

Mandates of the Working Group on Enforced or Involuntary Disappearances; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 the situation of human rights defenders; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

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(Please use this reference in your reply)

21 February 2022

Excellency,

We have the honour to address you in our capacity as Working Group on Enforced or Involuntary Disappearances; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; 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 the situation of human rights defenders; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, pursuant to Human Rights Council resolutions 45/3, 42/22, 44/5, 43/4, 41/12, 43/16, 43/20 and 45/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged acts of intimidation and harassment against relatives of disappeared persons, human rights defenders and civil society organizations in Bangladesh because of their work and co-operation with international bodies and UN mechanisms in the field of human rights.

Similar concerns have been previously raised in communications to your Excellency's Government, namely BGD 6/2016, 2/2020, 5/2020 and 2/2021. We regret that we have not received any substantive response to any of these communications and urge your Excellency's Government to provide precise and detailed responses at the earliest opportunity.

We draw your Excellency's Government's attention to the fact that the present communication does not contain personal details of a number of alleged victims for fear of further reprisals.

According to the information received:

Following the announcement of sanctions imposed by the United States of America against top Rapid Action Battalion (RAB) officials, on 10 December 2021, Bangladeshi authorities have launched a campaign of threats, intimidation, and harassment against relatives of disappeared persons, victims of illegal detention, human rights defenders, and civil society actors.

The sanctions were a result of well-documented evidence of grave human rights abuses by the RAB, a paramilitary unit that includes officials seconded from Bangladesh police as well as the military. The RAB was established in 2003 with the support of international security partners including the US and the United Kingdom (UK) to support counter-terrorism efforts, following the attacks on the US in September 2001.

The unit has long been accused of extrajudicial killings under previous and current governments, and the UK government withdrew its support and training to the RAB in 2011, after criticism over human rights violations.

Since 2009, the RAB has been involved in the majority of cases of enforced disappearance in the country - including by routinely picking up people, extrajudicially killing them and disposing their bodies. A recent report by Human Rights Watch also notes that the Government of Bangladesh has repeatedly ignored concerns raised by the United Nations human rights experts, which has contributed to the prevailing culture of impunity.

In response to the aforementioned sanctions, the Government summoned the United States of America Ambassador to Bangladesh to express disappointment over the decision and to request that the sanctions be lifted promptly. A Government official suggested that the sanctions are based on false and fabricated information selectively picked from social media. On 30 December 2021, the Government announced that it has been investigating each of the 76 cases pending with the United Nations Human Rights Council's Working Group on Enforced or Involuntary Disappearances (WGEID).

Rather than conducting transparent, independent investigations, however, victims' families claim that in the period between December 2021 and February 2022 authorities have raided their homes in the middle of the night, threatened them, and forced them to either sign blank sheets of paper or sign pre-written statements indicating that their family member was not forcibly disappeared and that they deliberately misled the police. According to the information received, authorities have threatened and harassed at least 10 families.

Information received suggests that the alleged acts of intimidation and harassment may be directed against relatives and human rights defenders for their co-operation with the United Nations entities, including the WGEID.

Emblematic cases involving relatives of the disappeared, civil society organizations, human rights defenders or their families

On 5 October 2021, RAB officials allegedly raided the home of relatives of a Bangladeshi journalist and arrested them. There are credible allegations that authorities targeted the relatives in retaliation for the journalist's criticism of the Bangladeshi Government on social media.

It has also been reported that, on 2 January 2022, police officers visited the home of the mother of Mr. Mohammad Ashrafuzzaman, an exiled Bangladeshi human rights defender, as well the home of one of his other relatives and friends. They were reportedly told that law enforcement agencies have been collecting information about Mr. Ashrafuzzaman, and that relevant information would be shared in due course.

