

**Mandates of 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 BGD 4/2017

3 July 2017

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; and Special Rapporteur on the situation of human rights defenders, pursuant to Human Rights Council resolutions 32/32 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning ongoing arrests, detention, physical violence, harassment and intimidation against trade unions, labour activists and human rights defenders, in relation to the work stoppage of December 2016.

According to the information received:

*Antecedents*

On 11 December 2016, workers from the Windy Apparels Ltd in Ashulia, a suburban area of Dhaka, demanded a raise in wages. The minimum wage for workers in the garment manufacturing industry remains \$66 per months, which is below the poverty line as established by the World Bank, and also considerably lower than that in neighbouring countries. The work stoppage initiated at Windy Apparels Ltd subsequently gained support and spread to other factories in the area. Workers from about 20 factories, most of which are non-union, participated in the work stoppage. However, about 60 factories, most of which were not affected by the work stoppage, remained closed on 20 December 2016, pursuant to a decision by the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), and most employers refused to pay their staff for the day of the closure. Consequently, the lock-out effectively ended the work stoppage.

Following the work stoppage of December 2016, a number of human rights violations had been reportedly committed against trade union activists, many of whom were not directly involved in the work stoppage initiated in Windy Apparels Ltd. It appears that the Government may have used the protest and work stoppage as a pretext to crack down on union leaders and human rights defenders.

*Arrests, detention, physical violence*

As retribution to the work stoppage, the police allegedly arrested over two dozen trade union leaders, activists and human rights defenders, many of whom were not even present in Ashulia at the time of the stoppage, or had no role in it.

On 21 December 2016, the police called eight trade union leaders to a meeting in Liya Restaurant near Fantasy Kingdom, (Jamgora, Ashulia, Savar, Dhaka) , which merely served as a pretext, and proceeded subsequently to arrest them. Those arrested and detained included Ibrahim (BCWS), Shoumitro Kumar Das (President of Garment Sramik Fron Samar, Ashulia, Dhamrai Regional Committee); Rafiqul Islam (President, Garment and Industry Sramik Federation); Al Kamran (President, Shwadin Bangla Garment Sramik Federation Savar – Ashulia – Dhamrai Regional Committee); Shakil Khan (General Secretary of Shwadin Bangla Garment Sramik Federation Savar- Ashulia – Dhamrai Regional Committee); Shamim Khan (President, Bangladesh Trinomul Garment Sramik – Kormochari Federation); and Mr Mizan (textile Workers Federation). On 22 December 2016 the aforementioned persons were produced before the court and were informed that they were being charged under Sections 16 and 25 of the Special Powers Act of 1974 (Case No. 30/526 of Ashulia Police Station).

Additionally, two of those detained, Shamim Khan (President of Bangladesh Trinomul Garment Sramik – Kormochari Federation) and Al Kamran (President, Shwadin Bangla Garment Sramik Federation Savar-Ashulia-Dhamrai Regional Committee) were allegedly severely beaten in custody.

On the same day, a group of men, including some in police uniforms and some in plain clothes, took the President of the union of the Designer Jeans Ltd from his home. He was eventually brought to court on 23 December 2016 and remanded in Dhaka Central jail for three days.

On 22 December 2016, two organizers with the BIGUF, Asaduzzama and Golam Arif, were allegedly taken from their residences by officers from the Detective Branch police. They had both been allegedly beaten in custody. They were sent to the Magistrates Court on 24 December 2016, and were listed as suspects in a pending case originally filed in January 2015 (Case no. 32 of 2015 of Joydevpur police station under Gazipur District, under section 15(3)/25(D) of the Special Power Act, 1974).

On 23 December 2016, the police allegedly called Nazmul Huda, a journalist, who covered the work stoppages and invited him to a news conference. Upon arrival he was allegedly forced into a police vehicle, beaten and driven around in Dhaka until 4am the next day, threatening him with ‘cross-fire’ killing. He was produced in court on 24 December 2016.

