States Parties to ensure Covenant rights will only be fully discharged if individuals are protected by the State, not just against violations of Covenant rights by its agents, but also against acts committed by private persons or entities that would impair the enjoyment of Covenant rights. There may be circumstances in which a failure to ensure Covenant rights would give rise to violations by States Parties of those rights, as a result of States Parties permitting or failing to take appropriate measures or to exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities. Furthermore, Principle 4 of the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989/65, states that effective protection through judicial or other means shall be provided to individuals and groups who are in danger of extra-legal, arbitrary or summary executions, including those who receive death threats.

We would like to further draw the attention of your Excellency's Government to the duty to investigate, prosecute and punish violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions. In particular, Principle 9 stipulates that there shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, while Principle 18 provides that "Governments shall ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice".

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".

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

- article 6 points b) and c) which provide that everyone has the right, individually and in association with others as provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

- article 12 paragraphs 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.

With regards to the role of media and human rights defender in monitoring demonstrations, we would like to refer to the Guidelines on Freedom of Peaceful Assembly of the Office for Democratic Institutions and Human Rights (ODHIR) of the Organization for Security and Cooperation in Europe (OSCE), available at <http://www.osce.org/odihr/66042> and to 2007 report to the General Assembly (of the Special Representative of the Secretary-General on the situation of human rights defenders) (A/62/225, paragraphs. 91 and 93) that underline how “monitoring of assemblies can provide an impartial and objective account of what takes place, including a factual record of the conduct of both participants and law enforcement officials. [...] The very presence of human rights monitors during demonstrations can deter human rights violations. It is therefore important to allow human rights defenders to operate freely in the context of freedom of assembly. [...] Journalists as well have an important role to play in providing independent coverage of demonstrations and protests. [...] The media must therefore have access to assemblies and the policing operations mounted to facilitate them.

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 persons 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 above summary accurate?
2. Have there been complaints lodged by or on behalf of the alleged victims?
3. Please provide full details on any on-going investigations, arrests, or suspects in the above cases. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please provide full details on any new protection measures taken to ensure the security of journalists in light of these incidents. In addition, please provide the full details of any protective measures which may have been put in place to ensure the security of Mr. Jamal Uddin in the wake of the alleged threats he had received prior to his death. If no measures were taken, please explain why not.
5. Please provide information on whether compensation has been made available to the victims or their families.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately included 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 protect the abovementioned persons and guarantee that their rights and freedoms 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.

Margaret Sekagya
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

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

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
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Christof Heyns
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