On the evening of 9 January 2022, a police officer went to Ms. Sanjida Islam's home and informed her that a criminal case had been filed against Mr. Islam in 2013, despite the fact that the family had not received any information about such a case after he was forcibly disappeared. Ms. Islam was reportedly intimidated by the police officer during the visit. Information received suggests that Ms. Islam was also subjected to intimidation and harassment by Bangladeshi law enforcement in the past. Ms. Sanjida Islam is the founder of Maayer Daak (Mother's Call), an organization gathering families of disappeared persons in Bangladesh. Her brother, Mr. Sajedul Islam Sumon, was forcibly disappeared in 2013.

On 13 January 2022, at approximately 10 a.m., a suspected intelligence officer visited the office of Odhikar, a prominent Bangladeshi human rights organization, took photographs of the building and questioned the guard.

Odhikar has been the subject of ongoing intimidation and reprisals for its sustained cooperation with the UN, its representatives and mechanisms in the field of human rights. The case was included in the 2019, 2020 and 2021 reports of the Secretary-General on alleged accusations of anti-State and anti-Government activities following their engagement in the Universal Periodic Reviews of Bangladesh since 2009 and their cooperation with the Committee against Torture in 2019 (A/HRC/48/28, Annex II, paras. 10-11).

On 1 February 2022 at around 11 a.m., two plainclothes men claiming to be from the Special Branch of police came to the home of Mr. Adilur Rahman Khan, the director of Odhikar, and asked if there were any human rights organizations operating there.

Finally, it was indicated that Odhikar received a letter on 7 February 2022 from the NGOs Affairs Bureau Office, which reports to the Prime Minister's Office, regarding the renewal of the NGO's registration. In addition to the application form, the Bureau asked for specific information and documents, including the entire list and details (name and addresses) of forcibly disappeared and extra judicially killed persons between 2009 and 2021. The letter was received two days after the Foreign Minister AK Abdul Momen had stated in response to journalists' questions that certain UN bodies transmitted to the Government an inaccurate list of disappeared people in Bangladesh -- many of whom allegedly drowned in the Mediterranean. The Minister claimed that the list was prepared with the assistance of a Bangladeshi civil society organization, presumably referring to Odhikar.

While we do not wish to prejudge the accuracy of these allegations, we express our concern at what appears to be a consistent emerging pattern of intimidation and harassment against relatives of disappeared persons, human rights defenders and civil society organizations representing them, working to clarify the fate of disappeared individuals, journalists who have been publishing stories denouncing them, and a well-known non-governmental organization which has been documenting in a serious manner extrajudicial and summary executions. These instances of intimidation, harassment, interference and seizure of records containing information on disappeared persons could compromise the search and related efforts to seek truth and justice for the alleged enforced disappearance of individuals, as well as reparation for the harm suffered. They seem to indicate a concerted effort to silence families of victims and anyone who has been working to clarify the fate of the numerous individuals who have been forcibly disappeared over the years, and particularly since 2009, and possibly earlier since 2003.

In this regard, the United Nations Committee against Torture and the Human Rights Committee have both concluded that enforced disappearances may amount to torture and other forms of ill-treatment both with regard to the disappeared and with regard to their family members, due to the anguish, suffering and uncertainty concerning the fate and whereabouts of disappeared family members and other persons, which contravene the absolute and non-derogable obligation to prohibit and prevent torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, the Human Rights Committee has asserted that enforced disappearance constitutes a unique and integrated series of acts and omissions constituting a grave threat to life and constitutes a violation of the right to life.

In the same vein, we continue to express our most serious concerns at the lack of serious progress in clarifying the fate and whereabouts of disappeared persons in the country. We regret that the authorities appear to have failed to launch serious independent, impartial and thorough investigations, complemented by the thorough and comprehensive search efforts, notably in relation to the conduct of the RAB. Instead, the authorities appear to have shielded RAB officials and other security agencies from any scrutiny and from criminal responsibility. In this regard, we are particularly alarmed by the prevailing culture of impunity, which effectively undermines the rights of victims and their families to truth, justice, redress, and guarantees of non-recurrence.