On the same day, Ahmed Jibon (General Secretary, Garment Sromik Front, Savar-Ashulia- Dhamarai Regional Committee) received a phone call from the Detective Branch police, asking him to meet them on 27 December 2017, but was untraceable until he was produced before the Magistrate Court, Dhaka, on 24 December 2016.

On 25 December 2016, three activists from the United Federation of Garment Workers, Rashedul Islam (Vice President, Cathay App. Ltd Workers Union); Md. Sohel Rana (member, Cathay App. Ltd Workers Union); and Abdur Rahman (member, Cathay App. Ltd Workers Union), were charged under article 15(3) of the Special Powers Act relating to sabotage. The charges relate to alleged conspiracy to cause damage to the country's economy and to spreading fear to the civilian population.

On 27 December 2016, Md Ranju, a BIGUF organizer, was allegedly detained at his office in Gazipur by Detective Branch police and charged under the Explosives Act with possession of explosive substances with the intent to endanger life or cause injury to person or property. He was released on bail on 14 February 2017.

On 10 February 2017, four armed police in plain clothes reportedly entered the BIGUF office in Chittagong. The staff of the office had just started conducting an industrial dispute resolution training for 25 factory-level union leaders. The police took BIGUF federation leader Chandon Kumar Dey to the Double Mooring police station in Chittagong, and started questioning him about the activities of BIGUF. At around 3pm the police detained 8 union leaders and Jewel, another BIGUF organizer, and arrested them in relation to Case no. 70/8/2016 of Kotowali Police Station, which dates back to August 2016. The charges filed against them are under sections 143, 148, 149, 186, 332, 333, 353 of the Penal Code. They were eventually released on bail on 13 February 2017.

#### *Harassment, interference, intimidation*

In addition to the above cases of arbitrary arrests, detention and physical abuse, we have also received information regarding harassment and intimidation of trade union members and organizers. These include registering criminal complaints against 'unknown' persons, thereby intimidating labour leaders and workers, allowing to allegedly misuse the threat of arrest against them. Furthermore, due to ongoing surveillance and intimidation, reportedly at least ten garment worker federations and two worker's rights' NGOs can no longer legally operate.

On 22 December 2016, Moshrefa Mishu, the president of the Garment Workers Unity Forum, was stopped and detained by police on her way to a press conference. The police later allegedly claimed that she was simply invited 'for a cup of tea'. She was released the same afternoon. Ms. Mishu has been the subject of two communications in the past (cases BGD 1/2011 and BGD 6/2014), which concerned allegations of arrest and arbitrary detention against her. Although the first one was replied by your Excellency's Government on 9 March 2011, this response did not address any of the substantive concerns expressed in the communication. The second letter, for its part, has so far not received any reply by your Excellency's Government.

On 26 December 2016, four police officers reportedly arrived at the BCWS office in Zirabo, Ashulia. They allegedly confiscated a set of office keys, gave them to the landlord and told him to contact the police directly should any attempt be made to re-open the centre. BCWS had tried unsuccessfully to obtain information on what ground the centre had been closed.

On 20 January 2017, police allegedly disrupted a health and safety training led by the Bangladesh Independent Garment Workers Union Federation (BIGUF), the Bangladesh Institute for Labour Studies (BILS) and supported by the ILO. Police have allegedly threatened workers that those who continue to associate with BIGUF ‘will be in trouble’. The police also gathered the personal information of the training participants and of their family members and then padlocked the premises.

On 30 January 2017, police arrested Nurul Amin Mamun, organizer with the Bangladesh Revolutionary Garment Workers Federation (BRGWF), in the federation’s office in Savar. He was held under Ashulia case No. 28, in which Windy Apparels is the complainant but in which Nurul Amin Mamun was not originally named.

On 5 February 2017, industrial police officers allegedly visited the Gazipur branch offices of the Garment Workers Solidarity Federation (GWSF) and the Akota Garment Workers Federation (AGWF), and presented forms to collect personal information for the federations’ worker leaders.

On 6 February 2017<sup>1</sup> three special branch officers entered the Solidarity Centre’s office in Gulshan to inquire about a meeting to be held later that day. The police later set up a camera opposite the office and took photos of the meeting participants. Following the arrival of a USAID official, the police began to disperse.

