

Mandates of the Special Rapporteur on freedom of religion or belief; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on minority issues and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Ref.: AL BGD 1/2022
(Please use this reference in your reply)

22 March 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on minority issues and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 40/10, 45/3, 43/8 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the desecration and destruction of the Gayanasarana Buddha Monastery located in Falaharia, Chittagong district, the perpetrated violence against its monks, members of the Buddhist minority, which led to the enforced disappearance and death of Mr. **Ronankor Vikku**, as well as the prolonged detention and judicial harassment of the monastery's principle, **Venerable Saranankar Mahathera**.

According to the information received:

On 9 July 2020, a group of persons waged an attack against the Gayanasarana Buddha Monastery located in Falaharia, Chittagong. They reportedly desecrated and looted the temple, damaged its structures and attacked the Buddhist monks present at the moment of the attack. One of the monks, Mr. Rotnankor Vikku (aged 23) was forcibly disappeared for two days. He was found in state of extreme physical abuse and later succumbed to his injuries, on 14 September 2020.

The attack and violence against the monks were perpetuated in police presence and allegedly backed by a local ruling party member. Following the attack, the power supply to the Gayanasarana Buddha Monastery was disconnected and the monastery's school serving more than ninety students was shut down.

The incident was captured in a video, which was posted on social media by the principle of the the Gayanasarana Buddha Monastery, Venerable Saranankar Mahathera, who appealed to the Prime Minister of Bangladesh for protection and remedial action. However, on 10 July 2020 a fake social media account using the picture of the monastery's principle published insults against Islam and stirred inter-communal tensions between the Muslim majority and the Buddhist minority.

In this context and in anticipation of further violence and intimidation, on 11 July 2020, Venerable Saranankar Mahathera decided to voluntarily move to another monastery, the Saranankar Buddhist monastery at Harpara Uttargujara village, in Raozan, Chittagong.

However, from 4 August 2020 to 9 April 2021, he was placed under house arrest, at the Dharmarajika Buddhist Temple, and from 10 April 2021 to 26 July 2021, he was taken by the police to Bangladesh Buddhist monastery at Uttar Dhaka, without having access to visitors or being allowed to perform any religious activities.

From 26 July 2021 to 3 January 2022, he was taken to a house in Bengunbari, and from 4 January 2022 until the time of this letter, he is being held in a house in East Rajarbag, guarded by police officers of the Sabujbagh Police Station.

Venerable Saranankar Mahathera has been charged for the postings on the fake social media account, under the relevant provisions of the Digital Security Act of 2018 (Sections 25, 28, 29 and 31), and under Section 295A of the Penal Code. However, he has never appeared before judicial authority and, due to his movement restrictions under house arrest, he has reportedly missed more than thirty court dates. He also faces, along with two other individuals, additional charges for forestry violations.

Venerable Saranankar Mahathera has filed two petitions against the fake social media account before the Cyber Security Tribunal of Bangladesh; one on 12 August 2020 (Case no. 143/2000) under sections 22, 24, 25, 28, 31 and 35 of the Digital Security Act of 2018; and another one on 15 October 2020 (Case no. 246/2020) under sections 25, 28 and 29(3) of the same Act. Both petitions are still pending examination by the Cyber Tribunal of Chattogram, Chittagong.

It is reported that the Rangunia police station was ordered to investigate the allegations on the fake social media account, but it has yet to submit its report to the court.

Several requests have been made on behalf of Venerable Saranankar Mahathera; some of them addressed directly to the Government (Prime Minister, Minister of Information and Minister of Home Affairs), calling for the review his case; and others sent to local administration and police authorities in Chittagong to investigate, identify and prosecute those responsible for the attack and destruction of the Gayanasarana Buddha Monastery, without however any effect. On 21 June 2021, a writ petition was filed to the Supreme Court of Bangladesh, High Court Division, against the perpetrators of the attack (writ petition no. 5392 of 2021). However, a stay order has been issued to this writ petition and its examination is still pending.

While we do not wish to prejudge the accuracy of the received information, we are seriously concerned at the reported attack, desecration and destruction of the Gayanasarana Buddha Monastery in Falaharia and the violence and intimidation against the Buddhist monks of the temple, which reportedly resulted in the enforced disappearance, physical abuse, and ultimately the death of a monk, Mr. Rotnankor Vikku.