Furthermore, we express our deep concern about the increasingly challenging situation human rights defenders and civil society are facing in Bangladesh. We are concerned that the allegations of reprisals detailed in this communication may be aimed at discrediting and obstructing their legitimate work and activities for the defense of human rights, in an effort to prevent them from documenting human rights violations across the country. We are particularly concerned about alleged attempts to condition the renewal of Odhikar's registration upon provision of confidential documents related to cases of enforced disappearances and extrajudicial and summary executions in Bangladesh.

We are also concerned that the reported acts of harassment and violations of the right to privacy against the abovementioned persons and entities may have a

chilling effect and deter other human rights defenders, journalists, and members of civil society, from reporting on issues of public interest, including human rights, and from cooperating with the UN, its representatives and mechanisms.

Should these allegations prove to be accurate, they would constitute violations of articles 2, 6, 7, 9, 16, 17, 19, and 22 of the International Covenant on Civil and Political Rights (ICCPR) acceded to by Bangladesh on 6 September 2000, which guarantee the right to life, the prohibition of torture, to liberty and security of person, to freedom from arbitrary arrest and detention, the right to be recognized everywhere as a person before the law, as well as the rights to privacy, freedom of opinion and expression and freedom of association.

The United Nations Declaration on the Protection of All Persons from Enforced Disappearance, in its article 13 paragraphs 3 and 5, establishes that steps shall be taken to ensure that “all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal” and that “any ill-treatment, intimidation or reprisal or any other form of interference on the occasion of the lodging of a complaint or during the investigation procedure is appropriately punished”.

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 its articles 1 and 2, 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 would like to bring to the attention of your Excellency’s Government article 12, paragraphs 2 and 3 of the UN Declaration on Human Rights Defenders, which provides that the State shall take all necessary measures to ensure the protection of everyone 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.

The UN Working Group on Enforced and Involuntary Disappearance’s General Comment on the right to truth (A/HRC/16/48) states that the right of the relatives to know the truth of the fate and whereabouts of the disappeared persons is an absolute right, not subject to any limitation or derogation. No legitimate aim, or exceptional circumstances, may be invoked by the State to restrict this right.¹ The inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes, is also established in the updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 (principle 2). We recall that the full and effective exercise of the right to the truth provides a vital safeguard against the

¹ Reference is also made to the WGEID’s report on standards and public policies for an effective investigation of enforced disappearances A/HRC/45/13/Add.3 (para. 63-66) and the WGEID’s study on enforced or involuntary disappearances and economic, social and cultural rights A/HRC/30/38/Add.5 (para. 34-40)

recurrence of violations (principle 5).

States have an obligation under international human rights law to investigate and punish human rights violations and to combat impunity for such crimes, pursuant to article 2 of ICCPR. As established by the Human Rights Committee in its General Comment No. 31, States have an obligation to investigate and punish serious human rights violations, such as torture, extrajudicial killings and enforced disappearances. Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties (paragraph 18). Impunity for such violations can be an important element contributing to the recurrence of violations. The Human Rights Committee, General Comment No. 36, notes that an important element of the protection afforded to the right to life is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents. Investigations should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations. Investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates.

Human Rights Council resolutions 12/2, 24/24, 36/21, 42/28 and 48/17 reaffirming the right of everyone, individually or in association with other, to unhindered access to and communication with international bodies, in particular the United Nations, its representatives and mechanisms in the field of human rights. The Human Rights Council urges States to refrain from all acts of intimidation or reprisals, to take all appropriate measures to prevent the occurrence of such acts. This includes the adoption and implementation of specific legislation and policies in order to promote a safe and enabling environment for engagement with the United Nations on human rights, and to effectively protect those who cooperate with the United Nations. The Council also urges States to ensure accountability for reprisals by providing access to remedies for victims and preventing any recurrence. It calls on States to combat impunity by conducting prompt, impartial and independent investigations, pursuing accountability, and publicly condemning all such acts.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

We once again respectfully remind your Excellency's Government that it is obliged under the international treaties ratified or acceded to by Bangladesh, to provide effective protection of their rights to individuals at risk of enforced disappearance and other human rights violations, to establish an enabling environment for the exercise of freedom of association and expression free from any forms of intimidation, and to take concrete steps to prevent threats, harassment and attacks against any individuals, including human rights defenders.

