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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 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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1 December 2011

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 resolutions 16/4 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding acts of intimidation against human rights defender Mr. **Shyamal Roy**, about 70 years of age. In 2010, Mr. Shyamal Roy established an organization named "Dodhichi", aimed at reporting human rights violations committed by the state of West Bengal authorities. "Dodhichi" also aims at promoting women's rights and the right to education.

According to the information received:

Mr. Roy allegedly started a practice of sending text messages through his cell phone to inform civil society groups about cases of human rights violations that occurred in his community. It is reported that Mr. Shyamal Roy sends text messages on a daily basis in order to make people aware of their human rights. It is further alleged that "Dodhichi News" has become popular in the civil society of West Bengal.

It is reported that on 5 November 2011, Mr. Shyamal Roy was at home when two police officers in plainclothes called his name in front of his house. One man allegedly indicated that he was Sub-Inspector of Police at Sonarpur Police Station and that the other man was the Assistant Sub-Inspector of Police.

The two police officers reportedly told Mr. Shyamal Roy that they came to seize his mobile 'SIM' card, without giving any reason.

It is further reported that the two policemen also wanted to confiscate other items belonging to Mr. Shyamal Roy, but Mr. Roy requested a legal order from the court. Then, the two police officers reportedly called the Officer-in-Charge of Sonarpur Police Station and after some time, the men decided to leave. The police officers allegedly told Mr. Roy that they would return to his house.

Concern is expressed that the attempt to confiscate the SIM card of Mr. Shyamal Roy by the police may be directly related to his work in defence of human rights and his legitimate exercise of the right to freedom of expression. Concern is expressed regarding the physical and psychological security of Mr. Shyamal Roy given the fact that he could again be subjected to acts of intimidation by police officers.

While we do not wish to prejudge the accuracy of these allegations, we would 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 International Covenant on Civil and Political Rights, 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."

We would also 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, point a) which provides that everyone has the right, individually and in association with others to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems.

- 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.

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Shyamal Roy 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.

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. Shyamal Roy 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 summary of the case accurate?
2. Has a complaint been lodged by or on behalf of Mr. Shyamal Roy?
3. 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.
4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate the measures taken to ensure that human rights defenders can carry out their legitimate work of promotion and protection of human rights and fundamental freedoms in a free and safe environment.

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 Sekaggya
Special Rapporteur on the situation of human rights defenders