On 7 February 2017, two industrial police in plain clothes allegedly entered the BRGWF office in Gazipur, and asked a number of personal details from one of the main leaders.

On 8 February 2017, an officer from the industrial police’s intelligence branch visited the Gulshan office of the Solidarity Centre. He posed questions about the activities of the Centre and asked for the contact information for each staff member. The officer also reportedly requested to be notified about when trainings would be conducted.

### *Mass dismissals*

Following the work stoppage of December 2016, over 1,600 workers were either suspended, dismissed, or forced to resign, but the exact numbers are not known. It appears that none of the suspensions and dismissals was carried out in accordance

with the procedure set forth in the Bangladesh Labour Act. The dismissals appear to be indiscriminate and without evidence as to whether those workers who were terminated had even participated in the work stoppage. It also appears to be the case that where unions were operating within factories, their members and leadership were targeted and dismissed as part of these mass dismissals.

On 23 February 2017 BGMEA and the Government had allegedly reached an agreement with the IndustriALL Bangladesh Council (IBC), following threats from a number of key industry stakeholders and foreign governments to boycott the Dhaka Apparel Summit, in protest of the Government crackdown. Consequently, all persons detained were released on bail, but the criminal charges remain pending. Unions in Ashulia which were closed were supposed to be reopened, but no action in this regard has been taken yet and the Government has reportedly indicated that ‘unregistered’ unions and NGOs would not be allowed to re-open.

Serious concern is expressed about the continued and apparently systematic repression on trade unions working in the garment sector in Bangladesh. Particularly serious concerns are expressed at the arrest, detention and physical violence committed against union leaders, human rights defenders and workers, carried out in retaliation to their actual or purported participation in the work stoppages of December 2016 and directly linked to their activities aimed at protecting and promoting the rights of workers engaged in the textile industry in Bangladesh. Further concerns are expressed about the harassment, interference and intimidation experienced by the trade union sector in Bangladesh, which prevents them from carrying out their work in a safe and enabling environment and is in violation of their right to freedom of association, contrary to Bangladesh’s obligations under international human rights law.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency’s Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide the details, and where available, the results, of any investigation and judicial or other inquiry undertaken in relation to these allegations, both in relation to the arrests, arbitrary detention and physical

violence against trade union leaders, organizers and workers. If no inquiries have taken place, or if they have been inconclusive, please explain why.

3. Please provide the information on the legal grounds for the arrests and detention of the aforementioned persons and how these measures are compatible with the international human rights obligations of Bangladesh, in particular under the ICCPR ratified in 2000.
4. Please provide information about measures taken or to be taken to ensure that work stoppage, strikes and other legitimate trade union activities can be carried out without threats, intimidation or judicial harassment.
5. Please indicate what measures have been taken to ensure that trade unions and human rights defenders acting within trade unions are able to carry out their legitimate work in a safe and enabling environment without fear of threats or acts of intimidation, harassment, and prosecution of any sort.

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration

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Annalisa Ciampi

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

Michel Forst

Special Rapporteur on the situation of human rights defenders

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw your attention to the following human rights standards:

We would like to refer your Excellency's Government to articles 9, 19, 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), ratified by Bangladesh on 6 September 2000, which guarantee the rights to liberty and security of person, the right to freedom of opinion and expression and the right to freedom of assembly and of association, respectively.

We also refer to the 2014 report of the previous Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression which emphasises the central role of freedom of expression in the effective functioning of a vibrant democratic political system, and recalls the responsibility of States to ensure an environment in which a diverse range of opinions and ideas can be freely and openly expressed and debated (A/HRC/26/30).

We would also like to bring to the attention of your Excellency's Government 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, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right 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.

Furthermore, we refer to article 5 (b), which provides for the right to form, join and participate in non-governmental organizations, associations or groups; and article 6, which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, as well as the right to freely publish, impart or disseminate information and knowledge on all human rights and fundamental freedoms, and to study, discuss and hold opinions on the observance of these rights.

Resolution 24/5 of the Human Rights Council "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 and 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".