The Government of Bangladesh has also a legal and moral duty under the international norms it has accepted, to investigate all instances of human rights violations, including torture, enforced disappearances and extrajudicial execution of individuals under its jurisdiction, and to refrain from exercising reprisals against families or relatives of the victims of such crimes, as well as any other person, witness or others involved in the effort to clarify these cases and seek justice. On the contrary, the state has a positive duty to protect these individuals against any intimidation, harassment, threat or act of violence of any kind.

Despite repeated communications to your Excellency's Government raising these issues, we continue to receive information that, rather than improving, the situation for human rights defenders, including relatives of disappeared persons, in Bangladesh continues to deteriorate. We reiterate our call on your Excellency's Government to take urgent and effective steps to ensure the safety and security of human rights defenders, including relatives of disappeared persons, and to create an enabling environment for them.

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 any comment you may have on the above-mentioned allegations.
2. Please provide precise and detailed information about the steps taken by the Government - in the framework of its effort to address the issue of enforced disappearances, to clarify the numerous instances brought to its attention by the WGEID, among others, and to bring to justice responsible officers, at both the operational and supervisory levels - to ensure the protection of the families of the victims and of any persons working in the effort to elucidate the fate and whereabouts of all these cases, including witnesses, individuals, journalists, lawyers, human rights defenders and other civil society actors.
3. Please provide information as to whether any investigation and judicial or other inquiry has been undertaken in relation to any allegation of harassment and intimidation directed against relatives of the disappeared and human rights defenders. If no inquiries have taken place, or if they have been inconclusive, please explain why.
4. Please outline the steps taken by the Bangladeshi authorities to clarify the fate and whereabouts of disappeared persons, including those brought to its attention by the WGEID. How does the government ensure that the rights of victims and their families to truth, justice, reparations, and guarantees of non-recurrence are protected and upheld?
5. Please provide information on the steps taken to investigate alleged cases of enforced disappearances, extrajudicial and summary

executions in Bangladesh. Please include information on the number of cases investigated, the investigative steps taken, the outcome and of any prosecutions. Please also include information on the extent to which investigations complied with international standards including the Minnesota Protocol on the Investigation of Potentially Unlawful Death.

6. Please indicate what measures have been taken to expand the mandate of the National Human Rights Commission to ensure unfettered and unannounced access to any place of detention, as well as sufficient powers of investigation.
7. Please indicate the steps taken to investigate the role of the Rapid Action Battalion (RAB) and other security services and personnel in the numerous instances of enforced disappearances in the past decades; and the US sanctions against it, in what appears to be a deliberate campaign since 10 December 2021 of threats, intimidation, and harassment against relatives of disappeared persons, victims of illegal detention, human rights defenders, and civil society actors.
8. Please indicate what measures have been taken to ensure that human rights defenders and civil society members in Bangladesh are able to carry out their legitimate work, particularly when attempting to establish the circumstances of enforced disappearances and the fate and whereabouts of disappeared persons, in a safe and enabling environment without fear of threats, acts of intimidation or reprisals of any kind.

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 responsible of the alleged violations.

In light of the allegations of acts of reprisals for cooperation with the United Nations on human rights, we reserve the right to share this communication – and any response received from Your Excellency’s Government - with other UN bodies or representatives addressing intimidation and reprisals for cooperation with the UN in the field of human rights, in particular the senior United Nations official designated by the Secretary General to lead the efforts within the United Nations system to address this issue.

The concerns expressed in this letter warrant in our view immediate attention on the part of the Government to protect the rights of these individuals and prevent the recurrence of further violations. We also believe that this is a matter of public interest, and that the wider public should be alerted to the human rights implications of these allegations. Any public expression of concern on our part would indicate that we have been repeatedly in contact with your Excellency’s Government to clarify the issues in question.

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

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

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