We are equally concerned about the arrest, detention and judicial harassment of the monastery's principle, Venerable Saranankar Mahathera, who is under police surveillance and house arrest to this day and who is criminally charged under the

Digital Security Act and the Penal Code for alleged cyber-crimes committed under a reportedly fake social media account. We note with concern the frequent transfers of Venerable Saranankar Mahathera to different places of deprivation of his liberty and the serious violations of his rights, including with regard to due process and fair trial guarantees. Furthermore, it is deeply disturbing the fact that despite the numerous appeals to Government and public officials to address his case and to investigate the violations perpetrated against the Gayanasarana Buddha Monastery and its monks, the authorities have reportedly failed to take action and the examination of the latest writ petition to the Supreme Court has been suspended.

We are issuing this appeal in order to safeguard the rights – in particular the rights to life and personal integrity – of the Venerable Saranankar Mahathera from irreparable harm and without prejudging any eventual legal determination. It is relief *pendente lite*.¹

Furthermore, we call for your Excellency's Government's urgent action to thoroughly and impartially investigate the attacks and violence against the Gayanasarana Buddha Monastery, as well as the circumstances of the alleged enforced disappearance, physical abuse and death of Mr. Rotnankor Vikku.

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 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 provided information on the measures undertaken to investigate the attack against Gayanasarana Buddha Monastery and the violence perpetrated against the monastery's monks, including the reported enforced disappearance, physical abuse and death of Mr. Rotnankor Vikku, as well as to identify and prosecute all those responsible and provide redress for the harm suffered. If no inquiry or investigation has taken place, or if it has been inconclusive, please explain the reasons why.
3. Please explain the legal and factual grounds for the arrest and detention of the Venerable Saranankar Mahathera and the measures taken to ensure the full respect of due process and fair trial guarantees in line with the country's obligations under international law and in particular with articles 14 and 26 of the International Covenant on Civil and Political Rights.
4. Please provide information on the reasons for the frequent transfer of Venerable Saranankar Mahathera to different places used as places for his detention and tight surveillance.

¹ Article 41 ICJ Statute 'Interim Protection': Part III, Section D (Incidental Proceedings), Subsection 1

5. Please explain the reasons for your Excellency's Government's reported lack of response to the numerous appeals to consider the case of Venerable Saranankar Mahathera and for the failure of the Police of Rangunia to submit its investigation report on the social media account, which has been allegedly misrepresenting Venerable Saranankar Mahathera, and stirring anti-Buddhist minority hatred by attributing to him anti-Muslim views.
6. Please provide detailed information on the reasons behind the stay order decision by the Supreme Court of Bangladesh, High Court Division, with regard to the writ petition on the perpetrators of the attack against the Gayanasarana Buddha Monastery and its monks.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit specific cases relating to the circumstances outlined in this communication through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the present communication and to the regular procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of Venerable Saranankar Mahathera, 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.

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Luciano Hazan
Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Fernand de Varennes
Special Rapporteur on minority issues

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, 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 above.

We would like to refer your Excellency's Government to the International Covenant on Civil and Political Rights (ICCPR), acceded to by Bangladesh on 6 September 2000, and in particular articles 2, 6, 7, 9, 10, 14, 16, 18, 26 and 27, which provide for the right to life, prohibition of torture and other inhumane or degrading treatment, liberty and security of person, the right to an effective remedy by the competent national tribunals for acts violating their fundamental rights, the right to an independent and impartial judicial process with due process guarantees, freedom of thought, conscience, religion or belief, the principle of non-discrimination, guarantees of humane treatment while in detention, the rights of persons belonging to minorities and the protection against arbitrary arrest or detention. All these provisions should be read in conjunction with article 2.3 of the ICCPR guaranteeing everyone's right to an effective remedy.

We would like to refer to article 9 of the Universal Declaration on Human Rights and the ICCPR, which enshrine the right to liberty and security of person. Article 9 of the ICCPR establishes in particular that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedure as are established by law. Article 9 (4) also entitles everyone detained to challenge the legality of such detention before a judicial authority. In its General Comment No 35, the Human Rights Committee has found that arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression (art. 19), freedom of assembly (art. 21), freedom of association (art. 22) and freedom of religion (art. 18). It has also stated that arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, article 3 or article 26 is also in principle arbitrary.

