



TÉLÉCOPIE • FACSIMILE TRANSMISSION

DATE: 27 July 2018

A/TO: His Excellency  
Mr. M. Shameem Ahsan  
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DE/FROM: Beatriz Balbin  
Chief  
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A handwritten signature in blue ink, reading "Beatriz Balbin".

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OBJET/SUBJECT: **JOINT COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a joint communication sent by the Special Rapporteur in the field of cultural rights; and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

We would be grateful if this letter could be transmitted at your earliest convenience to His Excellency Mr. Abul Hassan Mahmood Ali, MP, Minister for Foreign Affairs.



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**Mandates of the Special Rapporteur in the field of cultural rights; and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment**

REFERENCE:  
AL BGD 6/2018

27 July 2018

Excellency,

We have the honour to address you in our capacities as Special Rapporteur in the field of cultural rights; and Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, pursuant to Human Rights Council resolutions 37/12 and 37/8.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the harmful impact of rapid industrialization on the ecosystem and on the outstanding universal values of the Sundarbans mangrove forest, as well as the detrimental effects on the human rights of the local population related to the safe and healthy environment of the forest.**

**The Sundarbans mangrove forest** is the world's largest contiguous mangrove ecosystem in the world (140,000 ha). Considered to be one of the natural wonders of the world, it lies on the delta of the Ganges, Brahmaputra and Meghna rivers on the Bay of Bengal. The forest is intersected by a complex network of tidal waterways, mudflats and small islands of salt-tolerant mangrove forests, and presents an excellent example of ongoing ecological processes. The area is known for its wide range of fauna, including 260 bird species, and endangered species including Bengal tigers and Ganges river dolphins.

Situated in a unique bioclimatic zone within an atypical geographical situation in the coastal region of the Bay of Bengal, it is a landmark of ancient heritage as well as an internationally recognized high biodiversity spot of mangrove flora and fauna both on land and water. The Sundarbans mangrove forest is spread contiguously in India and Bangladesh, and is listed in the UNESCO World Heritage List.

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His Excellency  
Mr. Abul Hassan Mahmood Ali, MP,  
Minister for Foreign Affairs

According to the information received:

Rapid industrialization of parts of the Sundarbans Reserve Forest of Bangladesh is allegedly not only degrading the biological diversity of the world's largest mangrove ecosystem, but it also threatens the human rights of thousands of local residents, who depend upon the Sundarbans environment that provides them with food and livelihoods, and reduces their mortality from cyclones and storm surges. It is estimated that about 6.5 million people depend directly or indirectly on the wider Sundarbans ecosystem for their livelihoods. Artifacts and festivals within the Sundarbans Reserve Forest have high religious and cultural importance.

In April 2015, a regional human rights organization conducted a fact-finding mission to Rampal, the site of the then proposed coal power plant along the banks of the Passur river. Because tens of thousands of people depend on the forest for food and livelihoods from subsistence and artisanal harvesting of fish, crabs and shrimp, there were concerns that environmental degradation would impact the human rights of those people. The mission reportedly documented the irregularities in the land acquisition and compensation process, which were conducted without proper consultation with affected communities; numerous incidents of harassment and ill-treatment of the local people as well as activists who had spoken against the project; and the loss of livelihood of many local people which had not been realistically captured by the Environmental Impact Assessment (EIA). The report also noted the flawed procedures pursued by the authorities in launching the power plant project even before the EIA was approved, and referred to the biased and distorted nature of the EIA itself.

On 27 December 2016, the Special Rapporteur on human rights and the environment jointly with other mandate-holders conveyed to the Government concerns about allegations raised about the excessive use of force against environmental protestors as well as a persistent campaign of harassment and stigmatization directed at environmental human rights defenders through slander and anonymous death threats, which appeared to relate to their legitimate and peaceful activities in defence of environmental rights in the context of the proposed Rampal power station (BGD 7/2016). To date, the Government has not provided a reply concerning those allegations and to questions raised by the special procedures mandate-holders.

In March 2016, the International Union for the Conservation of Nature (IUCN), jointly with UNESCO's World Heritage Centre, carried out a field mission to the Sundarbans to monitor its state of conservation. The area had been designated as Sundarbans Reserve Forest Ramsar Site in 1992. The mission report made ten recommendations for action to secure the long-term protection of the Sundarbans, calling for a stop to projects that threatened to damage the Sundarbans' exceptional natural values. The report recommended that the Rampal power plant project be cancelled and relocated, and that any other similar projects be halted

until a scientifically sound assessment of their environmental impacts on the site's outstanding universal value was submitted for review by IUCN.