Furthermore, article 14 of the ICCPR guarantees individuals' right to a fair trial and public hearing by a competent, independent and impartial tribunal established by law. Article 14(3) specifically protects one's right to be informed promptly and in detail of the charges against them, the right to have adequate time and facilities for the preparation of their defence, and the right to communicate with counsel of their choosing. The right to legal counsel is also enshrined in Principle 17 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

We draw attention to the provisions of the United Nations Declaration on the Protection of All Persons from Enforced Disappearance. In particular, we make reference to article 2 of the Declaration, which states that no State shall practice, permit or tolerate enforced disappearance, and article 7, which holds that no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances. Furthermore, article 10 (1) of the Declaration establishes that any person deprived of liberty shall be held in an officially recognized place of detention,

article 10 (3) that an official up-to-date register of all persons deprived of their liberty shall be maintained in every place of detention. Article 13 and 14 of the Declaration also set the obligation to conduct investigations into all alleged cases of enforced disappearances and prosecute alleged perpetrators. Moreover, pursuant to article 19 of the Declaration States must guarantee that victims of enforced disappearance and their family obtain redress and adequate compensation, including the means for as complete a rehabilitation as possible, for the harm suffered.

In addition, article 6 of the ICCPR imposes obligations on States to particularly protect the lives and bodily integrity of individuals deprived of their liberty, including through the provision of the necessary medical care and appropriate regular monitoring of their health (Human Rights Committee, in its General Comment No. 36 (CCPR/C/GC/36)). Moreover, under article 12 of the International Covenant on Economic, Social and Cultural Rights, acceded by Bangladesh on 5 October 1998, States also have an obligation to refrain from denying or limiting equal access for all persons, including prisoners or detainees, to health services.

We would like to further refer to the United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Mandela Rules”), adopted in General Assembly resolution 790/175, and in particular to Rules 24 to 35 regarding States responsibility to provide health care for prisoners, including access to medication and treatment facilities, and examinations for signs of torture. We would like to remind that Rule 3 stipulates that the prison system shall not aggravate the suffering inherent to deprivation of liberty. Rule 27 in particular establishes that clinical decisions may only be taken by health-care professionals and may not be overruled or ignored by non-medical prison staff.

Article 18 (1) of the ICCPR that stresses “Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom [...] either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.” Human Rights Committee General Comment No. 22 further explains that “[t]he freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts.

In addition, we wish also to recall that while the manifestation of religion or belief may be restricted as per article 18(3) of the ICCPR, to protect public safety, order, health, morals and the fundamental rights and freedoms of others, any such limitation must fulfil a number of obligatory criteria of legality, proportionality and necessity, including being non-discriminatory in intent or effect and constitute the least restrictive measure.

We would like to respectfully remind your Government of the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (A/RES/36/55), which in its article 2 (1): “[n]o one shall be subject to discrimination by any State, institution, group of persons, or person on grounds of religion or other belief.” In article 4 (1), the General Assembly further states that: “All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms [...]” Furthermore, we would like to refer your Government to article 4(2) according to which: “All States shall make all efforts to enact or rescind legislation where necessary to prohibit any

such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Furthermore, we would like to recall that the General Assembly, in its resolution 63/181 paragraph 9 (j) urges States “To ensure that all public officials and civil servants, including members of law enforcement bodies, the military and educators, in the course of fulfilling their official duties, respect all religions or beliefs and do not discriminate for reasons based on religion or belief, and that all necessary and appropriate education or training is provided.”

Article 27 of the ICCPR establishes that in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities have the right, in community with the other members of their group, “to enjoy their own culture, to profess and practice their own religion, or to use their own language”.

Finally, we wish to refer to the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in General Assembly resolution 47/135, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination (article 4). Article 2 further establishes that persons belonging to minorities have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely, without any interference or any form of discrimination and provides for the effective participation of minorities in cultural, religious, social, economic and public life, as well as in decision-making processes on matters affecting them.