In July 2017, UNESCO's World Heritage Committee issued a decision on the Sundarbans (41 COM 7B.25), recommending immediate action to protect the Sundarbans World Heritage site and its surrounding ecosystem. In particular, the Committee requested the Government to "ensure that any large-scale industrial and/or infrastructure developments will not be allowed to proceed before the Strategic Environmental Assessment (SEA) has been completed and to submit a copy of the SEA to the World Heritage Centre for review by IUCN"; "to put in place a management system for shipping to minimize negative impacts on the property, including from associated activities such as dredging"; "to undertake the Environmental Impact Assessment for any future dredging of the Passur river to include an assessment of impacts on the Outstanding Universal Value of the property, as requested by the Committee"; and "to ensure that these impacts are comprehensively assessed as part of the SEA and adequate technological measures are put in place to mitigate these impacts, in order to avoid damage to the outstanding universal value of the property" (par. 10). The Government is expected to submit to the World Heritage Centre, in December 2018, an updated report on the state of conservation of the property and the implementation of the above recommendations, for examination by the World Heritage Committee at its 43rd session in 2019.

Despite the decision by UNESCO's World Heritage Committee, later in July 2017, the Government reportedly indicated its intention to move ahead with large-scale industrial projects, including the contested coal power plant at Rampal. Reports from the press raised doubts about the implementation of the 2017 decision. For example, the prime minister's energy advisor at the time stated that UNESCO's restriction is only applicable for future projects, and that it does not put the Rampal project on hold. The Environment and Forest Minister reportedly told the media that since UNESCO had no objection to the Rampal power plant, such non-objection would implicitly apply for other projects as well. A leaked Government report included photographs of on-going construction of the power plant at Rampal in September 2017.

On 24 August 2017, the High Court of Bangladesh directed the State not to approve any industries within the 10km buffer zone (Ecological Critical Area) of the Sundarbans Reserve Forest. However, that same month, the National Committee on the Environment reportedly approved 320 industrial projects in the area, including 186 existing projects, 118 projects that previously had preliminary clearance, 8 new liquefied natural gas plants and 8 other medium and large-scale industries. In April 2018, in a report submitted to the High Court, the Department of Environment referred to 190 industrial projects approved in the Ecological Critical Areas, including 154 already operating and 24 industries classified as "red", causing risks for the environment. On 8 April 2018, newspapers reported

that the red category industries had been re-categorized as “green” category, thus avoiding environmental assessment requirements entirely.

The Mongla Export Processing Zone in the Mongla port was set to expand many times over, with a USD 21.5 million leather-processing plant and hundreds of new industrial projects receiving permits from the authorities. In November 2017, the Executive Committee of the National Economic Council approved USD 900,000 for dredging at the outer range of the 131 kilometre-long Passur Channel to enhance Mongla Port’s ship handling capacity. In February 2018, dredging was documented at Hiron Point, inside the Sundarbans South Sanctuary area of the World Heritage site.

While we do not wish to prejudge the accuracy of the above allegations, we are deeply concerned about the harmful impact of rapid industrialization of the Sundarbans mangrove forest on its unique biodiversity and outstanding universal value, as well as the deleterious effects on the human rights of the local population who depend on the safe and healthy environment of the mangrove forest. As stated by the Special Rapporteur on human rights and the environment, the loss of ecosystem services and biodiversity threatens a broad spectrum of rights, including the rights to life, health, food, water, cultural rights and non-discrimination. States therefore have a general obligation to safeguard biodiversity in order to protect those rights from infringement, including a duty to protect against environmental harm from private actors (A/HRC/12/26, para. 20, and A/HRC/34/49, para. 33).

We are equally concerned about allegations of lacking, erroneous and/or incomprehensive SEAs and EIAs for the approved industrial projects that may harm the ecosystem of the Sundarbans mangrove forest and infringe on the rights of the local population related to a safe and clean environment.

We are further alarmed about reported misrepresentations by senior government officials of the spirit of the 2017 decision of UNESCO’s World Heritage Committee, which conveyed recommendations that any large-scale industrial and/or infrastructure developments should not be allowed to proceed before the SEA is completed; that the Government should comprehensively assess the likely environmental impacts of the Rampal coal-fired power plant as part of the SEA; and that the EIAs should be completed for any future dredging of the Passur river, include an assessment of impacts on the Outstanding Universal Value of the property.

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 any comment you may have on the above-mentioned allegations.
2. Please provide information on the actions taken to implement the recommendations of the International Union for the Conservation of Nature and UNESCO's World Heritage Centre, in follow up to the field mission to the Sundarbans mangrove forest to monitor its state of conservation.
3. Please provide information on the actions taken to implement the recommendations of UNESCO's World Heritage Committee contained in its 2017 decision on the Sundarbans World Heritage site and its surrounding ecosystem.
4. Please provide, in detail, the measures taken by the Government in implementing its obligations to carry out Strategic Environmental Assessments and Environmental Impact Assessments, before decisions are taken to approve industrial projects that may threaten the biodiversity of the Sundarbans mangrove forest and infringe on the rights of the local population. Please also explain how potentially affected communities are consulted in this regard.

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.

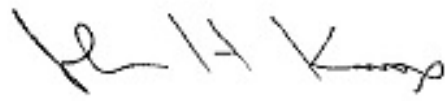
While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged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

We intend to publicly express our concerns in the near future as, in our view, the information upon which a press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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



Karima Bennoune  
Special Rapporteur in the field of cultural rights

A handwritten signature in black ink, appearing to read "John H. Knox". The signature is written in a cursive style with some stylized flourishes.

John H. Knox

Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a  
safe, clean, healthy and sustainable environment

## **Annex**

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

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to applicable international human rights norms and standards.

We would like to draw the attention of your Excellency's Government to article 6.1 of the International Covenant on Civil and Political Rights, providing for the right to life (ratified by Bangladesh in 2000); and articles 12 and 15 of the International Covenant on Economic, Social and Cultural Rights, providing for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the right to take part in cultural life (ratified by Bangladesh in 1998).

We also wish to refer to the Framework Principles on human rights and the environment of the Special Rapporteur on human rights and the environment (A/HRC/37/59, annex), which summarize the main human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment. Namely, the Framework Principle 1 provides that States should ensure a safe, clean, healthy and sustainable environment in order to respect, protect and fulfil human rights. In the same vein, Principle 2 reiterates that States should respect, protect and fulfil human rights in order to ensure a safe, clean, healthy and sustainable environment. Principle 8 reaffirms that, to avoid undertaking or authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential effects on the enjoyment of human rights.

With regard to human rights obligations related to biodiversity, the Special Rapporteur on human rights and the environment clarified that States procedurally should (a) assess the social and environmental impacts of all proposed projects and policies that may affect biodiversity; (b) provide public information about biodiversity, including environmental and social assessments of proposals, and ensure that the relevant information is provided to those affected in a language that they understand; (c) provide for and facilitate public participation in biodiversity-related decisions; (d) provide access to effective remedies for the loss and degradation of biodiversity (A/HRC/34/49, Section III(a)). Substantively, every State should establish legal and institutional frameworks for the protection of biodiversity that: (a) regulate harm to biodiversity from private actors as well as government agencies; (b) adopt and implement standards that accord with international standards, are non-retrogressive and non-discriminatory, and respect and protect the rights of those who are particularly vulnerable to the loss of biodiversity and ecosystem services (Section III(b)).

As emphasized by the Special Rapporteur in the field of cultural rights, the right to take part in cultural life includes the right for all to access to and enjoy cultural heritage, to enjoy their own culture and exercise their cultural practices and to maintain, control, protect and develop cultural heritage (A/HRC/17/38 and A/71/317). States should recognize and value the diversity of cultural heritage present in their territories



and under their jurisdiction and acknowledge, respect and protect the choices of individuals and groups to feel associates (or not) with specific elements of cultural heritage. States have the duty not to destroy, damage or alter cultural heritage, at least not without the prior and informed consent of concerned communities (A/HRC/17/38, para. 80 (a) and (b)).

In accordance with article IV of the 1972 Convention for the protection of the World Cultural and Natural Heritage, acceded to by your Excellency's Government on 3 August 1983, State parties have an international legal obligation to protect and conserve heritage for its transmission to future generations. Furthermore, the 2003 UNESCO Declaration concerning the Intentional Destruction of Cultural Heritage stresses that "States should take all appropriate measures to prevent, avoid, stop and suppress acts of intentional destruction of cultural heritage, wherever such heritage is located." It also underscores the responsibility of States to take all appropriate measures to protect cultural heritage in conformity with the principles and objectives of, inter alia, the 1972 Convention for the Protection of the World Cultural and Natural Heritage, the 1968 Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works and the 1972 Recommendation concerning the Protection, at National Level, of the Cultural and Natural Heritage. Moreover, the 2003 Declaration makes clear that States bear responsibility for the intentional destruction of cultural heritage [...] "whether or not it is inscribed on a list maintained by UNESCO or another international organization" (Section VI).

Finally, we would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed by the Human Rights Council in its resolution 17/31. The Guiding Principles clarify that business enterprises have an independent responsibility to respect human rights. Business enterprises should conduct human rights impact assessments in accordance with the Guiding Principles on Business and Human Rights, which provide that businesses "should identify and assess any actual or potential adverse human rights impacts with which they may be involved either through their own activities or as a result of their business relationships", include "meaningful consultation with potentially affected groups and other relevant stakeholders", "integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action" (see Guiding Principles 18–19).

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.